

Section 38 Human Trafficking and Exploitation (Scotland) Act: Duty to Notify – Targeted Consultation

Social Work Scotland response

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Introduction

Social Work Scotland is the professional body for social work leaders, working closely with our partners to shape policy and practice, and improve the quality and experience of social services. We welcome the opportunity to respond to the Scottish Government's consultation on Section 38 Human Trafficking and Exploitation (Scotland) Act: Duty to Notify – Targeted Consultation.

Background

This document provides an overview of the consultation findings and key considerations surrounding the implementation of a statutory Duty to Notify in Scotland, aimed at improving responses to human trafficking and exploitation. It explores the proposed inclusion of public and third sector bodies, approaches to voluntary notifications, data sharing protocols, operational challenges, and the role of Police Scotland as a central hub for notifications.

Members views address practical support needs, recent policy developments, and potential risks, offering insights into how this duty can be integrated effectively within existing safeguarding frameworks. A summary of members comments is provided below:

- Overall, members welcomed the principle of a Duty to Notify but raised practical and ethical concerns. They emphasised the importance of clarity - both in defining which organisations hold responsibility and in explaining the purpose of collecting detailed personal data.

- While supportive of multi-agency involvement, members questioned whether all proposed bodies genuinely need access to this information and warned against creating unnecessary complexity.
- Voluntary notifications were seen as pragmatic for certain groups, such as GPs, but members feared inconsistency and weak accountability without strong guidance.
- Data security and consent emerged as recurring themes, with members stressing the need for robust safeguards to prevent misuse and maintain trust.
- Operational challenges, including IT compatibility, workforce capacity, and integration with existing safeguarding frameworks, were highlighted as potential barriers.
- Finally, members underscored the critical role of third sector organisations but cautioned that their participation must be supported with training, resources, and clear protocols to avoid overburdening them.

The consultation questions are presented through the remainder of this document, along with the Social Work Scotland response which was formulated through discussion with our members.

Consultation Questions

Section 1: Public bodies to be named under the regulations

Q1. Do you agree with the proposed inclusion of these bodies listed?

The inclusion of the proposed bodies appears broadly appropriate and aligns with the principle of a multi-agency approach to tackling human trafficking and exploitation. Previous consultation responses strongly supported this position, with over 90% agreeing that the listed organisations should be named in the regulations. This suggests a clear consensus that involving a wide range of agencies is essential for effective identification and response.

While the inclusion of statutory bodies seems straightforward, the role of third sector organisations requires careful consideration. These organisations often provide critical support and may be the first point of contact for victims who are reluctant to engage with statutory services. Their involvement could therefore enhance accessibility and trust. At the same time, defining their responsibilities within a statutory framework could be challenging, particularly where services are commissioned by local authorities. Clear guidance will be needed to avoid ambiguity about who holds the duty to notify in such cases.

There is a need to ensure proportionality and purpose in information sharing. While the list of bodies is extensive, questions remain about whether all agencies genuinely require this data and how they will use it. Sharing information without a clear operational benefit risks creating unnecessary complexity and potential data protection concerns. Therefore, any inclusion should be accompanied by a clear rationale for why each body needs the information and how it will contribute to safeguarding and enforcement.

Q2. Do you agree with the proposal of encouraging voluntary notifications from these bodies?

The proposal to encourage voluntary notifications from certain bodies generated mixed views from members. While there was recognition that this approach could

help broaden engagement and improve intelligence gathering, members expressed uncertainty about how this would work in practice. Several questioned the apparent contradiction between a statutory duty and voluntary compliance, noting that if the legislation imposes a duty, it should be clear and enforceable rather than optional. This ambiguity risks creating confusion and inconsistency across organisations.

One practical reason for considering voluntary notifications was highlighted in relation to GPs, who are not directly employed by the NHS. Imposing a statutory duty on them may not be legally feasible, so encouraging voluntary participation could be a pragmatic solution. Similarly, community pharmacists and dental practices were mentioned as groups that might reasonably be encouraged rather than mandated, given their position outside core statutory structures.

However, concerns were raised about the effectiveness of a voluntary system. Without clear expectations or accountability, uptake may be patchy, and the quality of notifications could vary significantly. This could undermine the purpose of the duty to notify and lead to gaps in safeguarding. Members suggested that if voluntary notifications are retained, they should be supported by strong guidance, training, and clear communication about why participation matters and how the information will be used.

Q3. Do you agree with the proposed list of anonymised information to be included in notifications where the adult does not consent to be identified?

The proposed list of anonymised information was generally seen as reasonable by members. They acknowledged that these data points could help identify patterns and inform strategic responses without compromising individual identities.

