



SCRA FULL Consultation Response on:
s38 of the Human Trafficking & Exploitation (Scotland) Act 2015

The Scottish Children's Reporter Administration (SCRA) welcomes the opportunity to respond to this consultation.

The Children's Hearings System is Scotland's distinct statutory system, in which concerns about a child's circumstances (whether about the care or treatment of the child by adults or the behaviour of the child) are considered by Children's Reporters and then by panel members in a Children's Hearing, who make a decision about whether there needs to be compulsory professional involvement with the child and family.

In the Children's Hearings System:

- the needs of children or young people are addressed through one holistic and integrated system which considers all the circumstances of the child and the child's welfare
- the welfare of the child remains at the centre of all decision making and the child's best interests are paramount throughout
- the child's engagement and participation is crucial to good decision making
- the rights of children and families are respected

The role and purpose of SCRA is to:

1. Make effective decisions about a need to refer a child/young person to a Children's Hearing
2. Prepare for and participate in court proceedings where statement of grounds or Hearings findings are appealed and ensure the wellbeing of children and young people – particularly vulnerable witnesses – are protected throughout the court process
3. Support Panel Members (though we are not involved in making Hearing decisions) and ensure fair process in Hearings
4. Support children, young people and families to participate in Hearings
5. Disseminate information and data to influence, inform and reassure
6. Provide premises for Hearings to take place
7. Work collaboratively with partners to support and facilitate the Getting it Right For Every Child (GIRFEC) agenda

SCRA's vision of service is that: We operate within Scotland's Children's Hearings System to protect and support the country's most vulnerable and at risk children and young people identified as requiring the full protection of the law due to difficulties, challenges and risks they face.

Children's Reporters make decisions in respect of the presenting needs of children and young people referred to them. It may well be that a child is living within a wider context of human trafficking and or modern slavery – but the full detail of that context may not be available or may not have sufficient evidence for the Reporter to narrate that as a specific concern requiring a statutory response.





There is no ground for referral which focuses specifically on a child as a victim of human trafficking or modern slavery – and in fact existing grounds for referral are flexible enough to capture the situation (the child has experienced a lack of parental care or the child has committed an offence, for example). SCRA agree with the Scottish Government that exploitation can take many forms and we are of the view that the current statutory framework for Children’s Hearing proceedings allows us to manage human trafficking and exploitation concerns effectively.

The current framework does not allow us to explain clearly how we have managed those concerns though – as the children and families who are the victims of trafficking and exploitation are ‘hidden’ within our reporting on other grounds for referral (for example).

This results in an ‘under reporting’ of specific concern in relation to the human trafficking and exploitation of children and young people in Scotland and we think the section 38 duty to notify could start to address the under report. However, without seeing the process envisaged we are concerned generally that the section 38 duty could lead to an over reporting – that different agencies will comply with the duty but will, in fact, be reporting the same individual. We are not sure how these individual reports will be collated or mapped, and in fact we get no sense that this will happen. For each individual agency the duty to notify is an important step in Scotland recognizing the scope of the problem we face in human trafficking and exploitation – but for Police Scotland or the Scottish Government there is little to be gained from the individual agency returns unless there is a collation and an identification of the same people / cases.

For SCRA to fulfil its statutory function we need to be able to investigate cases fully and effectively – it may be that such investigation becomes problematic if a child or family at real risk of harm are reluctant to engage with professionals and professional assessment as a result of the duty to notify. We think that there are risks around immigration and Border Police involvement in the cases of foreign nationals which creates a very real fear of the response of authorities – which may mean that people are reluctant to seek help and reluctant to engage with any professional support when it is offered. We therefore support the anonymity of the approach – but would like to stress from the outset that in terms of investigating child protection as well as criminal concerns we feel that the issue of ‘consent’ may be misleading. Child protection concerns and the commission of criminal acts do not require ‘consent’ for an investigation to take place.

