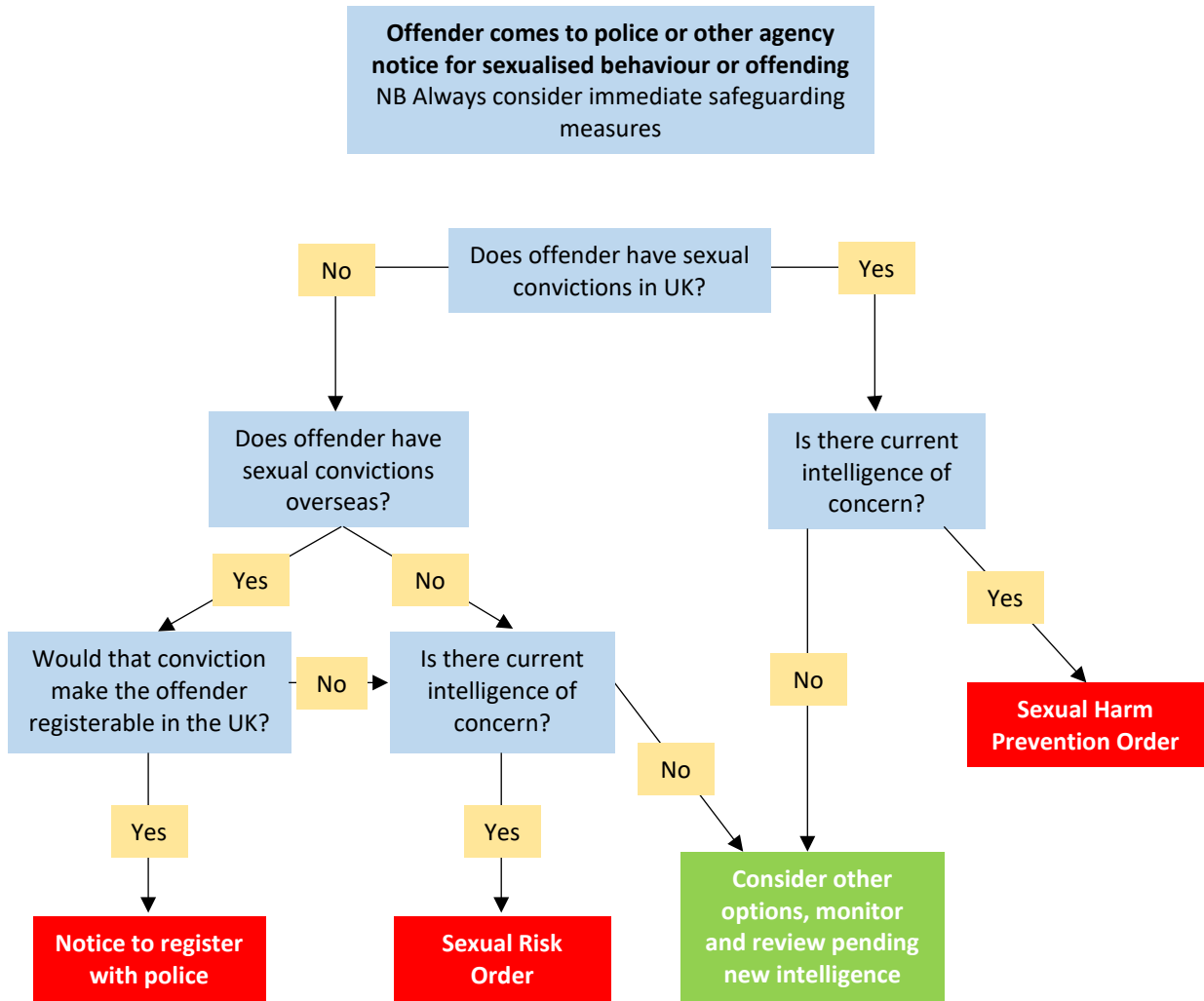


Civil Orders for Managing Sexual Risk

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Flowchart – Which Order Applies?



