

SCHEDULE

Regulation 3

PROCEDURE FOR CONSIDERATION UNDER SECTIONS 10, 11, 12 OR 13 OF THE ACT WHETHER TO LIST

PART 1

GENERAL

Notification of date of decision under section 10, 11, 12 or 13

1.—(1) Where Ministers decide to consider whether to list an individual in the children's list, in the adults' list or, where applicable, in both lists under section 10, 11, 12, or 13 of the Act, Ministers must record the date on which they made that decision.

(2) When Ministers notify an individual in accordance with section 30(2) and (3) of the Act that Ministers are considering whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists, Ministers must also notify the individual of the date on which Ministers made that decision to consider whether to list the individual.

PART 2

CONSIDERATION PROCEDURE WHERE CONSIDERATION IS UNDER SECTION 10(2) or (3) OF THE ACT (Consideration whether to list: organisational referrals etc.)

Notification of case giving rise to consideration for listing

2. Ministers must give to the individual—

- (a) a copy of the prescribed information sent to Ministers under sections 3 to 6 or 8 of the Act, upon which Ministers have decided that it may be appropriate for the individual to be included in the children's list, in the adults' list or, where applicable, in both lists;
- (b) details of any vetting information relating to the individual; and
- (c) a notice inviting the individual to—
 - (i) make representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit any comments on the information provided to the individual under subparagraph (a) to (c); and
 - (iii) submit any further information to Ministers which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,

within 28 days of the date of receipt of that notice.

Comments by the referring body

3. Where Ministers receive any representations, comments or information from the individual under paragraph 2 they must—

- (a) notify the referring body of that fact;

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- (b) provide the referring body with details of any representations made and any comments or information submitted by the individual under paragraph 2; and
- (c) invite the referring body to provide to Ministers within 28 days of the date of receipt of that notice—
 - (i) any comments; and
 - (ii) any further information that the referring body may wish to supply.

Further representations, comments or information to be sent to Ministers

4.—(1) For the purpose of enabling or assisting Ministers to decide whether to list an individual, Ministers may, by notice, invite—

- (a) any further representations, comments or information from the individual;
- (b) any further comments or information from the referring body; or
- (c) any information from any other person as Ministers may consider appropriate.

(2) Any representations, comments or information in response to a notice sent under sub-paragraph (1) are to be supplied in the manner and within such time as Ministers may specify in the notice.

Notification of any further information on which Ministers intend to rely in deciding whether to list the individual

5. Ministers must give to the individual—

- (a) details of any comments or further information supplied to Ministers under sections 3 to 6 or 8 of the Act or paragraphs 3(c) or 4(1)(b) and (c) on which they intend to rely in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists;
- (b) details of any other information on which they intend to rely including—
 - (i) information which they obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;
 - (ii) information which they obtain by performing their functions in relation to the Scheme;
 - (iii) any reports provided to Ministers under paragraphs 17(2) or 18(2); and
- (c) a notice inviting the individual to—
 - (i) make any further representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit comments on the information provided under sub-paragraphs (a) or (b); and
 - (iii) submit any further supporting information which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,

in such manner and within such time as Ministers may specify in that notice.

PART 3

CONSIDERATION PROCEDURE WHERE CONSIDERATION IS UNDER SECTION 11(2), (3) or (4) OF THE ACT (Consideration whether to list: court referrals)

Notification of case giving rise to consideration for listing

6. Ministers must give to the individual—

- (a) a copy of the prescribed information sent to Ministers—
 - (i) under section 7(1) of the Act, on the basis of which Ministers are considering whether to list the individual in the children’s list;
 - (ii) under section 7(3) of the Act, upon which Ministers have decided that it may be appropriate for the individual to be listed in the children’s list, in the adults’ list or, where applicable, in both lists;
- (b) details of any vetting information relating to the individual; and
- (c) a notice inviting the individual to—
 - (i) make representations as to why the individual should not be listed in the children’s list, in the adults’ list or, where applicable, in both lists;
 - (ii) submit any comments on the information provided to the individual under sub-paragraph (a) or (b); and
 - (iii) submit any further information to Ministers which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children’s list, in the adults’ list or, where applicable, in both lists,within 28 days of the date of receipt of that notice.

Further representations, comments or information to be sent to Ministers

7.—(1) For the purpose of enabling or assisting Ministers to decide whether to list an individual, Ministers may, by notice, invite—

- (a) any further representations, comments or information from the individual; or
- (b) any information from any other person as Ministers may consider appropriate.

(2) Any representations, comments or information in response to a notice sent under sub-paragraph (1) are to be supplied to Ministers in such manner and within such time as Ministers may specify in the notice.

