JUSTICE 2 COMMITTEE

AGENDA

7th Meeting, 2007 (Session 2)

Tuesday 6 March 2007

The Committee will meet at 2.00 pm in Committee Room 6.

1. **Decision on taking business in private**: The Committee will decide whether to take item 5 in private.

2. **Child-Sex Offenders**: The Committee will take evidence from—

   Cathy Jamieson MSP, Minister for Justice, Ian Fleming and Sharon Grant, Justice Department, Brad Gilbert, Development Department, and Maggie Tierney, Education Department, Scottish Executive.

3. **Subordinate legislation**: The Committee will consider the following negative instruments—

   The Scottish Police Services Authority (Staff Transfer) Order 2007 (SSI 2007/88)


   The Scottish Crime and Drug Enforcement Agency (Appointment of Police Members) Regulations 2007 (SSI 2007/90)


4. **Annual report**: The Committee will consider a draft annual report for the Parliamentary year from 7 May 2006 to 2 April 2007.

5. **Child-Sex Offenders**: The Committee will consider the main themes arising from the evidence session.

Tracey Hawe
Clerk to the Committee
Papers for the meeting—

Agenda Item 2

Recommendations of the Justice 2 Sub-Committee report on Child-Sex Offenders (Full report is available in electronic version only: http://www.scottish.parliament.uk/business/committees/justice2sub/reports-06/j2subr06-01-00.htm)

Scottish Executive response

Lines of questioning (PRIVATE PAPER)

Agenda Item 3

Cover note by Clerk (including SSI and Explanatory Notes)

Cover note by Clerk (including SSI and Explanatory Notes)

Cover note by Clerk (including SSI and Explanatory Notes)

Cover note by Clerk (including SSI and Explanatory Notes)

Agenda Item 4

Draft report

Documents circulated for information only—

Letter from Minister for Justice to Convener, Justice 2 Committee on Bail Supervision Services, dated 27 February 2007

Letter from Deputy Minister for Justice to Convener, Justice 2 Committee, on Draft Parole Board Rules, dated February 2007

Documents not circulated—


Forthcoming meetings—

• Tuesday 20 March 2007, 2pm, Committee Room 1
Justice 2 Sub-Committee Report on Child-Sex Offenders

Summary of Recommendations

Resource implications

Recommendation 1: The Sub-Committee recommends that the Scottish Executive undertakes an exercise, with ACPOS, to determine the scale of current and future sex offender supervision requirements on police forces, including an assessment of resource implications, and to examine ways in which monitoring and supervision might be made more effective.

Size of the Sex Offenders Register

Recommendation 2: The Sub-Committee recommends that the Crown Office issue guidance to the effect that, when marking cases which include offences which ‘trigger’ notification requirements under Schedule 3 of the Sexual Offences Act 2003, prosecutors take into account whether that offence or these offences warrant inclusion on the Sex Offenders Register and mark the cases accordingly.

Notification requirements

Recommendation 3: The Sub-Committee recommends that the Scottish Executive gives effect, as soon as possible, to recommendation 1 of Professor Irving’s report “Registering the Risk”\textsuperscript{141} to extend the notification requirements of sex offenders in relation to the provision of household and social data to enable more effective risk assessment.

Sex Offenders Register conditions

Recommendation 4: The Sub-Committee recommends that all those on the Sex Offenders Register should be subject to clear conditions for the entire time they are on the register. These conditions may vary or be varied during that period but they should require sex offenders to co-operate fully with the relevant authorities in relation to all aspects of monitoring, supervision, assessment and, if necessary, treatment. The conditions placed on individual sex offenders should be tailored to each individual but, as a minimum, would be similar to those of a supervision licence, which requires the registered sex offender to live in accommodation approved by the police, where necessary in consultation with social work or housing authorities.

Recommendation 5: The Sub-Committee recommends that breach of any of these conditions should be dealt with swiftly and robustly. Any such breach should be an offence arrestable without warrant leading to possible return to prison or further prosecution as the circumstances of the case allow.
**Absconders**

Recommendation 6: The Sub-Committee recommends that the Scottish Executive receive regular reports from police forces on all high and medium risk sex offenders who have absconded or are otherwise unaccounted for and that these reports include the level of assessed risk, the level of information released to the public, if any, and the efforts the police are making to trace and arrest these offenders.

Recommendation 7: The Sub-Committee recommends that statistics on missing registered sex offenders be published by the Scottish Executive in an annual report.

**Use of an alias**

Recommendation 8: The Sub-Committee recommends that it should be an offence, arrestandable without warrant, for a registered sex offender to use a name not previously registered with the police and that this should be considered a serious breach of registration conditions.

**Addresses used by registered sex offenders**

Recommendation 9: The Sub-Committee recommends that in all cases, before release from prison, the address at which a registered sex offender intends to reside is checked and verified in advance of release, whether the offender is a long or short term prisoner.

Recommendation 10: The Sub-Committee recommends that current notification requirements are strengthened to require all sex offenders to provide an address where they will reside which must be a recognised form of living accommodation such as a house, flat or hostel. Failure to provide a genuine address or failure to reside at that address without appropriate notification to the police would render the offender ineligible for early release from prison or liable to return to prison.

Recommendation 11: The Sub-Committee recommends that postcode be made a mandatory field in relation to the registration of sex offenders and that the Criminal History System be enhanced to enable radius searches and small area searches to be made.

**Independent evaluation of new vetting system**

Recommendation 12: The Sub-Committee recommends that the Scottish Executive undertake to commission, at an appropriate point following implementation, independent research to assess the effectiveness of the new vetting system proposed in the Protection of Vulnerable Groups (Scotland) Bill in increasing the protection the new system affords to children.
**Risk assessment**

Recommendation 13: The Sub-Committee recommends that the Scottish Executive gives the utmost priority to the development and validation of specialist tools to enable more effective dynamic risk assessment and management of sex offenders, particularly those who offend against children.

Recommendation 14: The Sub-Committee recommends that all sex offenders be required to undergo a thorough risk assessment at an appropriate point in their sentence and, if assessed as posing a serious risk to the public, that they be required to submit to appropriate treatment and further assessment before being considered for release from custody. Given that at present there is nothing to prevent the release of such offenders at the end of their custodial period, if they continue to be assessed as posing a serious risk to the public at that point in their sentence, the Sub-Committee recommends that conditions are placed on their release to ensure they receive further treatment and strict monitoring in the community.

**Evaluation of collective impact of recent initiatives**

Recommendation 15: The Sub-Committee recommends that the Scottish Executive develops and publishes plans for a comprehensive and independent evaluation of the collective impact and effectiveness of these initiatives in improving the management of sex offenders and enhancing public safety.

**Accessibility to operational officers of information of sex offenders**

Recommendation 16: The Sub-Committee recommends that the Scottish Executive ensures that the information on sex offenders contained on ViSOR and SID will be readily available to operational police officers and officers from other relevant agencies involved in the monitoring, supervision and management of sex offenders, particularly in relation to any investigations concerned with or connected to children and that this information will clearly identify known sex offenders living in the same vicinity or neighbourhood as the child or children in question and their assessed levels of risk.

**Assessment of Circles of Support**

Recommendation 17: The Sub-Committee, recommends that the Scottish Executive considers the potential of Circles of Support and Accountability projects and, if found to be effective, instigates pilot projects within Scottish communities.
Power of entry and examination

Recommendation 18: The Sub-Committee recommends, by majority, that in cases involving the safety of children the police should have the power to enter and search without warrant the premises of any known or registered sex offenders within the immediate vicinity, area, or neighbourhood, as appears reasonable in the circumstances of the case.