SCRA would also like to ask whether for children and young people, we should be looking at childhood criminal as well as childhood sexual exploitation within the same discussions / networks. Such a ‘joining of the dots’ might allow us to understand more fully what the lived experience of children involved in human trafficking might look like – and crucially what the risks for these children and their families are and what supports work in order to keep them safe from further or continued exploitation. SCRA are very much focused on Action Area 1 of the Scottish Government strategy – identify victims and support them to safety and recovery – and we are unclear how the section 38 duty to notify will support us in this work.





Finally, we think it is important to say that SCRA are very rarely the first agency to come across a child and family. Most of our referrals come from Police Scotland or from local authority social work departments and as a result we have an expectation that human trafficking and exploitation concerns will be picked up by a referring agency and communicated on. As a result of this expectation we do not currently have a defined or consistent national approach which would allow us to determine when we would need to notify Police Scotland about a case where we have pieced together information for the first time. Indeed, SCRA may be the only agency who holds information from different professionals which allows a picture of trafficking and exploitation to become clearer although the integrated assessment framework of GIRFEC should mean that it would be very rare that SCRA is the first agency to see collated information.

Question 1:

Do you agree that these bodies should be named in Regulations under section 38(1) of the Act?

Who	Yes	No	If no, please give your reasons for this here
All 32 Scottish Local Authorities	X		
All 14 Scottish Geographical NHS Boards	X		
NHS 24	X		
Scottish Ambulance Service	X		
Scottish Fire and Rescue Service	X		
Scottish Ministers for the purposes of including Marine Scotland	X		
Scottish Ministers for the purposes of including Scottish Prison Service	X		
Scottish Environment Protection Agency (SEPA)	X		





Question 2:

Do you agree that those listed below should be encouraged to submit voluntary notifications?

Who	Yes	No	If no, please give your reasons for this here
Dental Practice Staff	X		
Community Pharmacists	X		
General Practice Staff	X		

SCRA also think that the process of voluntary notification should be open to other Public bodies across Scotland who are not listed or named specifically in the regulations.

Question 3:

Are there any other Scottish public authorities that you think should be subject to the Duty to Notify?

No

If you answered yes to Question 3 please name the body and reason for each body here.

Body	Reason

Question 4:

Do you agree that bodies named in Regulations should establish their own processes for complying with the duty?

Yes

If you answered No to Question 4 please give your reason why





Question 5:

Do you agree that the anonymised information below should be included in a notification (if it is available) from a specified Scottish public authority to the Police if the adult does not consent to provide information that may identify them?

Information	Yes	No	If no, please give your reasons for this here
Gender	X		
Nationality	X		
Country of Origin	X		
Location victim was recovered	X		
Location reported exploitation took place	X		
Has a referral been made to the Police	X		
Reported to be a victim of a section 1 offence	X		
If a victim of human trafficking, did the trafficking involve <ul style="list-style-type: none"> • Labour exploitation • Sexual exploitation • Domestic servitude • Commission of an offence • Removal of organs or tissue • Unknown • Other 	X		
Reported to be a victim of a section 4 Offence	X		

All subject to anonymity 'guarantee' that nothing identifiable will be passed on – which may restrict even this information.





Question 6:

Do you agree that the additional information listed below should be included in a notification from a specified Scottish public authority to the Police if the adult consents to the inclusion of that additional identifiable information?

ALTHOUGH this needs to be considered within the context of the consents Police Scotland require in order to investigate a crime and it may be that Police Scotland can investigate without consent being given.

Likewise if a further investigation in respect of child protection concerns is required it may be that consent is not required for that child protection investigation to take place. In relation to obtaining consent, it may be useful to detail that a 12 year old in Scotland is normally considered competent to provide consent, unless it is evident that they are acting against their own best interests.

Relying on consent is potentially problematic if the refusal of the child to consent to the sharing of their personal information would be to their detriment.