Notification of any further information on which Ministers intend to rely in deciding whether to list the individual

8. Ministers must give to the individual—

- (a) details of any other information received under section 7(1) or (3) of the Act or paragraph 7(1)(b) on which they intend to rely in deciding whether to list the individual in the children’s list, in the adults’ list or, where applicable, in both lists;
- (b) details of any other information on which they intend to rely including—
 - (i) information which they obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;

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- (ii) information which they obtain by performing their functions in relation to the Scheme;
- (iii) any reports provided to Ministers under paragraphs 17(2) or 18(2); and
- (c) a notice inviting the individual to—
 - (i) make any further representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit comments on any of the information provided under sub-paragraphs (a) or (b); and
 - (iii) submit any further supporting information which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,in such manner and within such time as Ministers may specify in that notice.

PART 4

CONSIDERATION PROCEDURE WHERE CONSIDERATION IS UNDER SECTION 12(1) or (2) OF THE ACT (Consideration whether to list: vetting information etc.)

Notification of case giving rise to consideration for listing

9. Ministers must give to the individual—
- (a) details of—
 - (i) any vetting information relating to the individual or any information received when considering whether to list the individual in the adults' list upon which Ministers have decided under section 12(1) of the Act that it may be appropriate for the individual to be included in the children's list; or
 - (ii) any vetting information relating to the individual or any information received when considering whether to list the individual in the children's list upon which Ministers have decided under section 12(2) of the Act that it may be appropriate for the individual to be included in the adults' list;
 - (b) details of any vetting information relating to the individual; and
 - (c) a notice inviting the individual to—
 - (i) make representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit any comments on the information provided to the individual under sub-paragraph (a) or (b); and
 - (iii) submit any further information to Ministers which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,within 28 days of the date of receipt of that notice.

Further representations, comments or information to be sent to Ministers

10.—(1) For the purpose of enabling or assisting Ministers to decide whether to list an individual, Ministers may, by notice, invite—

- (a) any further representations, comments or information from the individual; or
 - (b) any information from any other person as Ministers may consider appropriate.
- (2) Any representations, comments or information in response to a notice sent under sub-paragraph (1) are to be supplied to Ministers in such manner and within such time as Ministers may specify in the notice.

Notification of any further information on which Ministers intend to rely in deciding whether to list the individual

11. Ministers must give to the individual—

- (a) details of any information received under paragraph 10(1)(b) on which they intend to rely when making their decision whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists;
 - (b) details of any other information on which they intend to rely including—
 - (i) information which they obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act; or
 - (ii) information which they obtain by performing their functions in relation to the Scheme;
 - (iii) any reports provided to Ministers under paragraphs 17(2) or 18(2); and
 - (c) a notice inviting the individual to—
 - (i) make any further representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit comments on any of the information provided under sub-paragraphs (a) or (b); and
 - (iii) submit any further supporting information which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,
- in such manner and within such time as Ministers may specify in that notice.

PART 5

CONSIDERATION PROCEDURE WHERE CONSIDERATION IS UNDER SECTION 13(2) or (3) OF THE ACT (Consideration whether to list: inquiries)

Notification of case giving rise to consideration for listing

12. Ministers must give to the individual—

- (a) a copy of the relevant inquiry report, or relevant sections from that report, upon which Ministers have decided under section 13(2) or (3) of the Act that it may be appropriate for the individual to be included in the children's list, in the adults' list or, where applicable, in both lists; and
- (b) a notice inviting the individual to—
 - (i) make representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit any comments on the information provided to the individual under sub-paragraph (a); and

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- (iii) submit any further information to Ministers which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists, within 28 days of the date of receipt of that notice.

Comments by other persons relating to any relevant inquiry report

13. Where Ministers receive any representations, comments or information from the individual under paragraph 12, Ministers must—

- (a) notify the person for whom that individual worked at the time when the act or omission which gave rise to the finding in the relevant inquiry report that the individual's conduct had met the referral ground;
- (b) provide the person with details of any representations made and any comments or information submitted by the individual under paragraph 12; and
- (c) invite the person to provide to Ministers within 28 days of the date of receipt of that notice—
 - (i) any comments; and
 - (ii) any further information that the person may wish to supply.

Further representations, comments or information to be sent to Ministers

14.—(1) For the purpose of enabling or assisting Ministers to decide whether to list an individual, Ministers may, by notice, invite—

- (a) any further representations, comments or information from the individual; or
- (b) any information from any other person as Ministers may consider appropriate.

(2) Any representations, comments or information in response to a notice sent under sub-paragraph (1) are to be supplied to Ministers in such manner and within such time as Ministers may specify in the notice.

Notification of any further information on which Ministers intend to rely in deciding whether to list the individual

15. Ministers must give to the individual—

- (a) details of any comments or further information supplied to Ministers under paragraphs 13 (c) or 14(1)(b) on which they intend to rely in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists;
- (b) details of any other information on which they intend to rely including—
 - (i) information which they obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;
 - (ii) information which they obtain by performing their functions in relation to the Scheme;
 - (iii) any reports provided to Ministers under paragraphs 17(2) or 18(2); and
- (c) a notice inviting the individual to—
 - (i) make any further representations as to why the individual should not be listed in the children's list, in the adults' list or, where applicable, in both lists;
 - (ii) submit comments on any of the information provided under sub-paragraphs (a) or (b); and

- (iii) submit any further supporting information which the individual wishes to be taken into account by Ministers in deciding whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists,
- in such manner and within such time as Ministers may specify in that notice.