Evaluation of resource implications of implementing MAPPA

Recommendation 19: The Sub-Committee recommends that the Scottish Executive conducts a thorough review of the resource implications of implementing MAPPA for the agencies and organisations involved and takes appropriate action to ensure the necessary resources are in place or are provided.

Housing application forms

Recommendation 20: The Sub-Committee recommends that it is made a legal requirement for all application forms for local authority and other social rented housing to require information on whether the applicant is subject to the notification requirements of the Sexual Offences Act 2003, that it be a criminal offence not to provide this information and, if the person applies as homeless, this question should also be part of the homelessness assessment.

Resources for SOLOs and Link Officers

Recommendation 21: The Sub-Committee believes that resources must be adequate if NASSO is to contribute fully to improvements to the management of sex offenders and recommends that the Scottish Executive ensures that there are sufficient resources in place to establish Housing Association ‘Link Officers’ and Local Authority ‘SOLOs’ and in each local authority before 1 April 2007.

Audit of accommodation suitable for sex offenders

Recommendation 22: The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant housing agencies, conducts an audit of current accommodation suitable for sex offenders and carries out research to estimate the future need for different types of accommodation for this group, including secure residential accommodation.

Warning system for sex offenders

Recommendation 23: The Sub-Committee recommends that the police warning system proposed by Professor Irving be put in place as quickly as possible but that disclosure, in the circumstances described by Professor Irving, should be accompanied by other measures, as appropriate in the circumstances of the
case, to increase levels of supervision and to control the behaviour of the offender.

Recommendation 24: The Sub-Committee recommends that statistics on the use of the formal warning system be collated, reported annually and placed in the public domain.

Reporting of formal public disclosures

Recommendation 25: The Sub-Committee recommends that the Scottish Executive takes steps to reassure the public that the principle of third-party notification already exists in relation to sex offenders and the associated powers are available to the police and criminal justice social work departments where there is concern about a particular sex offender. The Sub-Committee also recommends that guidance on how and when these powers can be used is produced to ensure consistent application across all local authority areas and that this guidance is placed in the public domain.

Recommendation 26: The Sub-Committee recommends that the number of formal disclosures made by the police and social work departments are reported in the MAPPA annual reports for all MAPPA areas.  

Increased community notification

Recommendation 27: The Sub-Committee recommends that, where high-risk sex offenders fail to co-operate with the relevant authorities on matters of significance (such as attending places where children gather) or abscond, their details should be provided to local communities and made available more widely, including the use, where considered appropriate, of internet websites such as currently used by the Child Exploitation and Online Protection Centre (CEOPC).

Public information strategy on child sexual abuse

Recommendation 28: The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant agencies, gives priority to developing a public information strategy on child sexual abuse and that it provides materials to inform and advise parents, children and communities of the dangers of child sexual abuse and of measures to reduce risk.

Training requirements of court staff

Recommendation 29: The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant agencies, reviews the training requirements of court staff to ensure that all those who deal with child-sex offenders, their victims and witnesses have as full understanding as possible of the impact sexual offending and subsequent court proceedings can have on those involved.
Bail

Recommendation 30: The Sub-Committee believes that, under the proposals in the Criminal Proceedings etc. (Reform) (Scotland) Bill, sexual crimes against children would be caught by the exceptional circumstances provisions and would, therefore, be unlikely to be bailable. However, for clarity, the Sub-Committee recommends that the Scottish Executive makes explicit in the Bill that those charged with sexual offences against children will only be granted bail in exceptional circumstances.

Plea-adjustment

Recommendation 31: The Sub committee recommends that the Crown Office reconsiders its guidance on plea-adjustment in relation to sexual offences to ensure that sexual offences, and sexual aspects of offences, are brought before the Courts, so that the option of imposing the notification requirements of part 2 of the Sexual Offences Act 2003 is considered by Judges in such cases.

Intervention programmes

Recommendation 32: Intervention programmes for sex offenders are seen as an integral part of the process for reducing the potential risk that sex offenders pose. The Sub-Committee recommends that the Executive ensure there are sufficient resources made available to both prisons and community-based services to enable the development and delivery of such programmes.

Consolidation of existing legislation

Recommendation 33: The Sub-Committee wishes to record its view that legislative consolidation would help to provide clarity in this important area of criminal justice and recommends that, notwithstanding but guided by the Scottish Law Commission’s forthcoming report, the Scottish Executive give consideration to introducing a Criminal Justice (Sexual Offences) Consolidation bill.
I am grateful to the Committee for its work on reviewing measures to tackle the problem of child sex offenders, a group of individuals who may be small in number but rightly generate considerable public concern. This is a difficult and sensitive subject. Each case causes untold distress to those directly involved and the wider public is both shocked and repulsed by such crimes. Your Committee has taken a rigorous approach to the enquiry. I want first to acknowledge the very professional and careful manner in which the sub-committee has discharged its task. I welcome the Committee’s report and am pleased to attach the Executive’s detailed response to its recommendations.

We now have a wide range of measures in place in Scotland to tackle sex offending and minimise the risk to the public. I have also made it clear that the Executive will act whenever and wherever we can to strengthen these measures. Over the past few years we have been much assisted by advice from a number of expert groups which have reviewed the legislative framework, the overall direction of our policy and the operational arrangements in place within the main agencies – in all of this work, increasing public protection has been of paramount importance. The Justice Committee’s review has added to our understanding of this complex area by bringing a perspective which reflects the views and concerns of the communities which we all represent. I believe that we all have a passionate commitment to improve public safety, especially where the protection of our children is concerned.
I welcome the realistic approach taken by the Committee in its report. We are in agreement that we cannot completely eliminate all risk but there is much we have done already and I am pleased that the Committee acknowledges that the Executive has introduced a large number of legislative, administrative and procedural changes to improve the way the risk posed by sex offenders is managed in Scotland. We have also, as you observe, succeeded in influencing developments in the UK as a whole.

I was especially interested to note that the Committee does not support the automatic blanket release of information on sex offenders. The Executive’s position on this difficult issue has been that information about sex offenders should be disclosed on a case by case basis and that practice and procedures for doing so should be more consistent across the country. In view of the Committee’s recommendations, I accept that we should go further so that the formal warning system now being introduced as a result of Professor Irving’s report on registering the risk can be developed in cases where a high risk sex offender fails to co-operate with the authorities or absconds.

I believe that it is important to accompany the Executive’s response to the Committee’s recommendations with an account of the wide range of measures which we have been put in place over the last few years and, for ease of reference, I attach an addendum setting out this wider context.

Beyond that, I want to give my personal commitment that the drive to find better and safer ways to protect our children from sex offenders will not stop with the implementation of these recommendations. The Executive must and will continue to refresh its policies as knowledge develops. I hope that, across the political parties, we can agree that these are issues which will continue to have currency beyond the elections in May and I know that the Committee shares my strong belief that we owe nothing less to those who have suffered in the past.

The Committee’s report re-energises my firm commitment to continue to give the protection of children from sex offending my highest priority.

