

SIAA Response

Title: Proposed Draft Police Act 1997 and Protection of Vulnerable Groups (Scotland) Act 2007 Remedial Order 2018

November 2017

1. Do you have any views/observations on this Proposed Draft Order?

We feel it is crucial to provide a reminder that individuals covered by Section 259 of the Mental Health Act 2003 have a legal right to independent advocacy to support them throughout the application process.

Due to the complexity of the application procedure, it is vital that potential Schedule 8A applicants (who are covered by Section 259 of the Mental Health Act) are informed of and signposted to independent advocacy services that can help them gain access to legal services and ensure that the applicant knows their rights, is aware of and understands their options and understands the application process and what will be required of them.

2. In relation to the partial Equality Impact Assessment, please tell us about any potential impacts, either positive or negative; you feel the amendments to legislation in this consultation document may have on any particular groups of people?

In terms of people with learning disabilities, we feel it is vital that the opportunity to appeal is clearly explained and publicised in an accessible way; and that cost should not act as a barrier to the appeal process – either legal aid being available or the process being free to everyone. Any individual with a learning disability has a legal right to an independent advocate.

3. In relation to the partial Equality Impact Assessment, please tell us what potential there may be within these amendments to legislation to advance equality of opportunity between different groups and to foster good relations between different groups?

Better public engagement schemes could be developed and implemented by the Police in order to foster trust with groups with protected characteristics. Engaging people with lived experience in the development of the reporting process will encourage people to come forward earlier, with a vital knowledge that their experiences will be taken seriously and believed.

In addition, we would like the changes to make it easier for vulnerable people to rehabilitate themselves, particularly in terms of access to employment. There can be complex reasons why someone with a learning disability or other communication difficulty may have committed an offence, including lack of support. It is important that everybody should have a fair opportunity to rehabilitate and make a valued contribution to their community.

4. In relation to the partial Business Regulatory Impact Assessment, please tell us about any potential impacts you think there may be to particular businesses or organisations?

It is essential that voluntary sector organisations that provide support to persons going through the appeal process are adequately funded and that training is developed and implemented. People with learning disabilities and other conditions such as autism tend to report that they appreciate having a consistency of support from people with whom they have built a rapport and who understands their needs. Funding security for voluntary sector organisations reduces the likelihood of disruption to that support.

5. In relation to the partial Child Rights and Wellbeing Impact Assessment, please tell us about any potential impacts you think there may be on children's wellbeing?

In terms of individuals who committed an offence as a child, this opportunity provides those individuals the chance to put their past firmly behind them and ensure that they are not further discriminated against.

In terms of children whose parents may be appealing, guidance should be formulated and accessible to ensure that their privacy is respected and that regardless of the outcome that support is put in place as it is vital that no child is discriminated against because of the situation or status of their parent/carer(s).

The Scottish Independent Advocacy Alliance (SIAA) is Scotland's national membership body for advocacy organisations. The SIAA promotes, supports and defends independent advocacy in Scotland. It aims to ensure that independent advocacy is available to any person who needs it in Scotland.

SIAA is a Scottish Charitable Incorporated Organisation Charity number SC033576

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