

Victim Notification Scheme:

Guidance for Victims of Crime

What is this guidance about?

This guidance has been written to help you to decide whether you want to join the Victim Notification Scheme.

This guidance explains:

- what the Victim Notification Scheme is;
- who can opt into the scheme; and
- what information you can expect to receive and when.

If you want to speak to someone about this booklet or need help to decide whether to join the Victim Notification Scheme you can contact Victim Support Scotland, a national charity that helps victims of crime. Their contact details can be found on page 11 of this booklet.

You can also consult the Victims' Code for Scotland, which sets out clearly and simply your rights. It is available from the Scottish Government website (<https://www.mygov.scot/victims-code-for-scotland/>).

Offenders Sentenced to Less than 18 Months Imprisonment

For those victims of offenders sentenced to less than 18 months you are entitled to know only the date of the release or escape of the offender. If you would like to receive this information you can contact the Scottish Prison Service. They will not be able to provide the information immediately but will provide it to you as quickly as they can. Their contact details can be found on page 11 of this booklet.

Contents

Offenders Sentenced to 18 Months Imprisonment or More – the Victim Notification Scheme	4
Who can take part in the Victim Notification Scheme	4
The information you can receive	
• Part 1	5
• Part 2	6
Making representations	7
When can offenders be released?	7
How to join the Victim Notification Scheme	7
Will the offender know I have joined the Victim Notification Scheme?	8
Relatives who can take part in the Victim Notification Scheme	9
Forms	
• Form to join	10
• Change of Address Form	10
• Withdrawal Form	10
What support is available for me?	10
Further Information	11

Offenders Sentenced to 18 Months Imprisonment or More - the Victim Notification Scheme

In all criminal cases where the offender has been sentenced to 18 months imprisonment or more, victims have the right to receive information, through the Victim Notification Scheme, about the offender (known as part 1 of the Scheme). They also have the opportunity to make written representations about the release, including temporary release, of the offender (known as part 2 of the Scheme).

Sometimes if an offender is given a prison sentence the court can decide they need treatment for a mental disorder and place them on a Hospital Direction. Similarly, if an offender is serving a prison sentence and is diagnosed with a mental disorder then they can be made subject to a Transfer for Treatment Direction.

You will not be entitled to know that an offender has been transferred to a hospital. However, you still have a right to receive information as outlined in Part 1 and Part 2 of the scheme. You will only have to register once for the Victim Notification Scheme, but information will come from the Scottish Government (not the Scottish Prison Service) if the offender is detained in hospital for mental health treatment. Your contact details may need to be passed to the Scottish Government for this purpose.

Who can take part in the Victim Notification Scheme

You can register for the Victim Notification Scheme if you are the victim of an offender who was sentenced to 18 months or more in prison. The Victim Information and Advice service (VIA) of the Crown Office and Procurator Fiscal Service will let you know if you are entitled to receive information.

You can take part in the scheme if you are:

- a direct victim aged 12 years and over;
- a parent or carer of a victim where the victim is a child under 12 years;
- an entitled relative of the victim, if the victim is incapacitated; or
- up to four entitled relatives of a victim who has died.

A full list of eligible relatives and how this works can be found on page 9.

You will not be entitled to receive information through the scheme if:

- the offender is released before reaching the age of 16; or
- if there are exceptional circumstances which make it inappropriate to give the information, for example if you are considered to present a risk of harm to the offender.

The information you can receive

There are two parts to the scheme. If you choose to join, you can opt in to either Part 1 or Part 2, or both.

Part 1

Part 1 gives you the right to know certain information about the offender. Information is generally provided in writing so it is important that you notify the Scottish Prison Service of any change to your address. A letter will be sent to you to tell you of any of the following events:

- **the date of the offender's release (but not their location after release)**

This information is usually sent to you up to four weeks before the offender's date of release so that you have prior warning of it. Exceptions to this include life prisoners or offenders with extended sentences who are being re-released after having been recalled to prison. In these cases, the offender must be released immediately following a direction from the Parole Board. It is therefore possible, in these cases, that the person will have been released before you receive the information.
- **if the offender dies before being released, the date of death**

