GUIDANCE ON REVIEW OF SEX OFFENDER INDEFINITE NOTIFICATION REQUIREMENTS

ISSUED UNDER PARAGRAPH 7 OF SCHEDULE 3A TO THE SEXUAL OFFENCES ACT 2003
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1. INTRODUCTION

1.1. This statutory guidance is issued by the Department of Justice (“the Department”) under Paragraph 7 of Schedule 3A to the Sexual Offences Act 2003 (“the 2003 Act”) as inserted by the Criminal Justice Act (Northern Ireland) 2013 (“the 2013 Act”) http://www.legislation.gov.uk/nia/2013/7. It provides guidance to the Police Service of Northern Ireland (PSNI) in relation to the new process for reviewing the indefinite notification requirements which apply to sex offenders under the new Schedule 3A (“Schedule 3A”) of the 2003 Act.

1.2. Paragraph 3(1) of Schedule 3A specifies the test for discharging the notification requirements (“the discharge requirements”) and states that:
On an application under paragraph 2 the Chief Constable shall discharge notification requirements unless the Chief Constable is satisfied –
(a) that the offender poses a risk of sexual harm; and
(b) that the risk is such as to justify the notification requirements continuing in the interests of the prevention or investigation of crime or the protection of the public.

1.3. This guidance is also intended to assist other practitioners and agency partners who are responsible for the management of relevant offenders in the community, in their understanding and application of the new legislation.

1.4. Recipients of this guidance should:

- note the changes to Part 2 of the 2003 Act;
- note, and put into operation, the review process, including the use of forms that can be found at Annexes A to G; and
- consider whether any changes to established procedures are required, and communicate this to staff.

1.5. PSNI is asked to communicate the changes, as appropriate, to relevant offenders.

1.6. If you have any queries regarding this guidance, please contact Criminal Policy Branch at:

Access to Justice Directorate
Criminal Justice Policy and Legislation Division
Massey House
Stormont Estate
Belfast BT4 3SX

Telephone: 02890 169601
Email: access.public@dojni.x.gsi.gov.uk
This guidance is also available on the DoJ website: www.dojni.gov.uk
Notification requirements

1.7. Part 2 of the 2003 Act contains provision for sex offender notification and the prevention of sexual crime. It provides that an offender, convicted of an offence which is listed in Schedule 3 to the 2003 Act ("a relevant offender"), becomes subject to the notification requirements set out in sections 83 to 86 of the 2003 Act. Operationally, this means that the offender will be required to notify specific personal information at a prescribed PSNI station, including their name, address, date of birth and national insurance number. Initial notification must be made following conviction and sentence, usually deferred in custody cases until the offender’s release from prison, and annually thereafter, or at any other time when changes have been made to the information initially provided.

1.8. The period of time for which an offender is subject to notification requirements is prescribed by the 2003 Act and, therefore, neither the PSNI, nor the judiciary, have any discretion to determine the length of time the notification requirements should apply.

1.9. Under the original terms of the 2003 Act, a relevant offender sentenced to a period of imprisonment for 30 months or more becomes subject to indefinite notification requirements, without an opportunity for review. Offenders sentenced to a term of imprisonment of less than 30 months are subject to notification requirements for a fixed period of up to ten years (see Table 1 below). Also, under the terms of the original provision, the periods for which an individual is subject to the notification requirements are halved for offenders under 18 years of age on the date of conviction, caution, or other finding. (These periods have not been altered by the 2013 Act).

Table 1: Notification periods

<table>
<thead>
<tr>
<th>Where the offender: *</th>
<th>Notification period</th>
</tr>
</thead>
<tbody>
<tr>
<td>is sentenced to 30 months or more imprisonment (including life)</td>
<td>An indefinite period</td>
</tr>
<tr>
<td>is admitted to hospital subject to a restriction order</td>
<td>An indefinite period</td>
</tr>
<tr>
<td>is sentenced to imprisonment for a term of more than 6 months but less than 30 months</td>
<td>10 years</td>
</tr>
<tr>
<td><strong>is sentenced to imprisonment for 6 months or less</strong></td>
<td>7 years</td>
</tr>
<tr>
<td><strong>is admitted to hospital without being subject to a restriction order</strong></td>
<td>7 years</td>
</tr>
<tr>
<td><strong>is cautioned</strong></td>
<td>2 years</td>
</tr>
<tr>
<td><strong>is given a conditional discharge</strong></td>
<td>The duration of the conditional discharge</td>
</tr>
<tr>
<td><strong>receives any other disposal (such as a community punishment or fine)</strong></td>
<td>5 years beginning with that date</td>
</tr>
</tbody>
</table>

* refers to adult offender (for those under 18 at the time of conviction, these notification periods are halved)

**The review mechanism**

1.10. The requirement to amend the law governing notification periods in order to provide a review mechanism for those subject to indefinite notification arose from a UK Supreme Court judgement R (F and Thompson) v Secretary of State for the Home Department. The court found that the original provision for indefinite notification made in the 2003 Act was incompatible with Article 8 (right to respect for private and family life) of the European Convention on Human Rights (ECHR). This led to a UK-wide government response to amend the law on indefinite notification periods. The required change was introduced in Scotland in 2011, and later in England and Wales, in 2012. The statutory provisions made in those jurisdictions introduced systems of review in the case of offenders subject to indefinite periods of notification.

