

Criminal Justice Committee
Wednesday 25 February 2026
8th Meeting, 2026 (Session 6)

Note by the Clerk on the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 [draft]

Overview

1. At this meeting, the Committee will take evidence from the Cabinet Secretary for Justice and Home Affairs and officials on the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Domestic Homicide and Suicide Reviews) (Scotland) Amendment Order 2026 [draft] before debating a motion in the name of the Cabinet Secretary inviting the Committee to recommend approval of the instrument.
2. This is a draft Scottish Statutory Instrument (SSI), which requires approval by resolution of the Parliament before it can become law. More information about the instrument is summarised below:

Title of instrument: [The Rehabilitation of Offenders Act 1974 \(Exclusions and Exceptions\) \(Domestic Homicide and Suicide Reviews\) \(Scotland\) Amendment Order 2026 \[draft\]](#)

Laid under: section 4(4) and schedule 3 paragraph 6 of the [Rehabilitation of Offenders Act 1974](#).

Laid on: 30 January 2026

Procedure: Affirmative

Lead committee to report by: 10 March 2026

Commencement: 1 April 2026

Procedure

3. Under the affirmative procedure, an instrument must be laid in draft and cannot be made (or come into force) unless it is approved by resolution of the Parliament.
4. Once laid, the instrument is referred to:
 - the Delegated Powers and Law Reform (DPLR) Committee, for scrutiny on various technical grounds, and

- a lead committee, whose remit includes the subject-matter of the instrument, for scrutiny on policy grounds.
5. The lead committee, taking account of any recommendations made by the DPLR Committee (or any other committee), must report within 40 days of the instrument being laid.
 6. The normal practice is to have two agenda items when an affirmative instrument is considered by the lead committee:
 - an evidence session with the Minister and officials, followed by
 - a formal debate on a motion, lodged by the Minister, inviting the lead committee to recommend approval of the instrument.
 7. Only MSPs may participate in the debate, which may not last for more than 90 minutes. If there is a division on the motion, only committee members may vote. If the motion is agreed to, it is for the Chamber to decide, at a later date, whether to approve the instrument

Delegated Powers and Law Reform Committee consideration

8. The DPLR Committee considered the instrument on 10 February 2026 and reported on it in its [17th Report, 2026](#). The DPLR Committee made no recommendations in relation to the instrument.

Purpose of the instrument

9. The purpose of the instrument is to allow information about spent convictions and alternatives to prosecution to be shared with a domestic homicide or suicide reviews when required.
10. 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.
11. The Order amends the [Rehabilitation of Offenders \(Exclusions and Exceptions\) \(Scotland\) Order 2013](#) (“the 2013 Order”) in connection with the establishment of domestic homicide and suicide reviews under Part 2 of the [Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews \(Scotland\) Act 2025](#) (“the 2025 Act”). These reviews examine events associated with a domestic homicide or suicide with a view to learning lessons for the future.
12. Article 2(2) of this Order inserts new definitions into the 2013 Order in connection with the amendments made by article 2(3) to (5).

13. The amendments made by article 2(3) to (5) of this Order provide for exclusions and exceptions from provisions of the [Rehabilitation of Offenders Act 1974](#) (“the 1974 Act”) which prevent disclosure of information about an individual’s previous convictions or alternatives to prosecution after these have become spent under that Act. (Alternatives to prosecution are defined in section 8B of the 1974 Act).
14. These exclusions and exceptions apply where either a designated core participant in a domestic homicide or suicide review is required to provide information as part of their duty to co-operate in that review (see section 25(1) of the 2025 Act) or a person is required to provide information in connection with such a review in response to a notice issued by a requiring authority under section 26(1) of the 2025 Act. In either case, that duty to provide information will encompass details of spent convictions and alternatives to prosecution where these are covered by the relevant information request or notice.
15. These exclusions and exceptions will enable a domestic homicide or suicide review to examine the full history of an abusive relationship including any convictions or alternatives to prosecution which have become spent.
16. The Policy Note accompanying the instrument is included in **Annexe B**. It includes a summary of consultation undertaken on the instrument and the anticipated financial effects. The following impact assessments have been carried out:
 - [Child Rights and Wellbeing Impact Assessment](#)

Evidence received

17. The Committee received a written submission from Victim Support Scotland. This can be found in **Annexe B**.

Report

18. Following today’s proceedings, a draft report will be prepared by the clerks.
19. **The Committee is invited to delegate to the Convener and clerks responsibility for drafting a report and finalising it for publication.**

**Clerks to the Committee
February 2026**

Annexe A: Scottish Government 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

Annexe B: submission from Victim Support Scotland

Response:

Victim Support Scotland is supportive of the proposals set out in this SSI.