Information	Yes	No	If no, please give your reasons for this here.
Consent for additional information	X		
Is the victim willing to be contacted by the Police	X		
First name	X		
Family name	X		
Alias name(s)	X		
Date of Birth	X		
Alias Date(s) of Birth	X		
Is the victim a parent or carer	X		
Other victims whereabouts	X		
Safe Phone Number	X		
Safe Address	X		





Safe Post Code	X		
Does the victim have any additional needs	X		
Details of persons responsible/perpetrators	X		

Question 7:

Is there any other information that you think should be included in a notification under section 38(1) of the Act?

No

If you answered yes to Question 7 please list the information and reason for each piece of information here

Information	Reason

Question 8:

Do you agree that the bodies listed below should receive a report from Police Scotland about individuals who are or appear to be victims of a section 1 or section 4 offence?

We agree that all who have a duty to report should receive information back ALTHOUGH we have questions about the relevance of the report for some agencies and questions about the usefulness of the anonymous and unidentifiable information. However, we are confident that the agencies who receive the reports will be able to assess their use for themselves and will use them accordingly.

Who	Yes	No	If no, please give your reasons for this here
Scottish Government	X		
All 32 Scottish Local Authorities	X		
All 14 Scottish Geographical NHS Boards	X		
Marine Scotland	X		
NHS 24	X		





Scottish Fire and Rescue Service	X		
Scottish Ambulance Service	X		
Scottish Prison Service	X		
Scottish Environment Protection Agency (SEPA)	X		
Trafficking Awareness Raising Alliance (TARA)	X		
Migrant Help	X		
Gangmasters and Labour Abuse Authority (GLAA)	X		
British Transport Police (BTP)	X		
National Crime Agency (NCA)	X		
Home Office	X		
Independent Anti-Slavery Commissioner	X		
Interpol	X		
Europol	X		

Question 9:

Are there any other bodies that you think Police Scotland should notify under section 38(4) of the Act?

No

If you answered yes to Question 9 please list the bodies and the reason for each separate body here.

Body	Reason





Question 10:

Do you agree that the anonymised information below should be included in a notification from Police Scotland to a third party if the adult does not consent to provide information that may identify them?

Information	Yes	No	If no, please give your reasons for this here.
Gender	X		
Nationality	X		
Country of Origin	X		
Location victim was recovered	X		
Location reported activity took place			
Reported to be a victim of a section 1 offence	X		
If a victim of human trafficking, did the trafficking involve <ul style="list-style-type: none"> • Labour exploitation • Sexual exploitation • Domestic servitude • Commission of an offence • Removal of organs or tissue • Unknown • Other 	X		
Reported to be a victim of a section 4 Offence	X		

All subject to anonymity 'guarantee' that nothing identifiable will be passed on – which may restrict even this information.





Question 11:

Is there any other information that you think should be included in a notification under section 38(5) of the Act?

No

If you answered yes to Question 11 please list the information and reason for each piece of information here.

Information	Reason

Question 12:

How frequently do you think the Police should pass information to a third party? Please select only one option or state one other time period.

The frequency will depend on the intended purpose of the information and the ways in which this 'purpose' will be monitored and evaluated. We will therefore not comment on this and would prefer to wait until this is clearer.

Frequency	(x)
Monthly	
Quarterly (calendar year)	
Quarterly (financial year)	
Bi-annually	
Annually	
Another time period (please state only one)	

Do you have any other comments about the frequency?





Question 13:

Do you agree that the Scottish Government should work with these bodies to establish a system whereby information can be shared with the police in a similar way to the statutory duty under section 38 of the Act?

Who	Yes	No	If no, please give your reasons for this here
Border Force	X		
Gangmasters and Labour Abuse Authority	X		
British Transport Police	X		
TARA	X		
Migrant Help	X		

Question 14:

Do you think that there are any other bodies that operate in Scotland that the Scottish Government should encourage to notify the police about a person who is or appears to be a victim of a section 1 or section 4 offence?

No

If you answered yes to Question 14 please list the body and reason for each body here.

Body	Reason

SCRA Practice & Policy Team, 2019.