CATHY JAMIESON
Addendum

Note on the Executive’s measures on sex offending

The Executive has introduced a wide range of measures over the past few years to reduce the risk posed to our communities and to our children by sex offenders. These set the context for the further work which will now be undertaken to implement the recommendations made by the Committee. The measures include:

Police powers

After commissioning the thorough review by Professor Irving of the operation of the sex offenders’ registration scheme in Scotland, the Executive has accepted its recommendations and:

- given the police new powers to obtain a warrant to enter a sex offender’s home for the purposes of monitoring their activities and checking information contained on the register if they do not comply;
- required sex offenders to participate in the risk assessment process by making themselves available for interview - supported through the new powers of entry;
- is introducing a formal police warnings system for sex offenders whose whereabouts or activities are giving rise to concern. If ignored, this can lead to information on them being disclosed to relevant third parties, including an employer, householder or leisure centre manager. The Executive agrees that further work should now be done in the light of the Committee’s recommendations;
- introduced legislative provisions for convicted sex offenders to be required to provide more information to the police about bank accounts and credit cards as well as details of passports and regulations - to prevent them from adopting aliases;
- required sex offenders to provide a DNA sample to the police if this was not provided at the time of charge or conviction;
- given the police additional powers not just to enter a sex offender’s home but to search it for the purposes of risk assessment;
- tightened the monitoring and supervision of sex offenders by promoting legislation enabling chief constables to apply to the sheriff court for a Risk of Sexual Harm Order to restrict the activities of individuals suspected of being a danger to children - even if they have not been convicted of an offence; and
- extended the use of Sexual Offences Prevention Orders (SOPO).

Sentencing

The Executive has strengthened the sentencing framework by:

- introducing a new form of life sentence for the highest risk offenders – the Order for Lifelong Restriction - which places an obligation on the authorities responsible for monitoring sexual and violent offenders in prison and in the community to have a risk management plan in place for each offender throughout his or her life;
- setting up the Risk Management Authority and giving it a role in approving and keeping these plans under review;
- ending unconditional early release for sex offenders sentenced to between six months and four years in prison; and
• going further by making provisions in the Custodial Sentences and Weapons Bill currently before the Scottish Parliament to end the unconditional, automatic early release for all offenders.

Bail and remand

The Executive has introduced a robust package of measures in relation to bail and remand in the Criminal Proceedings etc Reform (Scotland) Bill which has recently completed its passage through the Scottish Parliament which will change the law to ensure that:

• judges, when considering bail for accused sex offenders, will have to state reasons why they did not impose any special bail conditions if the accused is given bail on standard conditions only;
• for those accused of a serious (solemn) sexual offence who have a previous conviction for a similar offence, bail should only be granted in exceptional circumstances; and
• public safety considerations will be taken into account by the courts in reaching every bail decision as a result of an amendment made during the passage of the Bill.

Multi-agency arrangements

This, in itself, represents a major programme of work, clear in its aim of protecting communities and improving public safety. But recent cases have shown that the Executive could do more to create an integrated system for protecting the public and so in April this year, we will create an even stronger framework for these measures by:

• introducing the new Multi-Agency Public Protection Arrangements (MAPPAs) to strengthen the way agencies work together to assess and manage the risk posed by sex offenders;
• with internationally recognised tools for assessing and managing the risk posed by sex offenders;
• with joint agency training to ensure that those working with sex offenders on the front line are trained in the most up to date methods and ensure joint working between the main statutory agencies - which is at the core of the MAPPAs; and
• providing both a statutory basis for information sharing and for other key agencies such as the NHS and housing authorities, to be placed under a duty to co-operate with the police, the Scottish Prison Service and local authorities in carrying out this important work.

Visor

Recent cases have also told us that it is vital that information is shared between agencies and so the MAPPAs will be supported by ViSOR, a valuable tool which:

• creates a UK wide shared database enabling the police to record information on sexual and violent offenders across their force boundaries;
• contains a wealth of information on individuals, including their modus operandi, details of any orders and risk assessments. It allows police to build a photographic library of the offender over time, including distinguishing marks and tattoos, making it more difficult for an individual to avoid detection; and
• by April, will be rolled out to all 32 local authority criminal justice social work services to exploit its benefits to the full, ahead of similar moves in England and Wales.

Accommodation

The MAPPA arrangements will also create the coherent framework within which criminal justice agencies and housing bodies can co-operate in making decision about the housing of sex offenders, in line with the National Strategy on the Accommodation of Sex Offenders. The Committee’s report accords with the Executive’s view on the importance of stable accommodation of registered sex offenders and on embedding the principles of good practice into working arrangements, with a clear focus on improving public protection. The new arrangements will:

• improve the way agencies tackle the very difficult issues around housing sex offenders in communities by putting in place a system, consistently applied, well understood by all, which facilitates the level of co-operation between agencies that ensures clarity about respective roles and responsibilities;
• be supported by:
  o an updated practice note on housing sex offenders;
  o the delivery of training in the new procedures; and
  o arrangements for ongoing monitoring, review and assessment of its delivery. These arrangements will link to the process of inspections of delivery agencies by relevant regulatory bodies;
• provide additional resources to support the introduction of the Strategy; and
• tighten further the arrangements for sex offenders of no fixed abode. These have already been tightened in the Sexual Offences Act 2003 which commenced in May 2004 but further work will now be done in the light of the Committee’s recommendations.

Vetting and Barring

The Scottish public would agree that nothing is more important than protecting our children. The Executive therefore also plans to introduce a new system for vetting and barring individuals who work with children and vulnerable adults:

• the Protection of Vulnerable Groups (Scotland) Bill which is currently before Parliament provides for a modern, enhanced and streamlined vetting and barring system;
• once fully implemented, the new legislation will ensure that those who come into contact with children and/or protected adults through regulated work do not have a history of sexual, violent or abusive behaviour which indicates that they are not suitable to enjoy the trust placed in them; and
• it will provide the safeguard that we can respond swiftly to new information suggesting a change in an individual’s suitability.
JUSTICE 2 COMMITTEE REVIEW OF CHILD SEX OFFENDERS
EXECUTIVE RESPONSE

This paper responds to the recommendations made in the report of the Justice 2 Committee’s review of Child Sex Offenders, published on 15 December 2006.

1. The Sub-Committee recommends that the Scottish Executive undertakes an exercise, with ACPOS, to determine the scale of current and future sex offender supervision requirements on police forces, including an assessment of resource implications, and to examine ways in which monitoring and supervision might be made more effective.

EXECUTIVE RESPONSE: ACCEPTED

As part of the preparation for the 2007 Spending Review, ACPOS and the Scottish Executive are reviewing the resourcing of Sex Offender Units, to take account of the impact of new legislation and the anticipated growth in the number of persons required to register and therefore be risk assessed and managed. This builds on ACPOS’s strategic assessment of sex offender management as a key policing priority to which Chief Constables should ensure that adequate resources are allocated, as part of their operational responsibilities.

As part of the preparation for the introduction of the Multi-Agency Public Protection Arrangements (MAPPAs), the main statutory agencies, including the police, have been asked to review current arrangements under the requirements for joint working which emanated from the provisions of the Sexual Offenders Act 1997. This should enable a more efficient use of existing resources for the individual agencies.

2. The Sub-Committee recommends that the Crown Office issue guidance to the effect that, when marking cases which include offences which ‘trigger’ notification requirements under Schedule 3 of the Sexual Offences Act 2003, prosecutors take into account whether that offence or these offences warrant inclusion on the Sex Offenders Register and mark the cases accordingly.