1.11. Similar provision for a review mechanism to address the incompatibility identified by the Supreme Court has been made for relevant offenders in Northern Ireland: Schedule 3A, as inserted by section 1 of, and Schedule 1 to, the Act 2013 allows those offenders currently required to notify for an indefinite period, the opportunity to apply to the Chief Constable for discharge of their notification requirements, after a 15 year period (from the date of initial notification, disregarding any time spent in prison). Those offenders who were aged

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1 By virtue of The Sexual Offences 2003 (Remedial) (Scotland) Order 2011 (2011/45)
2 By virtue of The Sexual Offences Act 2003 (Remedial) Order 2012 (2012/1883)
3 Commencement on 1 March 2014
under 18 years at the date of conviction will be eligible to apply for review after 8 years from the date of initial notification.

**What is new?**

1.12. The review will require the PSNI to consider the risk of sexual harm posed by a relevant offender, before making a determination as to whether the offender should cease to be, or remain, subject to the notification requirements. Therefore, an offender will not automatically cease to be subject to the requirements and those who continue to pose a risk of sexual harm will remain subject to them, for life, if necessary.

1.13. While the PSNI, with assistance from the agencies which work together under the Public Protection Arrangements Northern Ireland (PPANI), are best placed to assess the risk posed by an offender, and determine whether he should remain subject to indefinite notification requirements, if a decision is made to continue the notification requirements, an offender may apply to the Crown Court to discharge notification.

**Aim**

1.14. Schedule 3A ensures that the notification requirements in the 2003 Act are no longer incompatible with Article 8 of the ECHR and that the Department complies with its obligations under section 6 of the Human Rights Act 1998 (acts of public authorities).

1.15. By ceasing notification requirements of offenders who are considered to no longer pose a risk to society, the PSNI will be able to focus its resources on the rigorous and effective management of those offenders who continue to pose a high level of risk.

1.16. As already highlighted, the introduction of a right to apply for a review does not equate to the right to be automatically removed from notification requirements; rather, the PSNI **must** be satisfied that an offender no longer poses a risk which demands notification. To make this assessment, the PSNI is required to consider a number of factors in each case, including relevant information available from the other PPANI agencies.

1.17. Importantly, the introduction of a review mechanism does not undermine the principles of the notification requirements. They continue to be an effective tool for PSNI in managing offenders in the community. As noted by Lord Phillips in the Supreme Court, the “notification requirements pursue a legitimate aim”.

1.18. Public protection remains a priority and the Department will continue to work with the PSNI and other partner agencies to ensure community safety.
Who is eligible to apply?

1.19. Adult offenders (i.e. those over 18 at the date of conviction etc) will only become eligible to apply for a review once they have been subject to notification for a period of at least 15 years since the date of initial notification. Any periods spent in prison since that date are discounted. Offenders under 18 can apply after eight years. This is known as ‘the initial review period’.

1.20. If the offender is also subject to a Sexual Offences Prevention Order (SOPO) or an interim SOPO, the order must be discharged under section 108 of the 2003 Act before the offender can make any application for a review of the indefinite notification requirements.

1.21. A process map and associated timescale (detailed on pages 8 and 9), may provide a useful tool in marking out the steps to be taken in assessing each review application.
Associated Timescale for Review of Indefinite Notification

1. Applicant applies in writing to Chief Constable (Annex A).

2. Chief Constable’s Office acknowledge receipt of application (Annex B) (12 week review period commences).

3. Application forwarded to Inspector in charge of PPU in area offender resides. PPU add activity log to ViSOR (1 week).

4. PPU/PPT to check applicant is eligible. If not eligible, draft letter (Annex C) is prepared and sent to D/Superintendent Public Protection Branch (C7) for transmission to applicant. (Final signed copy to PPIU/PPU/ PPANI links).

5. Where eligible, PPU/PPT completes the Review of Indefinite Notification Form (Annex D) and advises PPANI Links Team that process has commenced (4 weeks (5)). For all PPANI cases, a multi-agency forum (outside the LAPPP process) will be convened to consider these cases.

6. PPU/PPT to ensure there is consideration of relevant intelligence/DIU information that has not been suitable for multi-agency discussion/dissemination (1 week (6)).

7. Review of Indefinite Notification Requirements (Annex D) is completed and forwarded to D/Superintendent Public Protection Branch (C7) for decision (2 weeks (8)).

8. Decision passed back (in writing) to Public Protection Secretariat to prepare the appropriate draft letter for offender (Annex E or F, as appropriate) (1 week (9)).