Policy Statement

Summary

West Yorkshire Police has a duty to protect members of the public from persons who pose a risk of sexual harm and to manage convicted sex offenders.

This policy:

- Outlines West Yorkshire Police best practice in preparing applications for Sexual Harm Prevention Orders (SHPO) and Sexual Risk Orders (SRO), also for issuing a notice to register with police for offenders convicted abroad;
 - Provides a standard process for progressing these high-risk public protection cases; and
 - Explains individual roles and responsibilities.
-

Scope

This policy applies to all police officers and police staff.

Principles

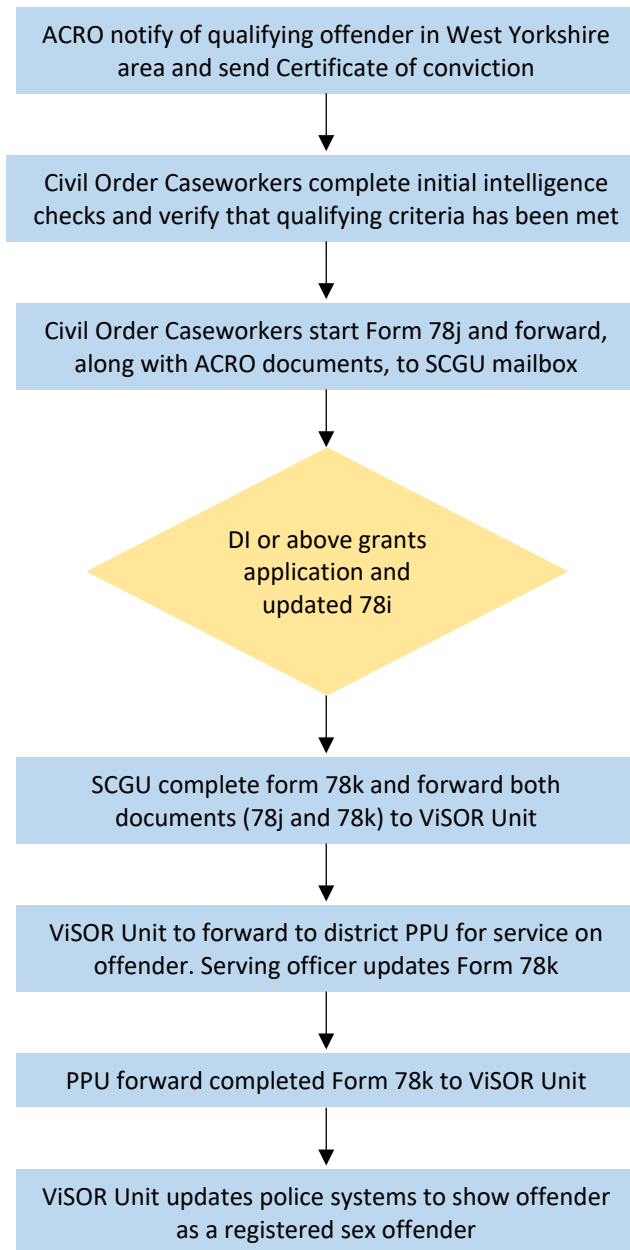
General

West Yorkshire Police (WYP) will:

- Apply for Sexual Harm Prevention Orders and Sexual Risk Orders and issue Notices to register with police in order to safeguard the public where powers exist and there are concerns regarding the risk of sexual offending by an individual.
 - Expect police officers and police staff to adhere to this policy and procedures to ensure that applications are successful.
 - Where necessary, register individuals as sex offenders.
 - Subject children and young people under the age of 18 to the same procedures as contained in this policy, although they will be dealt with by the youth courts, and ensure parents and guardians are kept informed.
-