EXECUTIVE RESPONSE: ACCEPTED

The Crown Office and Procurator Fiscal Service Review of the Investigation and Prosecution of Rape and Sexual Offences recommended that:

*A comprehensive guidance Manual on Rape and other Serious Sexual Offences should be produced for those investigating and prosecuting rape and serious sexual offences within COPFS. The Manual should provide guidance on all aspects of the law on sexual offences, evidence, the psychological dynamics of sexual offending and its impact upon victims; together with prosecution policy and practice in relation to these cases.*

The Manual is due to issue in summer 2007 and COPFS will include guidance to the effect that when marking cases which, upon conviction, render the accused liable to notification requirements under the Sexual Offences Act 2003, that matter be highlighted by the marking depute.
Ahead of commencement of the Criminal Proceedings etc (Reform) (Scotland) Bill, prosecution policy in relation to offences which might merit action other than court proceedings will also be developed and disseminated.

3. The Sub-Committee recommends that the Scottish Executive gives effect, as soon as possible, to recommendation 1 of Professor Irving's report "Registering the Risk" to extend the notification requirements of sex offenders in relation to the provision of household and social data to enable more effective risk assessment.

EXECUTIVE RESPONSE: WORK UNDER WAY

The Executive took the opportunity through the Police, Public Order and Criminal Justice (Scotland) Act 2006 to extend the notification requirements in Scotland in line with a number of Professor Irving’s suggestions, namely passport details, the provision of DNA samples, and in forthcoming regulations, bank account and credit card details, on the basis that this information is not subject to frequent change and will help in the verification of relevant offenders’ identities and in the detection of sexual crime. The Executive is now working closely with the Home Office on the feasibility of requiring more household and social data, including e-mail addresses and postcode details (see recommendation 11) to be included in the list of notifiable information.

4. The Sub-Committee recommends that all those on the Sex Offenders Register should be subject to clear conditions for the entire time they are on the register. These conditions may vary or be varied during that period but they should require sex offenders to co-operate fully with the relevant authorities in relation to all aspects of monitoring, supervision, assessment and, if necessary, treatment. The conditions placed on individual sex offenders should be tailored to each individual but, as a minimum, would be similar to those of a supervision licence, which requires the registered sex offender to live in accommodation approved by the police, where necessary in consultation with social work or housing authorities.

EXECUTIVE RESPONSE: FURTHER DEVELOPMENT CONSIDERED

For the highest risk child sex offenders, the MAPPA arrangements for assessing and managing the risk posed will ensure that the police are supported by the other relevant authorities in their monitoring of the registration requirements to the end of the notification period. This approach recognises that the system of notification established under the 2003 Act is not itself part of the system of penalties but rather the registration requirements are a set of administrative and preventative measures. As such, the court has no powers under the Sexual Offences Act 2003 to impose conditions per se but the new MAPPA arrangements will be able to deliver the much tighter multi-agency framework for the highest risk sex offenders which is required.
5: The Sub-Committee recommends that breach of any of these conditions should be dealt with swiftly and robustly. Any such breach should be an offence arrestable without warrant and which could, on a decision of the court, result in the offender being returned to prison.

EXECUTIVE RESPONSE: ACCEPTED

Failing to comply with any of the requirements of the Sex Offenders Register is a criminal offence with a maximum penalty of five years imprisonment and the police attach a very high priority to enforcing the requirements of the register. This tough sanction means that the compliance rate is very high.

Where licence conditions are imposed, the system is that serious breaches can result in the offender being returned to custody, as part of a swift response to cases causing concern, without recourse to the courts.

A similar recall process will be adopted for the new provisions in the Custodial Sentences and Weapons (Scotland) Bill except that, as recommended by the judicially led Sentencing Commission, Scottish Ministers will be solely responsible for recall and the Parole Board will retain its current powers to consider suitability for re-release. As well as streamlining the present arrangements, the Sentencing Commission considered that the separation of powers would dispel completely any suggestions of bias.

6. The Sub-Committee recommends that the Scottish Executive receive regular reports from police forces on all high and medium risk sex offenders who have absconded or are otherwise unaccounted for and that these reports include the level of assessed risk, the level of information released to the public, if any, and the efforts the police are making to trace and arrest these offenders.

EXECUTIVE RESPONSE: ACCEPTED

The Scottish Executive will work with ACPOS to establish a reporting system for issue to local forces to ensure that the whereabouts of all high and medium risk sex offenders are known to the police and that their management is effective. This will also ensure that the Scottish Executive has as accurate a picture as possible on the effectiveness of sex offender registration.

7. The Sub-Committee recommends that a summary of statistics on missing registered sex offenders be published by the Scottish Executive in an annual report.

EXECUTIVE RESPONSE: ACCEPTED

The Scottish Executive accepts this recommendation and will work with the police to establish and publish a meaningful set of statistics on missing registered sex offenders.

The presentation of the figures will make clear that the number of registered sex offenders who are currently unaccounted for and being sought by the police is highly fluid, and, due to the nature of proactive policing efforts, likely to change on an almost hourly basis.

In taking forward this recommendation, every effort will be made to reassure the public that the number of "missing sex offenders" may not always reflect individuals who have been...
unaccounted for over a long period of time. In some cases it will be down to them moving address, in others they will have been traced very quickly – sometimes within hours of breaching their conditions.

8. **The Sub-Committee recommends that it should be an offence, arrestable without warrant, for a registered sex offender to use a name not previously registered with the police and that this should be considered a serious breach of registration conditions.**

**EXECUTIVE RESPONSE: ACCEPTED**

Section 91 of the Sexual Offences Act 2003 already provides that a breach of the notification requirements and giving a false name constitutes an arrestable offence. The Executive further accepts that there may be some uncertainty about the use and applicability of police powers of arrest when dealing with non compliant offenders. Accordingly it is proposed that the ACPOS Standard Operating Procedures Manual relative to the management of sex offenders be amended to provide the necessary information to enable officers to take appropriate action.

9. **The Sub-Committee recommends that in all cases, before release from prison, the address at which a registered sex offender intends to reside is checked and verified in advance of release, whether the offender is a long or short term prisoner.**

**EXECUTIVE RESPONSE: WORK UNDER WAY**

The Executive accepts that checking on residence requirements for sex offenders prior to release represents best practice which is now enshrined in the draft National Accommodation Strategy for Sex Offenders and in the integrated practice guidance prepared by the Home Leave Working Group.

At present, sex offenders serving 6 months or more are subject to supervision on licence on release and a home background report is routinely prepared prior to release. Home visits take place in these cases and a judgement made on the suitability of residence arrangements for release. Licences normally contain a condition to ensure that any changes of residence are agreed with the community supervising social worker. Failure to comply would potentially lead to breach of licence or recall. All prisoners subject to statutory supervision post release also have a home background report if under consideration for home leave. For schedule one offenders, i.e. those who have offended against a child, the same procedures apply.

For those not under supervision on release, it is best practice for prison based social work to notify community colleagues of release arrangements.

These arrangements are being strengthened further with the introduction of Integrated Case Management (ICM) and the Multi Agency Public Protection Arrangements (MAPPA). Housing agencies working with offenders in prisons have access to the Integrated Case Management (ICM) system and necessary offender data.
10. The Sub-Committee recommends that current notification requirements are strengthened to require all sex offenders to provide an address where they will reside which must be a recognised form of living accommodation such as a house, flat or hostel. Failure to provide a genuine address or failure to reside at that address without appropriate notification to the police would render the offender ineligible for early release from prison or liable to return to prison.