9. Draft letter sent to D/Superintendent Public Protection Branch (C7) (1 week (10)).

10. Letter sent to Applicant (Final signed copy to PPU/PPUI/PPANI Links) (1 week (11)).
2. STAGE 1: APPLICATION AND ACKNOWLEDGEMENT

Engagement with relevant offenders

2.1. The review mechanism is an applicant led process, which means that the onus is on the individual offender to remain up to date in relation to the obligations and requirements whilst subject to notification requirements. Relevant offenders will not automatically be removed from the register and therefore must continue to comply with their notification requirements until they receive confirmation in writing from the PSNI that their application for discharge has been successful.

2.2. From 1 March 2014, information on how a relevant offender may apply for review will feature on SOA3 form, which provides the offender with details of his notification requirements and which is provided to him on release from custody.

2.3. Also from 1 March 2014, PSNI will inform offenders at their annual notification immediately preceding the 15 year threshold (or 8 year threshold where applicable) of their ability to apply, from the appropriate date, for review of their indefinite notification requirements.

2.4. PSNI will also endeavour to inform those offenders who, on legislative commencement, have already reached the date at which they can apply for review.

2.5. Additionally, PSNI can assist any offender who may consider they are eligible for review by carrying out a relevant check, which would enable them to confirm the offender’s eligibility and qualifying date, if required.

Initial review

2.6. An offender may, at any time after the end of the ‘initial review period’, apply to the Chief Constable for discharge from the indefinite notification requirements. As already highlighted, an offender cannot apply for discharge from the notification requirements if he is subject to a SOPO, or interim SOPO, or if the notification period is for a fixed period which has not expired.

2.7. The initial review period is 15 years from the date of initial notification, (where the offender is aged 18 years or over on the date of conviction) and 8 years from the date of initial notification (in the case of an offender under the age of 18 on the date of conviction).

2.8. Where the offender is subject to indefinite notification requirements as a result of two or more relevant events, that is, two or more convictions/findings on different occasions, the initial review period is calculated from the latest event.
2.9. Also, when calculating the initial review period, the following periods should be disregarded:

When an offender is

- remanded in, or committed to, custody by order of a court;
- in custody serving a sentence of imprisonment or detention;
- detained in hospital.

Making an application

2.10 Paragraph 2(6) of Schedule 3A provides details on the information required from the offender when making an application. This application procedure also applies in accordance with paragraph 6(4) of Schedule 3A in relation to applications for further reviews made under paragraph 6.2 of this statutory guidance.

2.11. An application must be made to the Chief Constable in writing and should be made using the specified application form, which can be found at Annex A. The offender should be advised of this requirement and provided with a copy of the relevant application form, as required. If necessary, the application can be made by a third party on behalf of the offender, and signed by the offender.

2.12. An application for a review must be acknowledged by the PSNI within 14 days of receipt of the specified application form containing the information as set out in paragraph 2(6) of Schedule 3A. An example of an acknowledgement letter template can be found at Annex B.

2.13. An offender who is subject to a SOPO or an interim SOPO is not eligible to apply to the Chief Constable for a review of indefinite notification requirements. A template ‘ineligible to apply for review’ letter can be found at Annex C.

2.14. On receipt of an application, PSNI may, before determining any application, request information from any body or person, which they consider appropriate.
3. **STAGE 2: REVIEW AND DETERMINATION**

**Review of application**

3.1. Paragraph 3(1) of Schedule 3A sets out the legal test for the discharge requirements.

3.2. It is open to the offender to provide reasons for seeking the review, and to provide information and evidence, which he considers relevant to demonstrate that he satisfies the discharge requirements.

**Factors for determination**

3.3. In making a decision on an application, the Chief Constable must take into account the list of factors, as set out in paragraph 3(2) of Schedule 3A. This is not an exhaustive list and the Chief Constable may wish to, and is entitled to, consider other factors. The statutory list is intended to provide PSNI with an evidential framework with which they can assess the risk posed by the applicant. The factors are –

(a) the seriousness of the offence or offences –

   (i) of which the offender was convicted,

   (ii) of which the offender was found not guilty by reason of insanity,

   (iii) in respect of which the offender was found to be under a disability and to have done the act charged, or

   (iv) in respect of which (being relevant offences within the meaning of section 99 of the 2003 Act) the notification order was made, and which made the offender subject to the notification requirements for an indefinite period;

(b) the period of time which has elapsed since the offender committed the offence or offences;

(c) whether the offender has committed any offence under section 3 of the Sex Offenders Act 1997, or under section 91 of the 2003 Act;

(d) the age of the offender at time of the decision;

(e) the age of the offender at the time any offences referred to in sub-paragraph (a) was committed;

(f) the age of any person who was a victim of any such offence (where applicable) and the difference in age between the victim and the offender, at the time any such offence was committed;
(g) any convictions or findings made by a court (including a court in England and Wales or Scotland or a country outside the United Kingdom), in respect of the offender for any other offence listed in Schedule 3;