Notice to Register with Police

Flowchart



Police Officers

- Responsibilities** Police officers are responsible for:
- If identifying a qualifying offender for a Notice to register with police, contacting ACRO to obtain confirmation of the qualifying convictions; and
 - Once a Certificate of Conviction is received, forwarding a copy to the PPU Civil Orders Caseworkers, if they are not already aware.
-

Force ViSOR Unit

- Responsibilities** The Force ViSOR Units are responsible for:
- Accepting transfer of the ViSOR record once a Notice to register with police has been issued and served on a qualifying offender resident in the area;
 - Forwarding the completed notices (78j and 78k) received from SCGU to the relevant PPU; and
 - Updating Force systems to state the offender is an RSO where applicable.
-

Civil Orders Caseworkers

- Responsibilities** The Civil Order Caseworkers are responsible for:
- Upon receipt of a Certificate of Conviction, checking the details and completing initial intelligence checks before commencing an application for a notice to be issued;
 - Acting as officer in case for the application process;
 - Collating the exhibits and forwarding the application to SCGU; and
 - Attending at court with the legal representative from Legal Services in the case of any appeal at Magistrates Court.
-

Safeguarding Central Governance Unit

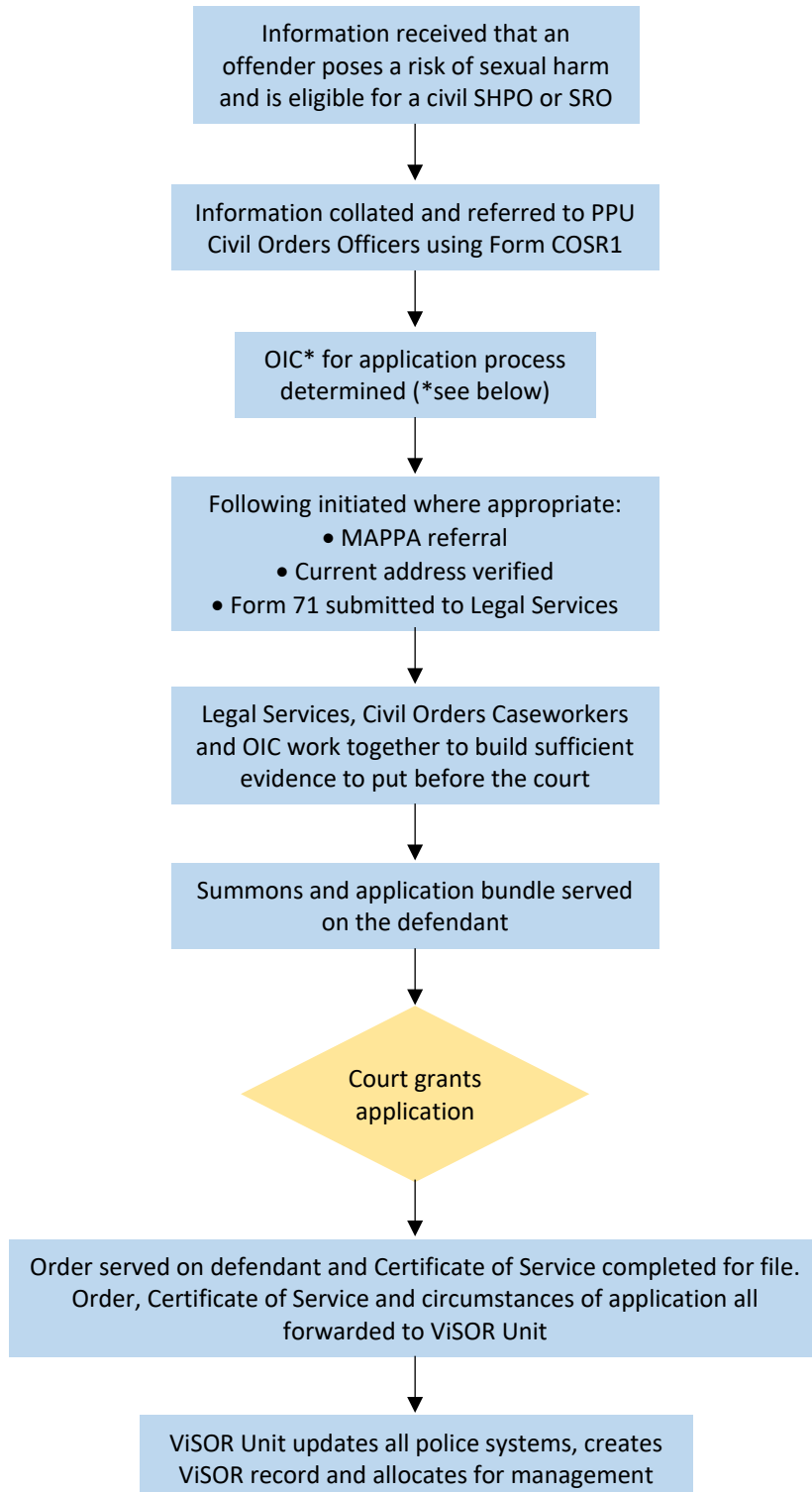
- Responsibilities** Safeguarding Central Governance Unit are responsible for:
- Upon receipt of an application for a notice to be issued, confirming the completeness of the application;
 - Approving the application and updating the notice accordingly;
 - Generating a completed letter of explanation (form 78k); and
 - Forwarding both the updated 78j and 78k to the ViSOR Unit.
-

