

Victim Notification Scheme Offenders with a Mental Disorder

**(Compulsion Order and Restriction Order;
Hospital Direction; or Transfer for
Treatment Direction)**

**Guidance for victims on making
written representations to a
Responsible Medical Officer
on first granting a certificate
suspending detention without
supervision.**

Introduction

This guidance booklet provides advice to victims registered under the victim notification scheme for offenders with a mental disorder who wish to make representations before certain decisions are taken.

This booklet covers how to make written representations to the responsible medical officer, for the granting for the first time, of a certificate which suspends the offender's detention in hospital and does not impose a supervision requirement.

If you want to speak to someone about this booklet, you can contact Victim Support Scotland, a national charity that helps victims of crime. You can find details of your local office in the telephone directory under "Victim Support", or you can contact them on 0345 603 9213 from Monday to Friday between 8 am and 8 pm. You can also find details of your local office on Victim Support Scotland's website at www.victimssupportsco.org.uk.

Terms you may not be familiar with

Compulsion order is used when an offender commits an offence that is punishable by imprisonment but has been found to have a mental disorder. The court can decide not to send the offender to prison but that they must stay in hospital for mental health treatment.

Conditional discharge allows a period of formal supervision of the offender in the community by closely monitoring their mental health. The offender will be subject to conditions.

Multi Agency Public Protection Arrangements (shortened to MAPPA) is a set of arrangements which the police service, local authority, prison service, health service and others are legally obliged to operate on a multiagency basis, with the objective of protecting the public from the risks that may be posed by serious offenders.

Responsible medical officer (sometimes shortened to RMO) is a psychiatrist who must have required qualifications and experience and be approved by a Health Board as having special experience in the diagnosis and treatment of mental disorder.

Restriction order can be added to a compulsion order. It is made by the court at the time of sentencing where the court considers that the person presents a risk of serious harm to the public.

Suspension of detention allows an offender to spend time outside of the ward or hospital grounds. It can be escorted or unescorted, that is accompanied by a nurse or without supervision.

Why you will be asked to make representations

An offender who is under a compulsion order and restriction order, a hospital direction or a transfer for treatment direction which authorises their detention in hospital for treatment cannot leave hospital unless their detention is suspended (leave from hospital).

Detention in hospital may be suspended as part of the offender's treatment plan. Suspension of detention which is always well thought-out and carefully and sensitively executed, has an important part to play in the treatment and rehabilitation of offenders.

Decisions on suspending detention as part of the offender's treatment are made by the offender's responsible medical officer and are only taken after a risk assessment has been carried out (including risk of harm to others and respect the fears of victims and others who may have been affected by the offender's behaviour). Normally the offender will be accompanied by hospital staff, but treatment may mean the offender progresses to detention being suspended without supervision. This may include conditions that limit alcohol, prohibit drugs, prohibit contact with a named person or places that may not be visited.

The first time an offender progresses to detention being suspended without supervision, you will be invited to make representations before the offender's responsible medical officer makes a decision. You will not, however, be told about each period of suspension of detention without supervision after the first time.

You will be given an opportunity to make representations a second time in the following limited circumstances:

- If an offender, who is subject to a compulsion order and restriction order, has been conditionally discharged and recalled. You will be given an opportunity to make representations on the first occasion of unescorted suspension of detention following recall from conditional discharge.
- If an offender is subject to a transfer for treatment direction or a hospital direction and is well enough to return to prison but later requires further mental health treatment in hospital they will be placed on a new transfer for treatment direction. You will be given an opportunity to make representations on the first occasion of unescorted suspension of detention under the new direction.

The letter you received after you asked to make representations will tell you whether the offender is subject to an order or a direction. You will be contacted if either of the above situations apply to you.

What your representations may cover

Your representations must be about how the decision to grant unescorted suspension of detention for the first time might affect you or members of your family.

You may tell the offender's responsible medical officer anything, but the responsible medical officer must have regard to your representations before deciding what conditions to include in a certificate granting the offender's unescorted suspension of detention.

You may therefore want to tell the responsible medical officer about how seeing the offender or contact with them would affect you or your family. If you are concerned, you may wish to tell the responsible medical officer about places where you or members of your family live or visit regularly.

When to make your representations

You will be contacted by the Victim Notification Scheme Administration Team who will tell you when the responsible medical officer is considering granting for the first time a certificate which suspends the offender's detention and does not impose a supervision requirement (unescorted leave from hospital).

We will provide a form and tell you who to send your representations to in plenty of time before the responsible medical officer makes a decision. If you have previously made representations and have said you were happy for the Victim Notification Scheme Administration Team to hold on to those representations we will send a copy of those representations to you. You can then either update your representations or confirm that you wish the representation held for you to be taken into account by the responsible medical officer.

You will be asked to return your representations by a specific date. If you miss that date, your representations may not be able to be taken into account by the responsible medical officer.

What happens with your representations

The offender's responsible medical officer must take into account your representations before deciding what conditions to include in a certificate granting unescorted suspension of detention.

The Victim Notification Scheme Administration Team will send your representation to the offender's responsible medical officer. We will not provide them with your contact details.

The responsible medical officer will discuss the proposed conditions to include in the certificate granted unescorted suspension of detention for the first time under the multi-agency public protection arrangements. Scottish Ministers agreement will also be sought to the proposed unescorted suspension of detention.

After the responsible medical officer's decision

You will be told once the responsible medical officer grants a certificate suspending detention without a supervision requirement. You will not be told the timing of when the offender's detention has been suspended or any conditions which apply while they are not in hospital.

Change of Circumstances

You should inform the Victim Notification Scheme Administration Team of any change to your circumstances, such as a change in address.

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 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

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Edinburgh EH8 9RX

Tel. 0131 668 4486

Email: info@victimsupportsco.org.uk

www.victimsupportsco.org.uk

The Scottish Government

(Victim Notification Scheme Administration Team)

The Hub

Mental Health and Protection of Rights Division

Room 3-ER

St Andrew's House

Regent Road

Edinburgh

EH1 3DG

Tel. 0131 244 3340

Email: vns@gov.scot

Further Information

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:

<http://www.mwscot.org.uk/the-law/criminal-procedures-act/>

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



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at
The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-78851-245-9 (web only)

Published by The Scottish Government, October 2017

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS300866 (10/17)

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