EXECUTIVE RESPONSE: WORK UNDERWAY

The definition of 'home address’ in the Sexual Offences Act 2003 was intended to strengthen the notification requirements for the small group of offenders who were required to register and who were homeless. This ensured that the police would know, at any given time, where an offender might be found. It also meant that an offender could not register “no fixed abode”.

However, for a small number of offenders, homelessness continues to be a fact of life. The Executive is therefore working with the Home Office as a matter of urgency to explore options to secure greater public confidence in the management of such cases, including requiring homeless offenders to report regularly to the police. The Executive hopes to be able to announce proposals shortly.

11. Sub-Committee recommends that postcode be made a mandatory field in relation to the registration of sex offenders and that the CHS be enhanced to enable radius searches and small area searches to be made.

EXECUTIVE RESPONSE: ACCEPTED

There are two elements to this recommendation, both of which are accepted. In terms of making the postcode a mandatory requirement in relation to notification, section 83 of the Sexual Offences Act 2003 already provides that a relevant offender must notify the police of details of his address. This could include postcode. In addition, the Executive is working closely with the Home Office, in giving further thought to the feasibility of requiring more household and social data, including e-mail addresses (see also recommendation 3) to be included in the list of notifiable information.

The Executive agrees that there would be benefit in the proposed change to the CHS and will discuss with chief constables who have primary responsibility for its operational use.

12. The Sub-Committee recommends that the Scottish Executive undertake to commission, at an appropriate point following implementation, independent research to assess the effectiveness of the new vetting system proposed in the Protection of Vulnerable Groups (Scotland) Bill in increasing the protection the new system affords to children.

EXECUTIVE RESPONSE: ACCEPTED

The Executive is committed to ensuring the effectiveness of the vetting and barring provisions outlined in the Protection of Vulnerable Groups (PVG) Bill. We will work with stakeholders to develop coherent and comprehensive implementation and operational details to ensure that the primary legislation supported by appropriate secondary legislation deliver a
modern, streamlined and robust vetting and barring scheme. We will also discuss with stakeholders and agree how best to monitor the provisions and at an appropriate stage, will undertake a full evaluation.

The timing of this evaluation will be shaped by our wish to secure an independent assessment, as early as possible, of the felt benefits and challenges of the scheme for the relevant workforce – especially the impacts experienced by voluntary sector employers. This will be balanced against letting the scheme run for long enough for any transitory introductory teething problems to have been sorted out and for a trend to have started to emerge which describes typical volumes of applicants to the scheme per month or per quarter.

A relevant consideration to the specific timing of an evaluation will be when the new scheme commences and the programme of retrospective checking. A more certain picture on both these aspects will develop in the coming months and we can be clearer on the nature and timing of an assessment in the autumn.

13. The Sub-Committee recommends that the Scottish Executive gives the utmost priority to the development and validation of specialist tools to enable more effective dynamic risk assessment and management of sex offenders, particularly those who offend against children.

**EXECUTIVE RESPONSE: ACCEPTED**

The Scottish Executive accepts this recommendation. In Scotland, we have established a strong base for the risk assessment and management of sex offenders which provides a common approach, understanding and language across the police, the Scottish Prison Service and local authorities, using internationally recognised tools, supported by the expert advice from the Risk Management Authority.

Risk Matrix 2000 has been adopted as the actuarial risk assessment tool for adult male sex offenders – the priority group. In excess of 500 front line staff have been trained in the use of this tool and this training is continuing. A validation study for the Scottish population is being taken forward by the Risk Management Authority.

In addition, the Dynamic Supervision Tool (DSP) - the dynamic risk assessment tool – is being introduced for the police, SPS and local authorities. Joint training commenced in December 2006 and full national roll out will be completed throughout 2007.

The Executive continues to work with the RMA, police and the other responsible authorities under the Management of Offenders etc (Scotland) Act 2005 to ensure a consistent approach to the use of risk assessment and management tools thus supporting the work with those offenders subject to Multi Agency Public Protection Arrangements.

This represents a clear expression of the commitment of the different agencies to protecting the public by working together to establish a framework for assessing and managing the risk posed by this group of offenders so that practice is improved on an agenda wide basis.
14. The Sub-Committee recommends that all sex offenders be required to undergo a thorough risk assessment at an appropriate point in their sentence and, if assessed as posing a serious risk to the public, that they be required to submit to appropriate treatment and further assessment before being considered for release from custody. Given that at present there is nothing to prevent the release of such offenders at the end of their custodial period, if they continue to be assessed as posing a serious risk to the public at that point in their sentence, the Sub-Committee recommends that conditions are placed on their release to ensure they receive further treatment and strict monitoring in the community.

EXECUTIVE RESPONSE: WORK UNDER WAY
The Scottish Executive accepts the recommendation that all sex offenders should be required to undergo a thorough ongoing risk assessment throughout the period of their sentence, both within custody and in the community. If they continue to be assessed as posing a serious risk to the public at the point of release, the Scottish Executive accepts that conditions be imposed to ensure strict monitoring in the community.

The Scottish Executive already responded to public concerns about the risks posed by sex offenders. Building on the arrangements introduced for extended sentences in 1998, the Order for Lifelong Restriction was introduced so that the most dangerous offenders are subject to conditions for the rest of their lives and the legislative changes introduced in the Management of Offenders etc. (Scotland) Act 2005 ended the unconditional release of short-term sex offenders sentenced to between 6 months and 4 years in prison.

Whilst offenders cannot be compelled to participate in programmes, they are encouraged to do so and failure to comply is reflected in the assessment of the offender's risk and is a factor taken into account by the Parole Board in determining suitability for parole or release on life licence.

The Custodial Sentences and Weapons (Scotland) Bill currently before Parliament will strengthen these arrangements further by replacing the current arrangements for unconditional early release with a system based on the assessment of the risk posed by the individual offender and will see the introduction of a custody and community structure to sentences of 15 days or more. The community part will be supported by a licence that will enable appropriate conditions to be placed on all offenders for the remainder of their sentence.

15. The Sub-Committee recommends that the Scottish Executive develops and publishes plans for a comprehensive and independent evaluation of the collective impact and effectiveness of these initiatives in improving the management of sex offenders and enhancing public safety.

EXECUTIVE RESPONSE: WORK UNDER WAY
SWIA is working with Her Majesty's Chief Inspector of Prisons to develop joint inspection of the effectiveness of the management of offenders who present a high risk of harm to others. The focus will be on the management of offenders before during and after sentence and will include evaluation of new models of Integrated Case Management. The inspectorates are currently developing the methodology. It is anticipated that the inspection will be conducted during the second half of 2007.
16. The Sub-Committee recommends that the Scottish Executive ensures that the information on sex offenders contained on ViSOR and SID will be readily available to operational police officers and officers from other relevant agencies involved in the monitoring, supervision and management of sex offenders, particularly in relation to any investigations concerned with or connected to children and that this information will clearly identify known sex offenders living in the same vicinity or neighbourhood as the child or children in question and their assessed levels of risk.

EXECUTIVE RESPONSE: ACCEPTED

All Scotland's police forces have access to ViSOR. All police officers in Scotland have access to the Scottish Intelligence Database (SID). An interface between SID and ViSOR is about to enter testing. That will enable all officers in Scotland, whilst not all requiring direct access, to have access to the information that is on the ViSOR system.

Work is underway to roll out ViSOR to Criminal Justice Social Work departments in Scottish local authorities, planned to be completed by end March 2007. In the longer term, it is also hoped that the Scottish Prison Service will become users of ViSOR.