Public Protection Units (PPUs)

- Responsibilities** The district Public Protection Unit (PPU), covering the area where the last known address of the offender is located, is responsible for:
- Allocating a Public Protection Officer (PPO) to locate and serve the notice to register with police once issued;
 - Returning the completed and served notice to the ViSOR Unit; and
 - Co-ordinating the management of individuals subject to Notification Orders.
-

Civil Sexual Harm Prevention Orders (SHPOs) and Sexual Risk Orders (SROs)

Flowchart



*Officer in Case (OIC) for Civil SHPO or SRO

Information

- Where the defendant in the case is already a Registered Sex Offender or subject to a current order and managed by a PPO from the district PPU or IOM unit, then that officer will assume responsibility for being the OIC for the application process.
 - Where the defendant is previously unmanaged, and the intelligence of concern is discovered through the proactive work of the Civil Order Caseworkers, the Civil Order Caseworker will assume responsibility for being the OIC.
 - However, will seek assistance from the district Public Protection staff for operational matters such as service of summons, physical address checks etc. Other relevant district officers may also be asked to assist with operational enquiries where appropriate.
 - Where the defendant does not fall into either of the above categories the Civil Order Caseworkers will liaise with the referring officer and a decision will be made on a case-by-case basis.
 - Generally, where there is no clear officer identified as having an overview of the behaviour, and where the Civil Order Caseworkers have the capacity to do so, the Civil Order Caseworkers will agree to assume the role of officer in the case.
 - In these cases, the referring officer, or in their absence their Supervisor, will retain responsibility for any operational or practical enquiries which are required. Where there is a clearly identified officer with oversight of the case, or where there simply is no current capacity within the Civil Orders Caseworker unit, the OIC responsibility will remain with the district.
 - The decision as to whether the Civil Order Caseworkers can assume OIC responsibility for the application will be clearly communicated in writing upon receipt of the agreement from Legal Services that the case will be developed with a view to an application being made.
 - In cases where the Civil Order caseworkers do not assume OIC responsibility for the application, they will continue to help and advise the OIC in any way they reasonably can, including guidance on writing statement of application and advice on prohibitions.
-

Sexual Harm Prevention Orders (SHPOs)

Type 2 (Civil) Applications Only

IMPORTANT

The following process applies for individuals identified as requiring Type 2 (Civil) SHPO:

1. A police officer identifies an individual and behaviour necessitating a SHPO.

The defendant:

- Must have previously been convicted/cautioned/found not guilty due to insanity/under a disability and carried out either a Schedule 3 or Schedule 5 offence under the Sexual Offences Act 2003; and
 - Acted in such a way as to give reasonable cause to believe that an order is necessary, to protect the public from sexual harm by the defendant.
2. If the police officer is not a Public Protection Unit (PPU) officer or relevant Integrated Offender Management (IOM) officer, then the matter should be referred to the Civil Orders Caseworkers using form COSR1 – Civil Order Sexual Risk Referral.
 3. Where appropriate the District PPU will initiate a referral to MAPPa to seek approval for the application.
 4. Civil Orders Caseworker or PPU/IOM officer to submit an updated COSR1 to Legal Services with any supporting documents.

This must include:

- Details of the relevant convictions, any risk assessments such as ARMS, RM2000 and OASyS. Details of the MAPPa meeting approving the application and the circumstances of the concern of sexual risk; and
 - MAPPa minutes and copies of any significant statements and/or documents already obtained.
5. Legal Services will respond within five days and advise which solicitor is dealing with the case.
 6. Legal Services to consider report and advise on the merits of application within four weeks or sooner.
 7. OIC confirmed in writing as per above section.
 8. Prepare file of evidence:
 - Legal Services to advise OIC what evidence is required, e.g. witness statements/experts' reports/documents;
 - OIC to obtain relevant witness statements and documents;
 - Legal Services to liaise with OIC on the obtaining of any necessary expert reports;
 - Legal Services to liaise with OIC to discuss and agree prohibitions or positive obligations and length of order (minimum of five years);
 - The prohibitions or positive obligations must also be drafted in consultation with the Civil Order Caseworker with advice from the Force ViSOR Registrar and the OIC's unit detective inspector, where applicable;
 - A pool of prohibitions and positive obligations will be available as a starting point. These must be modified as necessary in each individual case; and
 - The prohibitions or positive obligations must be proportionate, and evidence-based.
 9. Legal Services to file application at court.
Legal Services will:

- Arrange for the application to be signed by the Head of Safeguarding Central Governance or an appropriately delegated senior officer of the rank of superintendent or above;
 - Arrange a suitable court hearing date; and
 - Pay court fee.
10. The application, summons and file of evidence are personally served on the defendant.
The serving officer will prepare CJA confirming service to be included in the file of evidence.
11. Court hearing and application successful. **Interim Order obtained.**
The OIC will:
- Before the court hearing, read all the evidence thoroughly and be familiar with all aspects of the case; and
 - Be able to give an update on the current circumstances of the defendant.
12. Immediate service of Interim Order on defendant and Force ViSOR Registrar:
- OIC to arrange for personal service of Interim Order on defendant immediately;
 - Serving officer to prepare CJA confirming service or complete a Certificate of service as provided by Legal Services;
 - If possible, serving officer to request defendant to sign copy of Interim Order, confirming receipt;
 - OIC to immediately deliver copy of Interim Order and CJA to Force ViSOR Registrar; and
 - Legal Services to immediately send an email to the Force ViSOR Registrar advising of position and listing grounds for application and the granted prohibitions.
13. **Interim Order in place.** OIC and Legal Services to liaise regarding any outstanding evidence.
Return to 8. above.
14. Further court hearing and application successful. **Full Order obtained.**
15. Immediate service of Full Order on defendant and Force ViSOR Registrar:
- OIC to arrange for personal service of Interim Order on defendant immediately;
 - Serving officer to prepare CJA confirming service or complete a Certificate of service as provided by Legal Services;
 - If possible, serving officer to request defendant to sign copy of Interim Order, confirming receipt; and
 - OIC to immediately deliver copy of Interim Order and CJA to Force ViSOR Registrar.
16. File of evidence to be retained long-term by both Legal Services and Civil Orders Caseworkers (currently 99 years).
-