This information will be sent to you as soon as possible after the date of the death. You should be aware that there may be early press coverage of the death of an offender.
- **if the offender has been transferred to a place outwith Scotland**

This information will be sent to you as soon as possible after the offender has been transferred.
- **if the offender is eligible for temporary release – such as for training, work or home leave**

Whilst in prison offenders can become eligible for consideration for temporary release. This means that they could become involved in training and work placements in the community. In most cases, offenders will be allowed temporary release for periods of home leave from prison or work placement in preparation for release. You will only be informed when the offender first becomes eligible for temporary release. You are not entitled to be told about each individual period of temporary release thereafter or any further reconsideration.
- **if the offender escapes from prison or hospital or absconds (does not return to prison or hospital when they should)**

You will be entitled to be told if an offender fails to return to prison after home leave or a work placement, escapes from a prison or absconds from an open prison. Sometimes an offender detained in hospital may also fail to return, escape or abscond from hospital premises. On all of these occasions the police are alerted immediately. If the offender is considered to present a threat to the victim, the police will take steps to ensure that the victim is notified as soon as possible. Usually, offenders will return to prison or hospital within the first 48 hours. You will be notified about the offender escaping or absconding. You will be told when the offender is returned to custody.

- **if the offender returns to prison for any reason and it is connected to your case**

You will be told if an offender returns to prison following release and the sentence for the offence committed against you has not reached an end. You will be told if the offender is to remain in prison when the sentence for the offence against you has ended. At this point you will no longer be a member of the Victim Notification Scheme as you will not be entitled to receive information in relation to any further sentence.

- **if the offender's detention in hospital has been suspended, for the first time, without the requirement for supervision**

An offender who is subject to a Hospital Direction or a Transfer for Treatment Direction and is detained in hospital for mental health treatment cannot leave hospital, unless their detention is suspended. Detention can be suspended to allow an offender to appear in court or to attend medical appointments, but may also be suspended as part of the offender's treatment. Decisions on suspending detention are only taken after a risk assessment has been done and normally the offender will be accompanied by hospital staff, but treatment may mean the offender progresses to detention being suspended without supervision. The first time this happens you will be informed that a certificate has been granted suspending detention without a supervision requirement. You will also be informed if that certificate is revoked (in such cases the offender's detention would not be suspended and they would be unable to leave hospital). You will, however, not be told about each individual period of suspension of detention without supervision thereafter.

Part 2

Victims (or, in certain circumstances, the victim's representative) who wish to make representations must register for Part 2 of the Victim Notification Scheme. This gives you the right to contribute to decisions taken whilst the offender is in prison or hospital, by making representations about an offender.

Hospital – Suspended Detention

When the offender's Responsible Medical Officer is considering granting a certificate suspending the offender's detention in hospital without requiring the offender to be supervised you will be invited to make representations about how such a decision might affect you or members of your family. The Responsible Medical Officer will consider the information you provide before deciding any conditions that will apply to the offender while they are out of hospital. Such conditions may include a requirement not to contact certain individuals or go to a certain place or area. You will only be able to make representations on the first occasion that the offender is considered.

Prison – Release (including Temporary Release)

Part 2 also gives you the right to make representations about the release of the offender. An offender can be considered for early release or temporary release. The Parole Board for Scotland is responsible for deciding whether offenders serving sentences of four years or more can be released. The Scottish Prison Service is responsible for deciding whether offenders can be released on Home Detention Curfew. The Scottish Prison Service are also responsible for deciding whether offenders can be given temporary release.

The Scottish Prison Service will write to you in all of these circumstances. You will only be able to make representations on the first occasion that the offender is considered for temporary release.

The Parole Board for Scotland and the Scottish Prison Service will tell you if:

- the offender is to be released; and
- if there are any conditions of that release which relate to you or your family.

Making Representations

Victims (or, in certain circumstances, the victim's representative) have the opportunity to make written representations about the release of the offender on licence and about potential licence conditions as well as about the first time the offender's detention in hospital is suspended without supervision.

A licence contains specific conditions which allow prisoners to serve part of their sentence under supervision in the community. If a licence condition is breached they may be liable to be recalled to custody by Scottish Ministers or the Parole Board.