17. The Sub-Committee recommends that the Scottish Executive considers the potential of Circles of Support and Accountability projects and, if found to be effective, instigates pilot projects within Scottish communities.

EXECUTIVE RESPONSE: WORK UNDER WAY

The Scottish Executive agrees that there is a role for the voluntary sector and volunteers in relation to the support of offenders in the community. We will keep in touch with the developments in England and Wales and are happy to examine the evidence of the effectiveness of Circles of Support which becomes available and consider how this might be progressed in Scotland.

18. The Sub-Committee recommends, by majority, that in cases involving the safety of children the police should have the power to enter and search without warrant the premises of any known or registered sex offenders within the immediate vicinity, area, or neighbourhood, as appears reasonable in the circumstances of the case.

EXECUTIVE RESPONSE: FURTHER DEVELOPMENT CONSIDERED

We will work with ACPOS to ensure that the Standard Operating Procedures Manual relative to the management of sex offenders makes explicit the existing powers of entry available to the police to deal with the situations envisaged by the Committee, in particular in relation to cases involving children.

This is in addition to the extension of police powers introduced in response to Professor Irving’s review in the Police, Public Order and Criminal Justice (Scotland) Act 2006 to allow the police to apply to a sheriff for a warrant to enter and search premises for the purpose of risk assessment.
19. The Sub-Committee recommends that the Scottish Executive conducts a thorough review of the resource implications of implementing MAPPA for the agencies and organisations involved and takes appropriate action to ensure the necessary resources are in place or are provided.

EXECUTIVE RESPONSE: ACCEPTED

The Executive has invested new resources amounting to £685,000 in the MAPPA for the MAPPAs, following consultation with the Association of Directors of Social Work and the Association of Chief Police Officers, Scotland. The level of funding available for coordinator posts was increased at their request to ensure that the geographical complexities and workload could be addressed across the areas.

The MAPPAs will create the framework for the new joint arrangements for assessing and managing the risk posed by sex offenders. They do not alter the roles and responsibilities of the main statutory agencies for monitoring and supervising individual offenders. They provide for additional safeguards that these roles and responsibilities are being discharged effectively and this therefore represents new investment in strengthening of the system.

The MAPPAs are also supported by the Executive’s funding of £625,000 for the introduction of VISOR to all police forces in Scotland and the funding of its roll out across all local authorities at an approximate cost of £500,000. This will ensure the use of one standard database to support the work of the MAPPAs.

20. The Sub-Committee recommends that it is made a legal requirement for all application forms for local authority and other social rented housing to require information on whether the applicant is subject to the notification requirements of the Sexual Offences Act 2003, that it be a criminal offence not to provide this information and, if the person applies as homeless, this question should also be part of the homelessness assessment.

EXECUTIVE RESPONSE: WORK UNDER WAY

The Executive sees strong merit in the introduction of a legal requirement as proposed. The importance of this issue has been considered by the Working Group which has steered the development of the National Accommodation Strategy for Sex Offenders (NASSO). The Working Group’s conclusion was that all housing application forms should ask whether an applicant is required to register with the police under the Sex Offenders Act 1997 that this requirement should be applied in a consistent manner throughout Scotland.

The proposal will therefore require to be considered further in terms of its compatibility with ECHR and Data Protection legislation, before any legislative proposal could be brought forward.
21. The Sub-Committee believes that resources must be adequate if NASSO is to contribute fully to improvements to the management of sex offenders and recommends that the Scottish Executive ensures that there are sufficient resources in place to establish Housing Association ‘Link Officers’ and Local Authority ‘SOLOs’ and in each local authority before 1 April 2007.

**EXECUTIVE RESPONSE: ACCEPTED**

This recommendation has been accepted and additional resources have already been approved to enable the staff roles and mechanisms necessary to implement the NASSO to be put in place. A sum of £2m in 2007-8 has been allocated to assist local authorities establish the local Sex Offender Liaison Officer role and the Link Officer liaison arrangements with RSLs (registered social landlords) in their area. Resources have also been made available to the Chartered Institute of Housing to support the delivery of joint training of all the agencies involved in the accommodation of sex offenders.

22. The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant housing agencies, conducts an audit of current accommodation suitable for sex offenders and carries out research to estimate the future need for different types of accommodation for this group, including secure residential accommodation.

**EXECUTIVE RESPONSE: WORK UNDER WAY**

The National Strategy for the Management of Offenders identifies the accommodation needs of offenders as a key priority area of work for the new Community Justice Authorities (CJAs) and for their partner bodies in reducing the current levels of re-offending. The National Strategy requires the CJAs to carry out an audit of criminal justice accommodation within their CJA area during the first full year of their operation which is 2007-08 to identify the scope for a more consistent level of provisions across the authorities within the CJA.

The Executive will ensure that in the light of this recommendation, the guidance to the CJAs on the audit gives specific focus to the accommodation needs of sex offenders and will ensure clear links are made to the framework established by the National Accommodation Strategy for Sex Offenders.

23. The Sub-Committee recommends that the police warning system proposed by Professor Irving be put in place as quickly as possible but that disclosure, in the circumstances described by Professor Irving, should be accompanied by other measures, as appropriate in the circumstances of the case, to increase levels of supervision and to control the behaviour of the offender.

**EXECUTIVE RESPONSE: ACCEPTED**

ACPOS will shortly endorse a National Standard Operating Procedure relative to the management of registered sex offenders, which will deliver the police warning system proposed by Professor Irving.

This forms part of the police’s responsibility for placing decisions around disclosure as part of an overall plan for managing the risk posed by an individual offender and the need to
protect a child, a group of children or other vulnerable persons. Such decisions are based on an assessment of the seriousness of the risk posed by the offender, of displacing the offending should the offender move away, of the risk that the offender may attempt to evade registration or supervision by disappearing and any other operational considerations in respect of the management of the risk posed by the offender.

The police accept that some cases will require additional care in handling, for example where the offender is young or is mentally disordered. In these cases, it will be particularly important to ensure that the appropriate agencies responsible for supporting and/or supervising more vulnerable people who have committed a sex offence are consulted before action is taken.

24. The Sub-Committee recommends that statistics on the use of the formal warning system be collated, reported annually and placed in the public domain.

EXECUTIVE RESPONSE: ACCEPTED

The Scottish Executive accepts this recommendation and will work with the police to ensure that relevant statistics on the use of the warning system, as envisaged by Professor Irving, are collated, reported annually, and made public.

25. The Sub-Committee recommends that the Scottish Executive takes steps to reassure the public that the principle of third-party notification already exists in relation to sex offenders and the associated powers are available to the police and criminal justice social work departments where there is concern about a particular sex offender. The Sub-Committee also recommends that guidance on how and when these powers can be used is produced to ensure consistent application across all local authority areas and that this guidance is placed in the public domain.

EXECUTIVE RESPONSE: ACCEPTED

The Scottish Executive accepts the need for greater transparency and increased public awareness about the existing practice of third party notification by the police.

We will therefore develop better information on disclosure and other related matters, recognising the needs of Scotland’s diverse communities, in the context of work on a public information strategy.

The Scottish Executive also accepts that there is value in establishing, through guidance, a more structured, formal and consistent approach to third party notification. This is an area which ACPOS Standard Operating Procedures, the MAPPA Guidance and associated MAPPA reporting mechanisms can usefully assist in providing responsible authorities with more inclusive and explicit assistance surrounding disclosure of information to third parties.
26. The Sub-Committee recommends that the number of formal disclosures made by the police and social work departments are reported in the MAPPA annual reports for all MAPPA areas.