Potential unintended consequences were raised, specifically around anonymised data, particularly geographical information, and how it could inadvertently reveal clusters or trends that organised crime groups might be able to exploit if the data were made public. This raises questions about how the information will be stored, shared, and published. Transparency is important, but safeguards must be in place to prevent misuse.

There was also discussion by members about whether additional data points, such as age, should be included. While age was noted as part of the consented information list, its absence from the anonymised list prompted queries about whether it might be relevant for understanding victim profiles without breaching confidentiality.

Q4: Do you agree with the proposed list of information to be included in notifications where the adult does consent to be identified?

The proposed list of information was generally acknowledged as comprehensive and aligned with safeguarding requirements. Members agreed that, in principle, this level of detail is necessary to enable effective intervention and support when consent is given.

Members highlighted significant concerns about data security and the potential risks associated with sharing such granular information. The issue of how this information could be accessed and by whom was raised, stressing the danger if sensitive data were to fall into the wrong hands. While the intention is to protect victims, the process must ensure robust safeguards to prevent misuse or breaches of confidentiality.

Members raised questions about the purpose and proportionality of collecting this information, querying what benefit this additional data would bring and how it would be used to improve outcomes for victims or inform resource allocation. Without a clear explanation of its utility, there is a risk that the process becomes overly intrusive without delivering tangible benefits.

Q5(a): Do you agree with the proposed list of statutory and operational partners be recipients?

While there was no outright objection to the inclusion of these bodies, participants raised important questions about the purpose and proportionality of sharing this information so widely. If the data simply “sits in an inbox” without being actively used, then sharing it may not justify the potential risks and administrative burden. This

suggests that inclusion should be based on a clear operational need rather than a blanket approach.

Several members questioned whether all listed agencies genuinely require this information and whether they have indicated a willingness or capacity to use it effectively. The rationale for inclusion should therefore be transparent, ensuring that data sharing supports meaningful outcomes such as improved law enforcement targeting or enhanced victim support, rather than becoming an exercise in information for information's sake.

An additional point was raised about the two-tier system: detailed personal data may be collected initially, but only anonymised data is passed on to these partners. This raises questions about whether the process is proportionate and whether the benefits of sharing anonymised data justify the effort and potential risks involved.

Q5(b): Do you have any comments about using a Police Scotland portal for this purpose?

The use of a Police Scotland portal for submitting notifications was generally viewed as a logical and practical solution during the discussion. Participants agreed that having a single, centralised point for data collection would simplify processes and ensure consistency. Since Police Scotland is already the primary recipient of notifications under the proposed duty, hosting the portal within their infrastructure makes sense from both an operational and security perspective.

However, several practical considerations were raised by members. First, accessibility across multiple organisations could be challenging, particularly given the diversity of IT systems in local authorities, health services, and third sector organisations. Ensuring that the portal is user-friendly, secure, and compatible with different systems will be essential. Second, training will be required so that staff understand how to use the portal effectively and what information is required. Without this, there is a risk of incomplete or inaccurate submissions.

Finally, members highlighted the importance of clarity around data handling. Organisations need assurance that information submitted via the portal will be stored

securely, used appropriately, and not lead to unintended consequences such as breaches of confidentiality or misuse of sensitive data.

Q5(c): Would your organisation require any specific support (e.g. training, access guidance, integration)?

It is likely that organisations would require a range of support to implement the duty to notify effectively. Training emerged as a key theme, not only in terms of recognising indicators of trafficking and exploitation but also in understanding the practical steps involved in making a notification. Comprehensive and consistent training across all relevant agencies would help ensure that referrals are appropriate and based on clear criteria, reducing the risk of inaccurate or unnecessary notifications.

Beyond training, guidance on access, integration and implementation will be essential. Many participants raised concerns about how information would be recorded and shared, particularly where multiple services within an organisation or across different agencies are involved. Clear protocols for using the Police Scotland portal, as proposed, will be needed to avoid confusion and duplication. Integration with existing public protection processes was also highlighted as a priority, as creating a separate, standalone system could add complexity to an already crowded safeguarding landscape. It is important that support is given to aid the implementation of this duty across all agencies.

Practical support around IT infrastructure and data security will be important. Organisations will need reassurance that sensitive information is handled appropriately and that staff understand the implications of consent and anonymisation. Without this, there is a risk of operational delays and unintended consequences, such as exposing vulnerable individuals to further harm.

Q6. Do you agree with the proposal that Police Scotland should share with the list of partners and bodies outlined in Section 5 above the above information in anonymised format only?