In cases where the offender is in prison and is serving a sentence of life imprisonment you can choose to make these representations either in writing or in person, whichever you are most comfortable with.

If you choose to make your representations in person, you will be invited to make them to a member of the Parole Board for Scotland at a time and place convenient to you. The member will not be sitting on the tribunal panel making the decision about the offender's release and will be there only to take your representation. You can also arrange for your representation to be taken over the telephone. These will then be transcribed and agreed with you before being considered.

When can offenders be released?

Offenders can become eligible for release at varying points during their sentence. Information about the points at which offenders become eligible for release can be found at <https://www.mygov.scot/after-the-verdict/prison-and-parole/>

How to join the Victim Notification Scheme

If you choose to join, please complete the application form provided by the Victim Information and Advice Service (VIA) of the Crown Office and Procurator Fiscal Service and send it to the Scottish Prison Service. The address is given on the form and is also on page 11 of this booklet.

Please contact VIA for an application form if you have not received one. The contact details for VIA are found on page 11.

If you need help to decide whether to join the Victim Notification Scheme or complete the form you can contact Victim Support Scotland, a national charity that helps victims of crime. Their contact details can be found on page 11 of this booklet.

Once the Scottish Prison Service receives your application form they will write to you to advise you of the nature of information you will be entitled to receive under the scheme. They will provide you with a unique reference number; please remember to quote this number on all further correspondence with them.

If you choose not to opt in to the scheme you will not receive any further letters or forms and you will not receive any information about the offender. You will not have the opportunity to send written representations to the Parole Board.

If you do not initially join the scheme you can still change your mind at a later date. If so, you can send the form to the Scottish Prison Service or contact them at any time (contact details are supplied at page 11). However, you can only be included in the scheme until the date where the offender's sentence comes to an end. The later you leave it to join however, the more likely it is that the information you are entitled to will be limited as the offender may have been considered for release or may already have been released.

If you have joined the Victim Notification Scheme and later decide you do not want to receive any more information about the offender you can withdraw from it at any time.

Please provide as much information as possible about how you can be contacted. If you are happy to be contacted by phone, please include a telephone number. This will make it easier for the Scottish Prison Service to get in touch with you quickly. This information will be maintained in the strictest confidence.

Will the offender know I have joined the Victim Notification Scheme?

The offender will not be told that you have joined the Victim Notification Scheme. However, if you choose to join part 2 of the Scheme and make representations to the Scottish Prison Service and the Parole Board for Scotland, the offender is entitled to see these. If the offender has a solicitor, she or he will also see them. You should not include any personal details, such as your address or your contact details, within the comments section of the form.

If, in relation to consideration of an offender's application for release on Home Detention Curfew, you indicate that you wish your written representations to be considered by the relevant Governor of the prison, the Scottish Prison Service members of staff who deal with the Victim Notification Scheme and Home Detention Curfew will see what you have written. If a licence condition is added to the offender's licence as a result of your representations the offender may see your representations.

You should also be aware that a decision not to release on Home Detention Curfew can be subject to legal challenge from the offender and that in these circumstances your representations may be seen by them and a court.

Relatives who can take part in the Victim Notification Scheme

There are some circumstances when a person can join the Victim Notification Scheme on a victim's behalf which are listed below. The people who can join the Scheme on a victim's behalf are listed in order of priority further down this page.

- If the victim has died the four people listed highest can register to join the Scheme.
- If the victim is incapacitated only the highest person listed may register to join.
- Where the victim is a child under 12, a parent or carer can register on the child's behalf.
- Parents and carers who registered for the Scheme on behalf of a child prior to 13 August 2014 will be able to continue to receive information until that child is 14 (i.e. the Scheme will operate as it did before that date).

When a child reaches the age of 12, he or she is entitled to register for the Scheme in their own right. If they do, so the information will be sent directly to the child. The parents or carers will no longer be entitled to receive information on behalf of the child and will be removed from the scheme. The Scottish Prison Service will write to you to let you know that you have been removed.

If the victim is unable to communicate and this can be overcome by a human or mechanical aid (e.g. where the victim is unable to write but can tell someone else what they want to say), the right to join the Victim Notification Scheme stays with the victim.