EXECUTIVE RESPONSE: ACCEPTED

The Executive accepts that the MAPPA annual reports provide a medium for providing this type of information and will work with local MAPPAs to develop a consistent approach.

27. The Sub-Committee recommends that, where high-risk sex offenders fail to cooperate with the relevant authorities on matters of significance (such as attending places where children gather) or abscond, their details should be provided to local communities and made available more widely, including the use, where considered appropriate, of internet websites such as currently used by the Child Exploitation and Online Protection Centre (CEOPC).

EXECUTIVE RESPONSE: ACCEPTED

The Executive accepts that there are circumstances where it is critical for the authorities to establish the whereabouts or identity of an individual. The targeted warnings system now being developed on notification by the Executive and the police will improve the current arrangements.

In the light of this recommendation, the Executive accepts that publishing details of non compliant high risk child sex offenders will strengthen the system further. In an area of increasing public and media scrutiny, it should also reassure local communities that the law enforcement agencies and partners take a robust approach to monitoring and managing child sex offenders living in local communities.

The Executive and the Crown Office are now working with ACPOS, the Child Exploitation and Online Protection (CEOP) Centre and Crimestoppers to progress the application of CEOP as a UK-wide resource. Final decisions on publication of police material in the media are of course rightly governed by guidelines from the Lord Advocate.

28. The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant agencies, gives priority to developing a public information strategy on child sexual abuse and that it provides materials to inform and advise parents, children and communities of the dangers of child sexual abuse and of measures to reduce risk.

EXECUTIVE RESPONSE: ACCEPTED

We will undertake to assess, with relevant agencies, to what extent the public’s level of information on child sexual abuse needs to be augmented and we will consider what new public information materials need to be produced to redress identified gaps in provision.

To assist in the preparation and dissemination of appropriate new materials, links will be made to the public information strategy on disclosure of third party notification of sex offenders (see recommendation 25).
We will also aim to make good use of:

- existing public information child protection leaflets (i.e., 'what to do if you are concerned about a child'); and
- existing platforms and programmes (e.g. the recent launch of the 24-hour national free phone service for accessing local child protection services and its associated website, and the ThinkUKnow campaign on internet safety run by the UK's Child Exploitation Online Protection Centre) to timeously progress the delivery of materials on child sexual abuse to the public.

We will engage with stakeholders on detail through existing forum particularly the Children Services Steering Group.

29. The Sub-Committee recommends that the Scottish Executive, in co-operation with the relevant agencies, reviews the training requirements of court staff to ensure that all those who deal with child-sex offenders, their victims and witnesses have as full understanding as possible of the impact sexual offending and subsequent court proceedings can have on those involved.

EXECUTIVE RESPONSE: ACCEPTED

The Crown Office and Procurator Fiscal Office accepts the recommendation to review the training requirements of staff who deal with those accused of sexual offences against children, together with their victims and witnesses. Work is in hand to achieve this.

The COPFS Review of Rape and Sexual Offences recommended that:

"A comprehensive system of specialised sexual offences training should be developed within COPFS. This should reflect the best practice guidance to be promulgated in the Manual on Rape and other Serious Sexual Offences (see response to Recommendation 2) and should take the form of a programme of competence-based training designed to embed the principles, and equip COPFS staff with the range of skills and knowledge required to deliver an excellent system of public prosecution in this difficult area of crime.

The key components for the programme of training .... should include:

- legal issues and the approach to investigation;
- information and support to the victim; and
- awareness raising on the nature of rape and other serious sexual offences and their impact."

Training for senior prosecutors who conduct or manage the investigation of these cases was seen as a priority and a programme has been developed and was piloted in November 2006, for delivery from Spring 2007. Training programmes appropriate to different grades of staff are currently being developed in response to the recommendation.

COPFS has also been delivering a rolling programme of training on vulnerable witness's legislation since early 2004, including information and advice on what may constitute vulnerability and the use of special measures at court.
As part of the implementation programme for the Vulnerable Witnesses (Scotland) Act 2004, the Victim and Witnesses Unit of the Scottish Executive’s Justice Department has been working closely with the Law Society of Scotland, the Judicial Studies Committee, the Scottish Police College, the COPFS and the voluntary sector, amongst others, to deliver training and awareness raising to practitioners across the Criminal Justice system on the effective operation of the legislation. In addition, comprehensive practitioner guidance has been published and distributed widely. This seeks to ensure that the legislation is applied to a consistently high quality to the benefit of child and adult vulnerable witnesses. Furthermore, the Supporting Child Witnesses Guidance Pack has been published as a direct result of recommendations made by the Lord Advocate’s Working Group on Supporting Child Witnesses. This is also aimed at practitioners who are working directly with witnesses and provides them with guidance on such matters as interviewing and questioning child witnesses before and during trials.

30. The Sub-Committee believes that, under the proposals in the Criminal Proceedings etc. (Reform) (Scotland) Bill, sexual crimes against children would be caught by the exceptional circumstances provisions and would, therefore, be unlikely to be bailable. However, for clarity, the Sub-Committee recommends that the Scottish Executive makes explicit in the Bill that those charged with sexual offences against children will only be granted bail in exceptional circumstances.

EXECUTIVE RESPONSE: FURTHER DEVELOPMENT CONSIDERED

The Committee is correct in its assertion that, under the provisions contained in the Criminal Proceedings etc (Reform) (Scotland) Bill, where an individual is charged under solemn procedure with a sexual offence against a child and that individual has a previous solemn conviction for a violent or sexual offence, bail will only be granted by the court in exceptional circumstances.

The Criminal Proceedings etc. (Reform) (Scotland) Bill was passed unanimously by Parliament on 18 January 2007. The recommendation would, therefore, require to be considered further, especially in terms of its compatibility with ECHR.

31. The Sub committee recommends that the Crown Office reconsiders its guidance on plea-adjustment in relation to sexual offences to ensure that sexual offences, and sexual aspects of offences, are brought before the Courts, so that the option of imposing the notification requirements of part 2 of the Sexual Offences Act 2003 is considered by Judges in such cases.

EXECUTIVE RESPONSE: ACCEPTED

Crown Office and Procurator Fiscal Service has provided the Committee with the detailed guidance to prosecutors about plea adjustment in general, and in relation specifically to sexual offences. That guidance will be reconsidered in light of the Committee’s report. It will remain necessary, however, to recognise the legitimacy of the process – and indeed the duty upon prosecutors – to consider pleas advanced by the defence. Given the duty to assess continually both the evidence supporting a prosecution, and the public interest, there will remain instances where sexual offence charges or aggravations of charges cannot be sustained.
32. Intervention programmes for sex offenders are seen as an integral part of the process for reducing the potential risk that sex offenders pose. The Sub-Committee recommends that the Executive ensure there are sufficient resources made available to both prisons and community-based services to enable the development and delivery of such programmes.

EXECUTIVE RESPONSE: ACCEPTED

The Scottish Executive accepts the recommendation.

We consider that interventions are an integral part of the process for reducing the risk posed and this is why we have given priority to and invested significant resources in developing and supporting the delivery of programmes for sex offenders in both custody and the community. This ensures that programmes are delivered to a high quality. The Core STOP (Sex Offender Treatment Programme), adapted STOP, extended STOP and CSOGP (The Community Sex Offender Groupwork programme) have all achieved accredited status.