Evidence to be obtained

- If an application for a SHPO is uncontested, it may be possible to obtain a Full Order at the first hearing. Therefore, whenever possible, all required evidence must be provided for the first court hearing.
- **Note:** A six-month time limit applies to SHPO applications. If the required evidence is not ready within this time, the application can still be filed, but a request can be put to the court to allow further time to prepare the full file of evidence.
- Examples of evidence required are as follows:
 - In relation to relevant previous convictions, obtaining a copy of the PNC record, the prosecution file for each offence, statements from the OIC regarding the defendant's sex offender registration status and the original officer to exhibit the above, details of the qualifying offence, the charges, if it was proven and how the defendant pleaded.
 - In relation to previous behaviour of concern, obtaining copies of pre-sentence, probation or medical expert reports, proof of therapy or treatment received in prison, proof of any expert psychiatric evidence used in criminal proceedings by either party and confirmation if the defendant has ever been arrested for an offence but no further action was taken (custody index or intelligence).
 - In relation to recent behaviour of concern, obtaining witness statements or, in exceptional circumstances, anonymous statements with identifying features blacked out, transcript of recent interviews with the defendant as well as any Storm logs, CCTV footage and crime reports etc.
 - Obtaining an overview statement from the OIC which explains in detail the role they performed, their link to the defendant, the circumstances of the previous offending behaviour, why recent behaviour is of concern and the risk they post to society. See Supporting information for questions.
 - Considering obtaining psychiatric evidence to strengthen the case.
 - Ensuring any prohibitions or positive obligations imposed are proportionate and evidence based, easily understandable by the defendant, do not contradict each other and comply with current case law (R v Smith, R v Hemsley, R v Hammond).

Legal Services**Responsibilities**

Legal Services are responsible for:

- Responding to the Civil Order Caseworker within five days of receipt of a Form COSR1 advising which solicitor is dealing with the case;
- Considering the content of the report and, within four weeks, advising the Civil Order Caseworker on whether an application for a SHPO must be submitted;
- Advising the OIC what evidence is required;
- Obtaining any necessary expert reports and preparing a file of evidence;

- Liaising with the OIC to discuss and agree the length of the order (which must be a minimum of five years) and prohibitions;
 - Drafting the prohibitions or positive obligations in consultation with the Force ViSOR Registrar and the Safeguarding Unit detective inspector;
 - Arranging for the application to be signed by the Head of Safeguarding Central Governance or an appropriately delegated senior officer of the rank of superintendent or above;
 - Filing the application for a SHPO at court, arranging a suitable court hearing date and paying the court fee;
 - Once the Interim Order has been issued, immediately sending an email to the Force ViSOR Registrar that advises the position, details the grounds for the application and lists the prohibitions that have been granted;
 - Liaising with the OIC regarding outstanding evidence; and
 - Repeating steps 3 to 6 and, once the Full Order has been issued, repeating step 9 and providing a copy of the full file of evidence to the Force ViSOR Registrar.
-

Force ViSOR Unit

- Responsibilities** The Force ViSOR Registrar is responsible for:
- Maintaining a list of previously granted and approved prohibitions and positive obligations and this is available via the ViSOR Unit intranet site.
-

Sexual Risk Orders (SROs)

Applications

- IMPORTANT** The process for applying for an SRO closely mirrors that of a SHPO and is detailed below:
1. A police officer identifies an individual and behaviour necessitating an SRO.
 - An SRO may be imposed on any individual over the age of criminal responsibility who has done an act of a sexual nature;
 - Acts of a sexual nature are not defined by legislation. They depend on the individual circumstances and the context; and
 - There is reason to believe that the order is necessary to protect the public, or any particular member of the public, from harm or to protect children or vulnerable adults outside the UK from harm.
 2. If the police officer is not a Public Protection Unit (PPU) officer or relevant Integrated Offender Management (IOM) officer, then the matter should be referred to the Civil Orders Caseworkers using form COSR1 – Civil Order Sexual Risk Referral.