(h) any caution which the offender has received for any offence (including an offence in England and Wales or Scotland or a country outside the United Kingdom), which is listed in Schedule 3;

(i) any convictions or findings made by a court (including a court in England and Wales, Scotland or a country outside the United Kingdom) in respect of the offender for any offence listed in Schedule 5, where the behaviour of the offender since the date of the conviction, or finding, indicates a risk of sexual harm;

(j) whether any criminal proceedings for any offences listed in Schedule 3 have been instituted against the offender, but have not concluded;

(k) any assessment of the risk of sexual harm posed by the offender which has been made by any of the agencies mentioned in Article 49(1) of the Criminal Justice (Northern Ireland) Order 2008 (risk assessment and management),

(l) any information presented by, or on behalf of, the offender;

(m) any information relating to the risk of sexual harm posed by the offender; and

(n) any other matter which the Chief Constable considers to be appropriate.

3.4. It would also be considered best practice for PSNI to give consideration to any PPANI risk management plan in advance of considering an application for review, as this should provide important information and detail on which responsible bodies (if any) can provide relevant information.

3.5. **The functions of the Chief Constable in the determination of an application may be delegated by the Chief Constable to a police officer not below the rank of superintendent.**

**Overseas offences**

3.6. Under the terms of Schedule 3A, an act committed by the offender abroad will be treated as an offence:

- if it constituted an offence under the law in force in the country concerned; and
- it would have constituted an offence listed in Schedule 3 or Schedule 5 to the 2003 Act, if it had been done in any part of the United Kingdom.
3.7. Where an act committed overseas has not resulted in a conviction, caution or finding, as described above, PSNI may also consider the behaviours exhibited by the offender in relation to the act in question.

**Information through PPANI**

3.8. As already highlighted, relevant offender information may be made available to PSNI from one or more of the other PPANI agencies (a list of these agencies is stipulated in Article 49(1) of the Criminal Justice (Northern Ireland) Order 2008 and detailed at Annex F). It should be noted that any information received from the agencies is personal or sensitive data, and consequently must be obtained, processed and retained in accordance with data protection law - as set out in common law (including in accordance with the applicant’s rights under Article 8 of the ECHR, or under the Data Protection Act 1998. It is therefore important that PSNI consider whether it is appropriate, or necessary, to engage with bodies that have a current or previous interest, or involvement in the management of the offender.

3.9. Where a partner PPANI agency provides information which indicates a risk, PSNI should consider whether it is necessary to engage with the other agencies to obtain further information relating to the area of concern, and whether it is appropriate that the offender should cease to be subject to the indefinite notification requirements.

3.10. Where an appropriate Local Area Public Protection Panel (LAPPP) meeting under the PPANI arrangements is due to take place during the period when PSNI are considering an application for review, it could be considered good practice to use this forum to communicate to other agencies that the application has been made and request any information relevant to it. Minutes from the LAPPP meeting should provide a record of the formal notification and request for information.

**Assessment of sexual harm and risk assessment tools**

3.11. The outcome of the review will be determined by PSNI after an updated assessment of the risk posed by the individual, taking into account the factors listed in para 3.3 above.

3.12. The actual risk of sexual harm that an individual presents is related to certain dynamic psychological factors (i.e. they may be subject to change over time, usually slowly), as well as the static historic factors. There are also personal and environmental factors that research demonstrates may reduce the likelihood of sexual harm, known as protective factors. The assessment tool used by the PPANI agencies to take an individual’s dynamic risk and protective factors into consideration is the Stable and Acute 2007. Where necessary, such a tool should assist in informing the review.

3.13. PSNI will have access to any historical risk assessment information, including that from other agencies.
3.14. Where such information is available, the offender’s current situation and risks should be compared with this past information. Change in a positive direction, combined with there being no intelligence that would lead to the conclusion the offender is still a sexual risk, along with the presence of protective factors such as stable accommodation; work; and supportive relationships, may lead to a conclusion that notification is no longer required to manage the offender’s risk of sexual harm.

3.15. PSNI may wish to give consideration to the reoffending behaviours of female offenders during an assessment of risk. Research indicates that the reoffending rate of women is significantly lower, but it should be noted that women will have increased opportunity for engagement with children due to their social engagement patterns.

3.16. Further information on risk assessment can be found in chapter 4 of the PPANI Manual of Practice (which can be found at www.publicprotectionni.com)

**Recording the determination**

3.17. PSNI should make a written record of their consideration of the matters described in paragraph 3.3 above using the form at Annex D to ensure that they can demonstrate that they have applied the proper test, and considered relevant factors and matters.

