POLICY NOTE

THE REHABILITATION OF OFFENDERS ACT 1974 (EXCLUSIONS AND EXCEPTIONS) (DOMESTIC HOMICIDE AND SUICIDE REVIEWS) (SCOTLAND) AMENDMENT ORDER 2026

SSI 2026/XXX

The above instrument was made in exercise of the powers conferred by section 4(4) and schedule 3 paragraph 6 of the Rehabilitation of Offenders Act 1974. The instrument is subject to the affirmative procedure.

Summary Box

This instrument will allow information about spent convictions and alternatives to prosecution to be shared with a domestic homicide or suicide review when required. Domestic homicide and suicide reviews aim to identify what lessons can be learned where someone has died following suspected or known domestic abuse, and information on spent convictions and alternatives to prosecution will ensure the review has a full picture of the background and circumstances prior to the death, in order to effectively undertake the review of a reviewable death.

Policy Objectives

Domestic homicide and suicide reviews (DHSRs) aim to identify what lessons can be learned, and how that learning can be applied, in cases where someone has died following suspected or known domestic abuse.

DHSRs are not investigations to how a death occurred and are not about apportioning blame for a death. They are about identifying and implementing learning in order to help prevent future domestic abuse and domestic abuse related deaths and to give a voice to those who have died.

In order for a review to be successfully undertaken, relevant information about the victim(s) and the perpetrator needs to be shared with the review. This includes any relevant information about convictions and alternatives to prosecution which may have become spent but may still form part of the sequence of events leading up to a reviewable death. We anticipate that in the majority of reviewable deaths, there will be a history of domestic abuse by the perpetrator, which may include spent convictions or alternatives to prosecution.

Information on spent convictions and alternatives to prosecution may be relevant and important for the purpose of a DHSR, in order to have a complete picture of the background to a death and, in turn, to ensure a more effective review with meaningful learning and recommendations.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

The Scottish Ministers have made the following statement regarding children's rights.

In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 (the Act), the Scottish Ministers certify that, in their view, the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 is compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration
This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation
Consultation on the development of DHSRs in Scotland has taken place with agencies across the criminal justice sector, health, social work, local government, academia, the third sector, and beyond. Consultation has also taken place with people with lived experience of domestic abuse, including people who have been bereaved by domestic abuse.

In December 2022, the Scottish Government established a multi-agency taskforce to develop a national review model. In September 2023, a model development subgroup was established to develop the specific model for reviews in Scotland. The subgroup comprised of representatives from the Crown Office and Procurator Fiscal Service (COPFS), Police Scotland, COSLA, Social Work Scotland, British Medical Association, NHS Dumfries and Galloway, Victim Support Scotland, Scottish Women's Aid, Abused Men in Scotland, PETAL Support, ASSIST and academics from Manchester Metropolitan University and the University of Edinburgh.

In February 2023, a workshop was held with taskforce members which sought views on the principles and scope of the model. Building on the findings from the workshop, a programme of targeted engagement was undertaken, which sought the views of those with lived experience of domestic abuse, those who have been bereaved by abuse, professionals working in the field of domestic abuse, and professionals working in the field who also have lived experience of domestic abuse or have been bereaved.

In September 2024 an Information Governance Delivery Group was established under the taskforce structure. The group comprises of subject matter experts in data protection and information governance from a range of organisations including, Police Scotland, Scottish Courts and Tribunals Service, COPFS, health boards, local authorities, Scottish Women's Aid and the Scottish Government. The group is strongly supportive of the provisions in this Order and highlighted how fundamental they are to delivering a comprehensive domestic homicide and suicide review process.

Consultation and engagement continued throughout the development of the model and through the Parliamentary scrutiny process of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025.

Impact Assessments
Impact assessments were carried out as part of the passage of the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025. We therefore do not believe that further impact assessments are required for this instrument other than a CRWIA, per our requirements under the UNCRC (Incorporation) (Scotland) Act 2024.

Financial Effects
The information covered by these provisions is anticipated to be requested for approximately 20 people per year. We do not anticipate that such a small number of requests will result in any significant cost increases and would expect that any costs associated with the requested information would be absorbed within existing budgets.

The Cabinet Secretary for Justice and Home Affairs therefore confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Criminal Justice Directorate

January 2026