On balance, sharing the information in anonymised format seems appropriate and proportionate. This approach helps to safeguard individuals' privacy and reduce the risk of sensitive data being misused or falling into the wrong hands. Given the vulnerability of those affected by trafficking and exploitation, minimising the potential for identification is a critical consideration.

However, members raised some important questions about the practical implications of this proposal. If Police Scotland is only passing on anonymised data, what is the purpose of collecting more detailed personal information at the earlier stage?

Several members questioned whether this creates a two-tier system where highly sensitive data is gathered but never shared beyond the police. If the anonymised data is all that other agencies receive, it is worth asking whether the initial collection of detailed information is necessary, or whether the process could be streamlined to avoid duplication and reduce risk.

There is also the issue of utility. While anonymised data can help identify trends and inform strategic planning, it may have limited value for agencies tasked with providing direct support to victims. Without identifiable details, these organisations cannot act on individual cases, which raises the question of whether anonymised sharing meets their operational needs. If the intention is to enable better targeting of resources and law enforcement activity, then anonymised data may be sufficient - this should be clearly articulated.

Q7(a): Have there been significant policy, operational, or legal developments since 2019 that you feel should be considered that have not yet been taken into account above?

Since 2019, there have been several developments that should be factored into the implementation of a duty to notify. First, the landscape of public protection has evolved significantly, with greater emphasis on integrated approaches across child protection, adult support and protection, and contextual safeguarding. These frameworks now recognise that harm often extends beyond familial settings into community and organised crime contexts. Any new duty should align with these mature systems rather than create additional layers of complexity, which could overwhelm already stretched services.

Operationally, there has been a marked increase in multi-agency collaboration and the use of digital platforms for information sharing. The pandemic accelerated the adoption of online portals and remote working, which has implications for how notifications are submitted and processed. Ensuring compatibility across different IT systems and safeguarding data security are now critical considerations.

Legally, changes in data protection requirements and heightened scrutiny around information governance mean that any process involving sensitive data must be robust and transparent. The introduction of GDPR and subsequent guidance has reinforced the need for clarity on consent, anonymisation, and the purpose of data collection. This is particularly relevant given the concerns raised about how anonymised data will be used and whether detailed personal information is necessary if it is not shared beyond Police Scotland.

Finally, there has been growing recognition of the role of third sector organisations in public protection. Policy developments have increasingly emphasised partnership working and co-design with these organisations, which are often closer to victims and communities. Their inclusion in any duty to notify process should reflect this shift, ensuring they are supported rather than burdened by additional statutory requirements.

Q7(b): Are there practical challenges that may affect your organisation when implementing a duty to notify?

Yes, several practical challenges were identified during the discussion that could affect implementation. One of the most significant issues is clarity of responsibility. Where multiple services within an organisation are involved with the same individual, it is unclear who should take the lead in making the notification. For example, if children and families, justice, and addictions teams are all working with the same person, there needs to be a clear process to avoid duplication or gaps.

IT infrastructure and access were also highlighted by members as potential challenges. If notifications are to be submitted via a Police Scotland portal, organisations will need to ensure compatibility with existing systems. Many agencies

operate on different platforms, and without proper integration, staff may face barriers to accessing the portal. This could lead to delays or errors in reporting.

Another practical concern is workforce capacity and training. Staff will need to understand the indicators of trafficking and exploitation, as well as the procedural steps for making a notification. This requires time and resources for training, which may be difficult to accommodate given current pressures on services. Additionally, the duty to notify adds another layer to an already complex safeguarding landscape, which includes child protection, adult support and protection, and Prevent duties. Without alignment, there is a risk of creating duplication and confusion.

Finally, data management and consent present operational challenges.

Organisations must ensure that information is collected, stored, and shared securely, and that individuals understand how their data will be used. This requires robust protocols and clear communication to avoid breaches and maintain trust.

Q7(c): What guidance or training would be helpful to support implementation in your organisation or sector?

Guidance and training will be critical to successful implementation of the duty to notify. Participants stressed that training should go beyond simply explaining the legislation; it must equip staff with practical skills to recognise indicators of trafficking and exploitation and to understand when and how to make a notification. This is particularly important because poor-quality or inconsistent referrals could undermine the effectiveness of the system and create unnecessary workload.

Several members emphasised the need for standardised training across agencies. Without a consistent approach, there is a risk that different organisations apply different thresholds or interpret indicators differently, leading to uneven practice. Training should therefore be comprehensive, covering not only identification of exploitation but also consent handling, anonymisation, and the ethical considerations involved in sharing sensitive information.

