EXECUTIVE NOTE

THE VICTIMS' RIGHTS (PRESCRIBED BODIES) (SCOTLAND) ORDER 2010 (SSI 2010/165)

1. This Order is made in exercise of the powers conferred by section 18(1) of the Criminal Justice (Scotland) Act 2003 ("the 2003 Act"). This Order revokes and replaces the Victims' Rights (Prescribed Bodies) (Scotland) Order 2003 (SSI 2003/440) ("the 2003 Order"). The instrument is subject to a negative resolution procedure.

2. Section 18(1) of the 2003 Act allows that where it appears to a constable that an offence has been perpetrated against a natural person, the constable can, with the person's consent, disclose to a prescribed body that person's details and such information regarding the offence (or apparent offence) as the constable considers appropriate. The 2003 Order prescribed Victim Support Scotland as a body which appears to Scottish Ministers to provide counselling or other support to those who have been victims of crime for the purposes of the Act.

3. This Order revokes and replaces the 2003 Order to re-prescribe Victim Support Scotland and to add Rape Crisis Scotland (RCS) as a prescribed support organisation for the purposes of section 18(1)(a) of the 2003 Act.

Policy Objectives

4. The provisions in section 18 of the 2003 Act confer a general power on the police to enable them to pass on information about victims of crime to a prescribed support organisation. Where the person against whom the offence was perpetrated has died, there is provision for the police to pass the details of relatives or next of kin (as listed in section 14(10) of the 2003 Act) to a prescribed support organisation. The purpose of these provisions is to ensure that as many people as possible can access support in the aftermath of a crime. This helps to meet the key policy objective in the Scottish Strategy for Victims to "ensure the provision of emotional and practical support to victims".

5. This instrument prescribes Rape Crisis Scotland as a support body in addition to Victim Support Scotland. Rape Crisis Scotland is the national office for the rape crisis movement in Scotland. Rape Crisis Scotland provides a national rape crisis helpline for anyone affected by sexual violence, no matter when or how it happened.

6. A protocol between the Association of Chief Police Officers Scotland and RCS has been agreed and will be put into effect once RCS is prescribed under section 18 of the 2003 Act. The protocol aims to facilitate the exchange of information; provide a consistent approach to the disclosure of information; encourage early contact and liaison with victims to reduce the risk of subsequent physical and emotional health issues for that person and therefore promote faster recovery.

7. This Order will not prevent the police from giving details of other support organisations to victims if it is considered that, because of the nature of the crime or the characteristics of the victim, this would be beneficial to the victim. However, they will not pass on the victim's details to other organisations. Similarly, RCS will direct victims to other support organisations if it is considered that this will meet the victim's needs.

Consultation

8. Consultation has taken place with RCS and the police who are content with the proposals.

Financial effects

9. RCS National Office is funded by the Scottish Government to provide services to victims of rape and sexual assault. In 2009-10 RCS received £242,000 from the Gender Equality and Violence Against Women Team for the National Office and £270,000 from the Gender Equality and Violence Against Women Team and the Victims, Witness, Parole and Life Sentence Division for the National Rape Crisis Helpline

Scottish Government Justice Directorate
April 2010