3.18. Factors, other than those set out in para 3(2) of Schedule 3A, which have been considered as relevant, should also be recorded. Where the Chief Constable’s determination is that the notification requirements should not be discharged, and the offender applies to the Crown Court for an order discharging the notification requirements, the Crown Court may want to assess the process by which the Chief Constable made the determination.
4. **STAGE 3: NOTICE OF DECISION**

4.1. Under the terms of Schedule 3A, PSNI are required to make a determination on whether to discharge the offender from the indefinite notification requirements within 12 weeks of receipt of an application.

4.2. If, having taken all relevant matters into account, PSNI decide that it is not necessary for the purpose of protecting the public from the risk of sexual harm for that offender to remain subject to indefinite notification; a written notice of this fact must be served on the offender. A template ‘discharge’ letter can be found at Annex E. The offender will cease to be subject to the notification requirements on the date of service of the notice.

4.3. In the event that the police decide not to discharge the offender because he cannot satisfy the discharge requirements, a notice of this decision must be served on the offender. A template ‘continuation of notification requirements’ letter can be found at Annex F.

4.4. This notice must state the reasons for the decision made. It must also advise the offender that he may apply to the Crown Court for an order discharging the notification requirements, and that a further application to PSNI for a review can be made by him in either four or eight years, depending on whether he is under 18, or an adult. A template ‘application to the Crown Court’ can be found at Annex G.
5. **STAGE 4: APPLICATION TO CROWN COURT**

5.1. Where the Chief Constable has decided not to discharge the notification requirements, or has failed to comply with the statutory period of 12 weeks for determining an application, the offender may apply to the Crown Court for an order discharging the notification requirements.

5.2. This application to the Crown Court must be made within 21 days beginning:

- (on the date of service of the notice) in the case where the Chief Constable has decided not to discharge;

- (on the expiry of this 12 week period) in a case where the Chief Constable has not complied with the 12 week period for initial reviews.

5.3. An offender who applies to the Crown Court will remain subject to the indefinite notification requirements whilst their application is being considered, and will only cease to be subject to these requirements if the Crown Court makes an order discharging the offender. In these circumstances, the offender will cease to be subject to the requirements on the date on which the Crown Court makes such an order.

5.4. It is solely a matter for the offender on whether he wishes to seek his own legal advice in relation to any application to the Crown Court. It is also a matter for the offender to ascertain if legal aid is available.

5.5. The Chief Constable and the offender may appear, or be represented at any hearing, in respect of an application to the Crown Court. The Chief Constable may be represented by a police officer not below the rank of superintendent.

5.6. Where the Crown Court makes an order discharging the offender from the notification requirements, Northern Ireland Courts and Tribunals Service (NICTS) must send a copy of the order to the offender and to the Chief Constable.

5.7. Where the Crown Court refuses to make an order discharging the offender, NICTS must send notice of the refusal to the offender and to the Chief Constable.
6. **STAGE 5: FURTHER REVIEWS**

6.1. In the event that the Chief Constable or the Crown Court has determined that the offender’s application should be refused on the basis that he is unable to satisfy the discharge requirements, the offender will continue to remain subject to indefinite notification requirements in accordance with the terms of the 2003 Act.

6.2. However, offenders will still be eligible to seek a further review of their indefinite notification requirements, following the expiry of an additional review period. For those offenders under the age of 18 at the time of the determination, this period will be 4 years, beginning with the date of service of notice (or last notice) served on the offender by the Chief Constable or Crown Court. For any other offender, this period will be 8 years, beginning with the date of service of notice (or last notice) served on the offender by the Chief Constable or Crown Court.

6.3. It should be noted that a further review will not apply at any time where the offender is also subject to a SOPO or interim SOPO, unless the SOPO is first discharged under section 108 of the 2003 Act, or where the offender is also subject to the notification requirements for a fixed period, which has not expired.
7. FREQUENTLY ASKED QUESTIONS

Q1. Why the need for an indefinite notification requirements review mechanism?

A. The requirement to amend the law governing notification periods in order to provide for a review mechanism for those subject to indefinite notification arose from a UK Supreme Court judgement R (F and Thompson) v Secretary of State for the Home Department.

The court found that the original provision for indefinite notification made in the 2003 Act was incompatible with Article 8 (right to respect for private and family life) of the European Convention on Human Rights (ECHR) and subsequently led to a UK-wide government response to introduce a form of review of indefinite notification periods.

Q2. Which legislation governs the new review mechanism?

A. Schedule 3A, as inserted by section 1 of, and Schedule 1 to, the 2013 Act, makes the necessary amendment to the 2003 Act. These provisions of the Criminal Justice Act 2013 came into force on 1 March 2014. In England and Wales it is the Sexual Offences Act 2003 (Remedial) Order 2012 and in Scotland it is the Sexual Offences Act 2003 (Remedial) (Scotland) Order 2011. Both of these orders insert the provisions into the 2003 Act.

The new provisions allow sex offenders, who are currently required to notify for an indefinite period, the opportunity to apply to the Chief Constable for review. This opportunity did not exist under the original notification requirement provisions of the 2003 Act.