Guidance should also address implementation within organisations. Members raised questions about who would hold responsibility for notifications, especially where multiple services or commissioned providers are involved. Clear protocols will be

needed to avoid duplication and ensure accountability. Similarly, practical guidance on using the Police Scotland portal, managing data securely, and integrating the duty with existing public protection frameworks will be essential to prevent confusion and complexity.

Training should reflect the broader safeguarding context. The public protection landscape is already crowded, with duties around child protection, adult support and protection, and Prevent. Any new training should align with these existing frameworks rather than create a separate silo, helping staff to see the duty to notify as part of a holistic approach to harm prevention.

Q8(a): What role should third sector parties play in the Duty to Notify process, and how can this best be supported?

Third sector organisations have a critical role in the Duty to Notify process. These organisations are often the first point of contact for victims who may be fearful of approaching statutory services. Their accessibility, flexibility, and trusted relationships within communities make them uniquely positioned to identify and support individuals at risk of trafficking and exploitation. Beyond notification, they play an essential role in recovery, advocacy, and wraparound support, helping victims navigate complex systems and rebuild their lives.

However, their involvement must be carefully supported to avoid placing unrealistic burdens on organisations that often operate with limited resources. Members highlighted the need for clear guidance on responsibilities, particularly where services are commissioned by statutory bodies. Without clarity, there is a risk of confusion over who holds the duty to notify and how information should flow between partners.

Support should focus on:

- Training and awareness: Ensuring third sector staff understand indicators of trafficking and the notification process.
- Integration with existing frameworks: Aligning the duty with established public protection processes to avoid duplication and complexity.

- Practical resources: Providing access to secure systems (such as the Police Scotland portal) and clear protocols for data handling.
- Collaborative planning: Involving third sector organisations in co-designing processes and guidance, recognising their expertise and the voice of lived experience.

In short, third sector organisations should be seen as key partners, not peripheral actors. Their role goes beyond notification to include prevention, advocacy, and recovery, and this contribution must be supported through training, resources, and clear operational guidance.

8b(b): Are there any specific operational risks, unintended consequences, or other considerations that may need to be addressed as the Scottish Government moves toward implementation of the Duty to Notify?

Several operational risks and unintended consequences were highlighted by members. A key concern relates to data security and misuse. Even anonymised information could reveal patterns or geographical clusters, which organised crime groups might exploit if the data becomes public. This raises questions about how notifications will be stored, shared, and published, and whether safeguards are robust enough to prevent harm.

Participants also flagged risks around consent and confidentiality. If detailed personal information is collected when consent is given but only anonymised data is shared beyond Police Scotland, this creates a two-tier system that may confuse practitioners and undermine trust. There is also the danger that individuals may not fully understand how their data will be used, which could compromise informed consent.

From an operational perspective, responsibility for notifications was a recurring theme. Where services are commissioned or delivered by third sector organisations, clarity is needed on who holds the duty to notify. Without clear lines of accountability, there is a risk of duplication or gaps in reporting. Similarly, multiple teams within a single organisation may work with the same individual, requiring internal coordination to avoid errors.

Other considerations include:

- IT infrastructure and interoperability: If notifications are submitted via a Police Scotland portal, organisations will need secure access and compatibility across different systems.
- Training and quality assurance: Poorly understood indicators of exploitation could lead to inappropriate referrals, creating unnecessary workload and skewing data.
- Resource implications: Increased notifications may strain capacity for processing and follow-up, particularly if systems are not streamlined.
- Integration with existing frameworks: Adding a new process into an already complex public protection landscape risks duplication unless aligned with current statutory duties.

Finally, unintended consequences could include heightened vulnerability for victims if information sharing is not carefully managed, and loss of trust in services if individuals fear their data will be mishandled.

Conclusion

The Duty to Notify proposals aim to strengthen Scotland's response to human trafficking through a multi-agency approach. There is strong support for naming statutory bodies, but clarity is needed on the role of third sector organisations, which are vital, yet resource limited. Voluntary notifications for groups like GPs could be pragmatic, though concerns about inconsistency remain.

Information sharing raises questions about proportionality and data security. While anonymised data is seen as appropriate, collecting detailed personal information that is not widely shared needs justification. Using a Police Scotland portal is considered practical, but success depends on IT compatibility, training, and integration with existing safeguarding frameworks.

Third sector involvement, robust guidance, and standardised training are essential to avoid confusion and duplication. Risks include data misuse, unclear responsibilities, and resource strain. Overall, the proposals are welcomed, but their effectiveness hinges on clarity, proportionality, and strong collaboration.

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