The nearest entitled relatives are:

- (a) spouse;
- (b) cohabitee^[1];
- (c) son or daughter or any person that the victim had parental rights or responsibilities for;
- (d) father or mother or any person who had parental rights or responsibilities towards the victim;
- (e) brother or sister;
- (f) grandparent;
- (g) grandchild;
- (h) uncle or aunt;
- (i) nephew or niece.

[1] A person, whether or not of the same sex as the victim, who has lived with the victim, as if in a married relationship, for at least six months and was living with them immediately before the offence was committed.

The elder of any two persons described in any one of paragraphs (a) to (i) is to be taken to be the higher listed person, regardless of their gender.

For example, in a case where a victim has died leaving a wife, two (living) parents and two brothers, the wife, both parents and the elder of the brothers would be invited to join the Victim Notification Scheme. If one parent decided not to join no others would be invited to take their place from further down the list.

Forms

This section provides information on the forms you need to complete to:

- join the scheme;
- inform the Scottish Prison Service of a change of address or contact details; and
- withdraw from the scheme should you no longer want to receive information about the offender.

Form to Join

If you wish to join the scheme, and have not received an application form, please contact the Victim Information and Advice Service of the Crown Office and Procurator Fiscal Service (VIA) who will be able to assist. Their contact details are:

Telephone: **0844 561 3455/2417**

Email: EnquiryPoint@copfs.gsi.gov.uk

You must complete the form and return it to the Scottish Prison Service. The address is on page 11 of this booklet.

Change of Address

If you change your address and still want to receive information, please notify the Scottish Prison Service as soon as possible. You can obtain a change of address form from the Scottish Prison Service, or contact them by letter, telephone or e-mail using the contact details provided in this document.

Withdrawal

If you have joined the Victim Notification Scheme and later decide you do not want to receive any more information about the offender, you can withdraw from it at any time by completing a withdrawal form. This can be obtained from the Scottish Prison Service using the contact details on page 11 of this leaflet.

What support is available for me?

Information on support organisations is available at www.mygov.scot/crime-justice-and-the-law

If you need help to decide whether to join the Victim Notification Scheme or about anything in this booklet you can contact **Victim Support Scotland on 0345 603 9213 from Monday to Friday between 8 a.m. and 8 p.m. You can also find details of your local office on Victim Support Scotland's website at www.victimsupportsco.org.uk**

More information about your rights as a victim of crime, and how to exercise these rights, can be found in the Victims' Code for Scotland. It is available from the Scottish Government website (<https://www.mygov.scot/victims-code-for-scotland/>).

Victim Support Scotland

15/23 Hardwell Close
Edinburgh EH8 9RX
Tel. 0131 668 4486
Email: info@victimssupportsco.org.uk
www.victimssupportsco.org.uk

The Scottish Prison Service

(Victim Notification Scheme)
Calton House
5 Redheughs Rigg
Edinburgh EH12 9HW
Tel. 0131 330 3664/3621/3619
Email: vns@sps.gov.uk
www.sps.gov.uk

Parole Board for Scotland

Saughton House
Broomhouse Drive
Edinburgh EH11 3XD
Tel. 0131 244 8373
www.scottishparoleboard.gov.uk

Crown Office and Procurator Fiscal Service

You can make initial enquiries to the Victim Information and Advice Service (VIA) at the Crown Office and Procurator Fiscal Service regarding your eligibility for the Victim Notification Scheme using the contact details provided on previous correspondence you may have received from your local Victim Information and Advice Team.

If you no longer have these details, you can call the enquiry point on 0300 020 3000, Or email EnquiryPoint@copfs.gsi.gov.uk

You can also find your local office by visiting the Crown Office and Procurator Fiscal website at www.copfs.gov.uk

Further Information

More information about how the parole system works and the role of the Parole Board for Scotland can be found at www.scottishparoleboard.gov.uk

More information on how the Criminal Justice System works in Scotland can be found at www.mygov.scot/crime-justice-and-the-law

More information about sentencing can be found at <https://www.scottishsentencingcouncil.org.uk/>

More information about mental health disposals under the Criminal Procedures Act can be found at <https://www.mwscot.org.uk/the-law/criminal-procedure-act/>



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