Q3. Who will the review mechanism apply to?

A. The review mechanism will apply to those individuals who are subject to the notification requirements for an indefinite period, as set out in Section 82(1) of the 2003 Act.

It is not applicable to those offenders subject to a notification period for a fixed period, nor can an offender apply who is subject to a Sexual Offences Prevention Order (SOPO) or an interim SOPO.

The SOPO must first be discharged by the court under existing procedures (Section 108 of the 2003 Act).

Q4. When will an offender be able to seek a review?
A. Relevant adult offenders (i.e. those aged 18 years and over at the date of conviction) will be able to apply for a review of their indefinite notification requirements only when they have completed the minimum period of time, which is a 15 year period from the date of their initial notification. Initial notification is likely to have taken place within three days of release from prison. However, where initial notification predated this point, any period spent in custody is disregarded when calculating the 15 year period.

Young offenders (i.e. those under 18 years at the date of conviction) will be eligible to apply for review after 8 years from the date of initial notification.

However, where an offender is also subject to a SOPO or interim SOPO, they will not be able to apply for a review, unless they have applied to the court and been successful in having the SOPO discharged. Article 108 of the 2003 Act provides the means to vary or discharge a SOPO.

Q5. Will an offender have a right of appeal?
A. In the event that PSNI refuse to discharge or do not respond within the stipulated 12 week set period, the offender may apply to the Crown Court for an order discharging him from the notification requirements.

Q6. Will offenders be eligible for legal aid?
A. Legal aid may be available. It is the responsibility of the applicant to ascertain if legal aid is available in his own case.

Q7. Who will make the decision on the initial application?
A. PSNI will make the decision. Before determining any application, they may request information from any body or person considered appropriate.

Q8. How will a review be recorded?
A. An application form for use by an offender seeking a review of their indefinite notification requirements can be found at Annex A. All other letters can be found at Annexes B to E.
8. **ANNEXES**

**Annex A:** Application form for review of indefinite notification requirements under the 2003 Act

**Annex B:** Acknowledgement letter

**Annex C:** Ineligible to apply for review letter

**Annex D:** Review of indefinite notifications requirements

**Annex E:** Discharge letter

**Annex F:** Notice of determination

**Annex G:** Application to Crown Court

**Annex H:** Partner agencies - PPANI
APPLICATION FORM FOR REVIEW OF INDEFINITE NOTIFICATION REQUIREMENTS UNDER SCHEDULE 3A TO THE SEXUAL OFFENCES ACT 2003

An application for a review of indefinite notification arrangements cannot be made until at least 15 years after the date of your first notification to PSNI (following any period spent in detention for the relevant offence). If you were under 18 on the date of conviction, you may apply for a review 8 years after the date of your first notification to PSNI.

You, or someone acting on your behalf, should complete this form as fully as possible.

The review process begins on receipt of a completed application form.

Surname: ____________________________________________

Forename(s): _________________________________________

Address: _____________________________________________

____________________________________________________

Date of Birth: _________________________________________

National Insurance Number: ______________________________

Name and address at the date of each relevant event (if different):

____________________________________________________

____________________________________________________

____________________________________________________

____________________________________________________

The date of each relevant event, and (where a relevant event is a conviction or finding) the court by, or before, which the conviction or finding occurred:

4 “Relevant event”, in relation to an offender, is a conviction, finding or notification order which made the offender subject to the notification requirements for an indefinite time.
Date and name of police station of first notification (following any period spent in detention for the relevant offence):

Date of discharge of Sexual Offences Prevention Order (SOPO) - if applicable:

**NB:** A SOPO or interim SOPO must be discharged by a court, prior to making an application for a review of your notification requirements.
Please provide any information that you wish to be taken into account by the Chief Constable in determining your application. You can refer to the explanatory note below for examples of the type of detail you might wish to provide.

Declaration

I hereby declare that I wish to make an application for a review of the notification requirements under Part 2 of the Sexual Offences Act 2003.

Signature: ______________________________________________

Date: ______________________________________________
IF YOU HAVE COMPLETED THIS FORM ON BEHALF OF ANOTHER PERSON, PLEASE PROVIDE THE FOLLOWING DETAILS:

Name: __________________________________________________
Address: __________________________________________________
Telephone: _______________________________________________
Email (if you are content to be contacted by email)
___________________________________________________________
Relationship to applicant: _________________________________
Signature: _________________________________
Date: _________________________________

Completed application form

Please submit completed application (along with any evidence) to:

The Chief Constable
Police Service of Northern Ireland
Police Headquarters
Brooklyn
65 Knock Road
Belfast
BT5 6LE
ANNEX A – Explanatory Note

(i) Information you wish to be taken into account

You may wish to state the reasons why you are making the application for a review of your indefinite notification requirements. You may particularly want to demonstrate:

- How your circumstances now, compared to those at the time of your offence, mean that you no longer pose a risk of reoffending;

- The way you behave now, compared to your behaviour during earlier periods when you have been subject to notification requirements, means that you no longer need to be subject to those requirements for the prevention of crime and protection of the public.