A range of programmes is currently available in HM Peterhead, Barlinnie and Edinburgh and Polmont Young Offenders Institution. The community based programme is currently available in 10 local authority areas and resources have been provided to support the staged roll-out now underway which will achieve national coverage.

The existing suite of programmes is kept under review to ensure that the range of interventions remains in line with best practice.

33. The Sub-Committee wishes to record its view that legislative consolidation would help to provide clarity in this important area of criminal justice and recommends that, notwithstanding but guided by the Scottish Law Commission's forthcoming report, the Scottish Executive give consideration to introducing a Criminal Justice (Sexual Offences) Consolidation bill.

EXECUTIVE RESPONSE: ACCEPTED

The Executive recognises the benefits of ensuring that practitioners and the general public have access to an authoritative statement of the law. Consolidation is one way to help achieve this. The difficulty, as the Committee recognises, is in choosing the most appropriate time to carry out a consolidation – if an area of the law is subject to frequent change, the benefits of a consolidation are rapidly eroded. In the meantime, publicly available tools such as the Statute Law Database [www.statutelaw.gov.uk] allow free access to updated texts of statutes and information on recent amendments.

It might be helpful to distinguish between the law on sexual offences on the one hand, and the law on treatment of sexual offenders on the other.

Sexual Offences

Much of the statute law on sexual offences is contained in Part I of the Criminal Law (Consolidation) (Scotland) Act 1995. As the Committee notes, the Scottish Law Commission is currently working on rape and other sexual offences. Based on the Commission's Discussion Paper issued in January 2006, we anticipate that their final report will recommend
putting a clarified law of rape on a statutory basis, as well as changes to existing statutory and common law sexual offences. As that is likely to include significant amendment to Part I of the 1995 Act, and subject to what the Commission finally recommends, our view is that it would be best to undertake consolidation following implementation of the Commission’s recommendations or in a Bill that both implements those recommendations and consolidates the remainder of the sexual offences law.

Sexual Offenders

The law on the treatment of sexual offenders, in particular the operation of the notification requirements and the making of sexual offences prevention orders, was consolidated in Part II of the Sexual Offences Act 2003. That Act also introduced provisions on foreign travel orders and risk of sexual harm orders (RSHOs). Those provisions have now been amended on a number of occasions, including the extension of SOPOs in the Protection of Children and Prevention of Sexual Offences (Scotland) Act 2005. That Act also introduced freestanding provisions on RSHOs for Scotland.

Once the changes recommended by the Sub-Committee have been implemented, the Executive will consider separate consolidation of the 2003 Act and related provisions for Scotland.
JUSTICE 2 COMMITTEE

7th Meeting 2007 (Session 2)

Tuesday 6 March 2007

SSI title and number: The Scottish Police Services Authority (Staff Transfer) Order 2007 (SSI 2007/88)

Type of Instrument: Negative

Meeting: 6 March 2007

Date circulated to members: 1 March 2007

Justice 2 Committee deadline to consider SSI: 26 March 2007

Motion for annulment lodged No

SSI drawn to Parliament’s attention by Sub Leg Committee: No

1. The Subordinate Legislation Committee considered this instrument at its meeting on 27 February 2007. No points arose.

2. If members have any queries or points of clarification on the instrument which they wish to raise with the Scottish Executive in advance of the meeting, please could these be passed to the Clerk of the Committee as soon as possible, to allow for sufficient time for a response to be received in advance of the Committee meeting.

Clerk to the Committee
1 March 2007
JUSTICE 2 COMMITTEE

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Clerk to the Committee
1 March 2007
The Committee reports to the Parliament as follows—

1. This report covers the Parliamentary year from 7 May 2006 to 2 April 2007. The Justice 2 Committee, together with the Justice 1 Committee, plays a principal role in scrutinising Scotland’s distinct justice system. As in previous years, much of the Committee’s time has been spent scrutinising legislation. The Committee also requested that the Parliament establish a sub-committee to examine issues arising from a petition relating to child-sex offenders.

Bills

2. The Legal Profession and Legal Aid (Scotland) Bill proposed the establishment of a Scottish Legal Complaints Commission to deal with service complaints and also revised the rules regarding publicly funded legal advice and assistance. The proposals attracted a great deal of interest, both from the legal profession and also from members of the public. Over 630 submissions were received by the Committee at stage 1. At stage 2 more than 450 amendments were considered by the Committee.

3. The Committee scrutinised the Christmas Day and New Year’s Day Trading (Scotland) Bill. This member’s Bill sought to prohibit large shops from trading on these two days. By majority, the Committee agreed to recommend to the Parliament that the general principles of the Bill be agreed to.

4. The Committee also scrutinised the Custodial Sentences and Weapons (Scotland) Bill, which sought to end the automatic and unconditional early release of offenders and achieve greater clarity in sentencing. It also contained provisions relating to non-domestic knives and swords. Over 80 amendments to the Bill were considered at Stage 2.

5. Another member’s Bill, the Civil Appeals (Scotland) Bill was also considered by the Committee. This Bill sought to end the existing right of appeal in Scottish civil cases to the House of Lords (and the new Supreme Court of the United Kingdom), and instead proposed the establishment of a Civil Appeals Committee. The Committee, by majority, agreed to recommend to the Parliament that the general principles of this Bill not be agreed to, on the basis that the Bill appeared to be clearly outwith the legislative
competence of the Parliament and it was unlikely to be possible to amend it at Stages 2 and 3 to bring it within legislative competence.

**Subordinate legislation**

6. The Committee considered X affirmative statutory instruments and X negative statutory instruments.

**Legislative Consent Memoranda**

7. The Committee also considered and reported on legislative consent memoranda on two UK Bills, the Tribunals, Courts and Enforcement Bill, and the Serious Crime Bill.

**Petitions**

8. The Committee considered several petitions this year. Petition PE863 by Bill Alexander called for the Scottish Parliament to urge the Scottish Executive to amend the Solicitors (Scotland) Act 1980. Petition PE893 by Paul Macdonald called for the Scottish Parliament to oppose the introduction of any ban on the sale or possession of swords in Scotland which are used for legitimate historical, cultural, artistic, sporting, economic and religious purposes.

9. Petition PE862 by Margaret Ann Cummings called for the Scottish Parliament to urge the Scottish Executive to conduct a full review of the current system for dealing with and monitoring convicted child-sex offenders. In view of its pre-existing work commitments and in recognition of the importance of the issues raised, the Committee sought the approval of the Parliament to establish a sub-committee to examine these issues. This is the first time that a Parliamentary sub-committee has been established.

10. The sub-committee’s report made 33 recommendations and was adopted by this Committee. The Committee considered the Executive’s response and took evidence from the Minister for Justice on the issues raised in the report.

**Other work**

11. The Committee received regular updates on the operation of the prisoner escort and court custody contract and considered a post implementation review of the contract.

12. The Committee also scrutinised the Scottish Executive budget for 2007-08, together with the Justice 1 Committee, and received regular updates on Justice and Home affairs issues in Europe.

**Visits**

13. Members undertook a useful visit to the Violence Reduction Unit at Strathclyde Police Force.
Meetings

14. The Committee met 32 times from 7 May 2006 to 2 April 2007 including 3 joint meetings with the Justice 1 Committee. X meetings were entirely in private and X were partly in private. Of the meetings in private or partly in private, almost all were to facilitate discussion of draft reports.

15. No meetings were held outside of Edinburgh this year.