3. Civil Orders Caseworker or PPU/IOM officer to submit an updated Form COSR1 to Legal Services with any supporting documents.
This must include:
 - Details of OIC/contact point for district;
 - Name/DOB of the individual;
 - Details of the most recent incident causing concern;
 - Brief chronology of our/other force's involvement with individual and the arising concerns (including intelligence although anything subject to Public Interest Immunity (PII) to be clearly marked) – this does not need to be too detailed and can be cut and pasted from OELs etc.; and
 - Details of any previous acquittals for sexual offences/offences involving safe victim/class of victims.
4. Legal Services will respond within five days and advise which solicitor is dealing with the case.
5. Legal Services to consider report and advise on the merits of application within four weeks or sooner.
6. OIC confirmed in writing as per above section.
7. Prepare file of evidence:
 - Legal Services to advise OIC what evidence is required, e.g. witness statements/experts' reports/documents;
 - OIC to obtain relevant witness statements and documents;
 - Legal Services liaise with OIC on the obtaining of any necessary expert reports;
 - Legal Services to liaise with OIC to discuss and agree prohibitions or positive obligations and length of order (minimum of two years); and
 - The prohibitions or positive obligations must be proportionate and evidence based.
8. Legal Services to file application at court.
Legal Services will:
 - Arrange for the application to be signed by the Head of Safeguarding Central Governance or an appropriately delegated senior officer of the rank of superintendent or above;
 - Arrange a suitable court hearing date; and
 - Pay the court fee.
9. The application, summons and file of evidence are personally served on the defendant.
The serving officer will prepare a CJA confirming service to be included in the file of evidence.
10. Court hearing and application successful. **Interim Order obtained.**
The OIC will:
 - Before the court hearing, read all the evidence thoroughly and be familiar with all aspects of the case; and
 - Be able to give an update on the current circumstances of the defendant.
11. Immediate service of Interim Order on defendant and Force ViSOR Registrar.

- OIC to arrange for personal service of Interim Order on defendant immediately;
 - Serving officer to prepare CJA confirming service or complete a Certificate of service as provided by Legal Services;
 - If possible, serving officer to request defendant to sign copy of Interim Order, confirming receipt;
 - OIC to immediately deliver copy of Interim Order and CJA to Force ViSOR Registrar; and
 - Legal Services to immediately send an email to the Force ViSOR Registrar advising of position and listing grounds for application and the granted prohibitions.
12. **Interim Order in place.** OIC and Legal Services to liaise regarding any outstanding evidence.
- Return to step 7.
13. Further court hearing and application successful. **Full Order obtained.**
14. Immediate service of Full Order on defendant and Force ViSOR Registrar.
- OIC to arrange for personal service of Interim Order on defendant immediately;
 - Serving officer to prepare CJA confirming service or complete a Certificate of service as provided by Legal Services;
 - If possible, serving officer to request defendant to sign copy of Interim Order, confirming receipt;
 - OIC to immediately deliver copy of Interim Ordre and CJA to Force ViSOR Registrar.
15. File evidence to be retained long term by both Legal Services and Civil Order Caseworker (currently 99 years).

Children and Young People under the Age of 18

- Responsibilities** Where offenders are children or young people under the age of 18, police officers are responsible for:
- Ensuring that parents or guardians attend court; and
 - Providing the parent or guardian with a copy of the summons.
-

Additional Information

Compliance

This policy complies with the following legislation, policy and guidance:

- Anti-Social Behaviour, Crime and Policing Act 2014
 - Sexual Offences Act 2003, Part 2
 - Data Protection Act 2018
 - Police, Crime, Sentencing and Courts Bill 2022
 - APP Intelligence management
 - APP Major investigation and public protection/ Managing sexual offenders and violent offenders
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Supporting Information

The supporting information for this policy can be accessed online.