(ii) Relevant information

Information might include:

- Where you live, how long you have lived there, the stability of your living arrangements, who you live with and how long you have lived in these circumstances;

- Relationship with any children under 18 years of age;

- Are you in employment, what are your interests or hobbies;

- Details of any health or support services you are in contact with;

- Details of any treatment programme(s) you have undertaken that are relevant to your offending history;

- Your attitude to your offending behaviour and what you do to ensure you will not re-offend;

- How other people consider that you do not pose a risk of re-offending (you may wish to provide character references with names and addresses for verification);

- Any other information you consider demonstrates you no longer pose a risk of sexual harm.
ANNEX B

Your Ref:  
Our Ref:  

[Date]  

Dear  

This letter is formal acknowledgement of receipt of your application for a review of your indefinite notification requirements, made in accordance with Schedule 3A to the Sexual Offences Act 2003. This was received on [insert date].

We will consider your application and you will be notified of our decision within 12 weeks of the date of receipt of your application.

If it is determined that you should no longer remain subject to the notification requirements, your notification requirements will cease on the date you receive your notice of the determination.

If it is determined that you must remain subject to the notification requirements, you will receive a notice of determination which contains a statement of reasons for the determination. You may appeal against this decision to the Crown Court with 21 days of receiving the notice.

Yours sincerely  

Served by [name/rank/role]  

Signature [officer/staff member serving]  

Signature [applicant]
Further to your application made on [insert date], I am writing to advise that you are not eligible to apply to the Chief Constable for a review of your indefinite notification requirements.

This is because you are currently subject to a [Sexual Offences Prevention Order] (SOPO)/ [interim SOPO].

Under the legislative framework (para 2 (2) of Schedule 1 to the Criminal Justice Act 2013) a person subject to such an order cannot apply for review. However, you would be eligible to apply once your SOPO/interim SOPO has expired, or in the event that you apply to the court to have your SOPO/interim SOPO discharged, and this is successful.

Yours sincerely
## Part 1: Offender Details

<table>
<thead>
<tr>
<th>Name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of Birth</td>
<td></td>
</tr>
<tr>
<td>Address</td>
<td></td>
</tr>
<tr>
<td>ViSOR Number</td>
<td></td>
</tr>
<tr>
<td>Niche Number</td>
<td></td>
</tr>
<tr>
<td>Date review is due</td>
<td></td>
</tr>
</tbody>
</table>

## Part 2: Summary of Matters to Be Taken Into Account in Making Decision

1. Offence(s) that made the relevant offender subject to the notification requirements for an indefinite period, taking into consideration:
   - Seriousness
   - Correct description of offence (indictment/complaint and extract conviction)
   - Sentence
   - Sentencing report

2. Period of time which has elapsed since the relevant offender committed the offence(s)

3. Length of time under management – date of first notification (post release from custody)

4. Age of the relevant offender at the time of offence(s) referred to at section 1 above
<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>5.</td>
<td>Age of victim(s) of any such offence (where applicable) and the difference in age between the victim and the relevant offender at the time the offence was committed</td>
</tr>
<tr>
<td>6.</td>
<td>Age of relevant offender at time of this review</td>
</tr>
<tr>
<td>7.</td>
<td>Details of any subsequent offence(s) under section 3 of the Sex Offenders Act 1997 (failure to comply with notification requirements)</td>
</tr>
<tr>
<td>8.</td>
<td>Details of any subsequent offence(s) committed under section 91 of the Sexual Offences Act 2003 (failure to comply with notification requirements)</td>
</tr>
<tr>
<td>9.</td>
<td>Details of convictions or findings made by a court in respect of the relevant offender for any other offence listed in Schedule 3 to the Sexual Offences Act 2003 (this is to include any offences in England, Wales, Scotland or any country outside the United Kingdom)</td>
</tr>
<tr>
<td>10.</td>
<td>Details of any caution(s) which the relevant offender has been received for an offence which is listed in Schedule 3 to the Sexual Offence Act 2003 (this is to include any offences in England, Wales, Scotland or any country outside the United Kingdom)</td>
</tr>
<tr>
<td>11.</td>
<td>Details of any criminal proceedings for any offence(s) listed in Schedule 3 to the Sexual Offences Act 2003, that have been instituted against the relevant offender, but which have not been concluded</td>
</tr>
<tr>
<td>12.</td>
<td>Details of any criminal proceedings, convictions or other findings in relation to offences listed in Schedule 5 to the Sexual Offences Act 2003 (this is to include any offences in England, Wales, Scotland or any country outside the United Kingdom) where the behaviour of the offender since the date of conviction or finding indicates a risk of sexual harm</td>
</tr>
<tr>
<td>13.</td>
<td>Victim consideration given, where appropriate</td>
</tr>
</tbody>
</table>
Part 3: RISK ASSESSMENT

