

Sexual Offences

What are the sentence implications of being convicted of a Schedule 15 offence?

The Criminal Justice Act 2003 introduced 153 categories of ‘specified offences’ which are listed in Schedule 15 of the 2003 Act. They include sexual offences from rape to indecent exposure. A Schedule 15 offence may in certain circumstances qualify someone for an Imprisonment for Public Protection (IPP) or extended sentence. It may also have sentence and licence implications.

What treatment Programmes might I have to do?

- Core SOTP – aimed at male medium and high risk prisoners. Consists of 86 group sessions and lasts 6 months. For prisoners with learning difficulties the Adapted SOTP covers the same issues.
- Extended SOTP – designed for high and very high risk prisoners. Completed after Core SOTP and covers thinking styles, emotion management and intimacy skills. Lasts for 73 sessions and takes about 4 months
- Rolling SOTP - targeted towards low risk prisoners. Is less emphasis on the actual offence and more on relationship skills
- Better Lives Booster – provides an opportunity to practice skills learnt. Suitable for people who have completed SOTP. Are two versions, low intensity for those in custody and high intensity for people about to be released into the community.
- Healthy Sexual Functioning – completed after the Core and Extended SOTP
- Thames Valley SOTP – completed in the community. Is a version for people who deny any sexual offence.

Implications of denial on sentence and IEPS

PSI 2011/11 deals with the issue of sex offenders who maintain their innocence, sentence planning and IEP guidance. The key points are;

- A distinction is drawn between sex offenders who deny guilt and are

appealing and those who deny guilt and are not appealing (including those whose appeal has been refused)

- To prove you are an appellant you must be able to produce evidence, such as a criminal appeal number from the Criminal Appeals Office.
- A prisoner is not an appellant if the CCRC or European Court are examining the case as they have no power to overturn or modify any conviction
- All sex offenders ‘with the exception of current appellants’ should have an initial sentence plan target ‘to be assessed for SOTP, and if suitable, to undertake the programme’.
- A distinction is drawn between ‘suitability’ and ‘readiness for SOTP’. A convicted prisoner who denies his offence is technically suitable for SOTP but not ‘ready’. This is because SOTP requires analysis of the lead up to offences.
- Where a prisoners ‘un-readiness’ to attend SOTP is due to denial and no other objectives are relevant then SOTP should remain on the sentence plan and a refusal to undertake SOTP could bar them being enhanced under PSO 2205 and 4000.
- A prisoner who continues to maintain his innocence (or is not ready for other reasons such as English language difficulties) can have the sentence planning target to undertake SOTP re-set as a future objective if the Treatment Manager and Offender Supervisor decide together to set interim objectives to help him or her ‘overcome their denial’.

What can be part of my licence conditions?

The Offender Management Act 2007 s28 now permits the Secretary of State to include a polygraph condition as part of the licence conditions for prisoners convicted of a Schedule 15 sexual offence and released on licence. It can apply to all licences.

PSO 6000 sets out additional licence conditions that can be imposed. PSI 2011/34 also allows for

bespoke licence conditions where the standard and additional licence conditions are not felt sufficient.

Licence conditions can include - prohibition on computer, internet and camera access. These can be challenged on grounds of necessity and proportionality (such as it being part of someone's work , PSI 2011/34).

A polygraph condition can no longer be inserted into the licence of someone released after 01/07/2011 (PSI 2011/42)

What about MAPPA?

Multi Agency Public Protection Panels (MAPPA) may also be part of someone licence conditions. MAPPA will be convened for 3 categories of prisoner;

- Category 1 – statutory registered sexual offenders under Part 2 of the Sex Offences Act 2003) convicted or cautioned of a sexual offence.
- Category 2 - people convicted of a Schedule 15 sexual offence sexual offence with receive a sentence of 12 months or more.
- Category 3 - those considered to be dangerous and pose serious risk of harm

What is the sex offenders register?

There is no centrally-held register of sex offenders in England and Wales. The register is a system of notification whereby people convicted of sexual offences must register their details with the police

The register contains the details of anyone convicted, cautioned or released from prison for a sexual offence since September 1997 when it was set up.

The register is not retro-active and does not include anyone convicted before 1997. However Section 81 of the 2003 Justice Act amended the requirements of the register so that anyone convicted of a Schedule 3 offence (such as rape or indecent assault on someone under 16 years old) and who was on 1st September 1997 serving a sentence of imprisonment for that offence is still required to register.

The register operates a sliding scale;

- Anyone sentenced to 30 months to life is subject to an indefinite term of

registration (section 82 of Sex Offenders Act 2003)

- A sentence of over 6 months and under 30 months is accompanied by 10 years on the register
- A sentence of under 6 months (including those cautioned or given a community rehabilitation order) are required to register for 7 years
- For those under 18, the length of time on the register is usually ½ that of the adult term.

In 2010 the Supreme Court in the case of *F and Angus Thompson* agreed that keeping people on the sex offender register for life without giving them the chance to prove they are no longer a danger to the public was incompatible with article 8 of the European Convention and the right to private and family life. This means that people have the right to appeal to have their names removed

What is the government going to do?

The Scottish government has implemented a scheme to give adults an automatic right of appeal to the courts for removal from the register after 15 years – those placed on the register when under 18 years old can appeal after 8 years.

The rule will be more strictly applied in England and Wales. People on the register indefinitely can apply for consideration of removal after 15 years following release. There will be no automatic appeals. The police will have the final decision and not the courts as in Scotland.

Changes to the current law

The government also intends to close four 'loopholes' in the current law

- It will be compulsory for sex offenders to report to the authorities before travelling abroad for even 1 day – the limit is currently 3 days
- Anyone convicted of a sexual offence will be required to notify the authorities whenever they are living in a household with a child under 18 years old
- Someone who is of no fixed abode will be required to notify the authorities weekly as to where they can be found
- Changes will be made so that people convicted of sex offences will not be able to avoid being on the register by changing their name by deed poll.