PART 6

APPOINTMENT OF EXPERT ADVISERS OR SUITABLY QUALIFIED INDIVIDUALS TO PROVIDE REPORTS TO MINISTERS

Notification of further procedure

16.—(1) During the consideration procedure under Parts 2, 3, 4 and 5 of this Schedule, Ministers may, if they consider it appropriate, appoint—

- (a) an expert adviser to prepare a report to Ministers on such matters within the expert's area of expertise as Ministers consider appropriate for the purpose of assisting Ministers in their assessment of the individual's unsuitability to work with children, protected adults or, where applicable, both groups; or
- (b) one or more such suitably qualified individuals as Ministers consider appropriate to prepare a report to Ministers providing an assessment of the individual's unsuitability to work with children, protected adults or, where applicable, both groups.

(2) Where Ministers decide to appoint an expert adviser or suitably qualified individuals under sub-paragraph (1)(a) or (b) or both, they must notify the individual of that decision.

(3) For the avoidance of doubt, Ministers may decide to make appointments under either or both of sub-paragraphs (1)(a) and (b) and may do so at the same time or at different times during the consideration procedure.

Report by expert adviser

17.—(1) Where Ministers appoint an expert adviser under paragraph 16(1)(a) they must give to that person all relevant information, which they have obtained in carrying out their functions under the Act or these Regulations and which is reasonably required by the expert adviser, and such information may include—

- (a) where the consideration procedure is under—
 - (i) Part 2 of this Schedule, a copy of the prescribed information given to Ministers under sections 3(1), 3(2), 4, 5, 6(2) or 8(1) of the Act;
 - (ii) Part 3 of this Schedule, a copy of the prescribed information given to Ministers under section 7(1) or (3) of the Act;
 - (iii) Part 4 of this Schedule, details of any vetting information relating to the individual or any information received when Ministers were considering whether to list the individual;
 - (iv) Part 5 of this Schedule, a copy of the relevant inquiry report or relevant sections from that report;
- (b) details of any vetting information relating to the individual (or where sub-paragraph (1)(a)(iii) applies, any other vetting information);
- (c) details of any information relating to the individual which Ministers obtain by performing their functions in relation to the Scheme;

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- (d) details of any information relating to the individual which Ministers obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act; and
- (e) details of any representations, comments and information received by Ministers under these Regulations.

(2) The person appointed under paragraph 16(1)(a) must provide their report to Ministers, in such manner and within such time as Ministers may specify.

Assessment by suitably qualified individuals

18.—(1) Where Ministers appoint one or more suitably qualified individuals to assess the individual's unsuitability to work with children, protected adults or, where applicable, both groups under paragraph 16(1)(b), they must give to that person or persons all information upon which Ministers intend to rely when making their decision whether to list the individual in the children's list, in the adults' list or, where applicable, in both lists and such information may include—

- (a) where the consideration procedure is under—
 - (i) Part 2 of this Schedule, a copy of the prescribed information given to Ministers under sections 3(1), 3(2), 4, 5, 6(2) or 8(1) of the Act;
 - (ii) Part 3 of this Schedule, a copy of the prescribed information given to Ministers under section 7(1) or (3) of the Act;
 - (iii) Part 4 of this Schedule, details of any vetting information relating to the individual or any information received when Ministers were considering whether to list the individual;
 - (iv) Part 5 of this Schedule, a copy of the relevant inquiry report or relevant sections from that report;
- (b) details of any vetting information relating to the individual (or where sub-paragraph(1)(a) (iii) applies, any other vetting information);
- (c) details of any information relating to the individual which Ministers obtain by performing their functions in relation to the Scheme;
- (d) details of any information relating to the individual which Ministers obtain in pursuance of a requirement made under section 18, 19 or 20 of the Act;
- (e) details of all representations, comments and information received by Ministers under these Regulations;
- (f) a copy of any report provided to Ministers under paragraph 17(2).

(2) The person or persons appointed under paragraph 16(1)(b) must review the information supplied to them under sub-paragraph (1) and, based on that information, provide to Ministers a report containing their assessment as to the individual's unsuitability to work with children, protected adults or, where applicable, both groups, in such manner and within such time as Ministers may specify.

PART 7

DECISION TO LIST AN INDIVIDUAL

Notification of decision to list

19. Notification under section 30 of the Act to an individual of the decision to list must be given as soon as reasonably practicable and Scottish Ministers must give to the individual with that notification—

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- (a) the reasons for their decision;
- (b) information as to the individual's right of appeal under section 21 or 22 of the Act against the Ministers' decision to include the individual in the children's list, in the adults' list, or, where applicable, in both lists; and
- (c) information as to the individual's right to apply for removal from the children's list, from the adults' list, or, where applicable, from both lists under section 25 of the Act.