15. Current Risk Assessment including RM2000, details from multi-agency forum/discussions, details from most recent LAPPP and details of police system checks undertaken

16. Any assessment of the risk of sexual harm posed by the offender which has been made by any of the agencies mentioned in Article 49(1) of the Criminal Justice (Northern Ireland) Order 2008 (risk assessment and management)

17. Any information presented by or on behalf of the offender

Part 4: RECOMMENDATION

<table>
<thead>
<tr>
<th>The relevant offender should continue to remain subject to the notification requirements under Part 2 of the Sexual Offences Act 2003</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rationale for Recommendation</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Signed _____________________________ PPU Inspector

Date _______________________________
**Part 5: DECISION**

The relevant offender will continue to remain subject to the notification requirements under Part 2 of the Sexual Offences Act 2003

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
</table>

Rationale

Signed ____________________ Superintendent

Date ______________________

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**Part 6: LETTER TO APPLICANT**

Date letter sent to Applicant

Where notification is to continue: Earliest date for subsequent review (4 years for juvenile offender, 8 years for adult offender)

Signed _____________________________ PPU Inspector

Date _______________________________
Dear

Having considered your application, it has been determined in accordance with Schedule 3A to the Sexual Offences Act 2003 that you should no longer remain subject to the notification requirements of Part 2 of the Act.

Your notification requirements cease on the date of your receipt of this letter.

Yours sincerely

Served by [name/rank/role]

Signature [officer/staff member serving]

Signature [applicant] Time: Date:
ANNEX F

Your Ref:  
Our Ref:  

[Date]  

Dear  

Further to your application made on [insert date], it has been determined in accordance with Schedule 3A to the Sexual Offences Act 2003 that you must remain subject to the notification requirements. Please see below a statement of reasons.  

You will be entitled to make a further application for review no earlier than [8/4] years from the date of this determination.

Statement of Reasons: [elaborate or delete as appropriate]

You have failed to satisfy the relevant chief office of police that it is not necessary for the purpose of protecting the public or any particular members of the public from sexual harm for you to remain subject to the indefinite notification requirements.

The reasons for this determination are [the list below is not exhaustive]

- The seriousness of your offences(s) (i.e......)  
- Breach(es) of your notification requirements (i.e......)  
- Other convictions or cautions (i.e......)  
- The assessment of risk posed by you (i.e......)  
- Other matters considered to be relevant (i.e......)  

You may appeal against this decision to a Crown Court for any part of the police area to which you made your application. If you wish to do so, you must apply to the Crown Court within 21 days of the date when you received this letter. You may have to pay a fee to the court before your appeal will be listed for hearing. More information can be obtained from the Crown Court.

Please note that you remain subject to the indefinite notification requirements whilst your application is being considered by the Crown Court, and you will only cease to be subject to these requirements if the Crown Court makes an order discharging you.

Yours sincerely
An application should be made —

(a) following a failure by the Chief Constable to serve notice of his decision within 12 weeks of the date the initial review application was served on him, within 21 days from the expiry of the 12 week period; or

(b) following a decision by the Chief Constable not to discharge the notification requirements, within 21 days from the date the notice of decision was served on him.

This Form should be served on the chief clerk and at the same time a copy thereof shall be served on the Chief Constable.

<table>
<thead>
<tr>
<th>Details required</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Details of applicant:</strong></td>
<td></td>
</tr>
<tr>
<td>Name:</td>
<td></td>
</tr>
<tr>
<td>Address:</td>
<td></td>
</tr>
</tbody>
</table>

<p>| Details of the original conviction (to which the indefinite notification requirements relate): | |
| The Crown Court at: | |
| Date of sentence: | |
| Offence(s): | |</p>
<table>
<thead>
<tr>
<th>Details of initial review application to Chief Constable:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date of application to Chief Constable:</td>
</tr>
<tr>
<td>Date of decision by Chief Constable not to discharge notification requirements (where applicable):</td>
</tr>
<tr>
<td>(NOTE - Where applicable, a copy of the Chief Constable’s decision notice must be attached to this Form)</td>
</tr>
</tbody>
</table>

Dated this day of 20 .

Applicant

[Solicitor for Applicant]

To the Chief Clerk of the Crown Court sitting at
And to the Chief Constable.

**NOTE:**

The notice served on the chief clerk shall be endorsed with the date upon which and the manner in which notice was served on the Chief Constable.
ANNEX H

Partner agencies - PPANI

(a) Police Service of Northern Ireland
(b) Probation Board for Northern Ireland
(c) Department of Education
(d) Department for Employment and Learning
(e) Department of Health, Social Services and Public Safety
(f) Department for Social Development
(g) HSS Boards and HSS Trusts
(h) Education and Library Boards
(i) Northern Ireland Housing Executive
(j) National Society for the Prevention of Cruelty to Children