There are on average eight homicides a year where the victim has been killed by a partner or ex-partner in Scotland. Inclusion of information about past spent convictions or alternatives to prosecution concerning the perpetrator in a reviewable death, has the potential to influence systemic change that could help to reduce the number of domestic homicides and suicides each year.

1. Identifying patterns of behaviour

Providing the Case Review Panel with access to information on spent convictions or alternatives to prosecution will help with the process of identifying patterns of behaviour and causal links that may have been present in the lead up to a reviewable death.

In doing so, cross-comparison and analysis can be undertaken across each DHSR that takes place, to identify any similarities and differences in a reviewable death. The intention should be that clearer understandings of dynamics and behaviours that precede a reviewable death can be incorporated into intervention strategies in order to stop perpetrators who display such behaviours at an earlier point. This in turn creates the potential to reduce the likelihood of a domestic homicide or suicide occurring.

VSS – lived experience:

Victim Support Scotland highlights work with two families in which the perpetrator had a history of abuse –

Case one:

The perpetrator had received a monetary fine for a charge of threatening and abusive behaviour. Three months later they went on to commit murder.

Case two:

The perpetrator had abuse convictions from three previous relationships. They were subject to a strict Non-Harassment Order which banned them from approaching or contacting three former partners before they began the relationship with the partner they went on to murder.

- The perpetrator had received a custodial sentence for domestic violence and had been told to attend the Caledonian System as they had been deemed a 'high risk offender.'
- The perpetrator also had a court-imposed Community Payback Order and following this, was put on a twelve-month supervision as well as an 18-week curfew.

These two examples show the link between a history of violence and the potential for a domestic homicide to occur. We know this is supported by research¹ (further explored below) that shows the likelihood of homicide if the perpetrator has a history of violence is significantly higher. Relevant information about the history of the perpetrator and the victim should be shared with a Case Review Panel during a domestic homicide or suicide review across all reviews which take place to allow a fuller picture of the circumstances of domestic homicide deaths. The information gathered can be used in the reducing and ultimately stopping domestic homicides. The reason for sharing history of the abuser and victim must be shared with the family of the victim so they fully understand this rational.

England - Previous history of abuse data

The process of Domestic Homicide and Suicide Reviews in England is already established. Helpfully, the UK Government has provided the following data and analysis. By using information on previous incidents of abuse, clear conclusions can be drawn on the link between a history of abuse in a relationship and a reviewable death occurring.

Has the perpetrator abused previous partner/s or family members?

** This data relates to a pool of 67 perpetrators of domestic homicide –

Abuse of previous partner/s or family members	Familial	Intimate partner	Total
Yes	52%	74%	67%
No	48%	26%	33%
Number of perpetrators	21	46	67

Source: [Key findings from analysis of domestic homicide reviews: September 2021 to October 2022 \(accessible\) - GOV.UK](#)

The information in the table above is incredibly valuable for drawing conclusions and building a picture of the events leading up to a domestic homicide. From the figures, we can see that a history of abuse in both familial and intimate partner homicides is very common.

- VSS welcomes that the Scottish Government has laid this SSI so that Domestic Homicide and Suicide Reviews carried out in Scotland can be witness to past behaviours.

2. Identification of other non-illegal dangerous behaviours and influencing new legislation

Collecting and using this data to analyse patterns of behaviour in the lead up to a reviewable death could also lead to the discovery of other behaviours that may not be illegal but are dangerous and could play a role in a reviewable death. It may be that when looking at data on previous convictions, evidence could be uncovered of

¹ [Key findings from analysis of domestic homicide reviews: September 2021 to October 2022 \(accessible\) - GOV.UK](#)

certain actions that were reported by the victim or revealed during an investigation. In having access to this information, a broader picture of intimate partner violence can be built and understood.

England - Aggravating factors data

Furthermore, the UK Government has provided data which illustrates ‘aggravating factors’ that were present before a reviewable death occurred. Inclusion of such data allows for a wider picture to be created. This table below can be used to create clear conclusions as to the impact of these factors.

Type of aggravating factors	Per cent of reviews where aggravating factor identified: <i>Familial</i>	Per cent of reviews where aggravating factor identified: <i>Intimate Partner</i>	Per cent of reviews where aggravating factor identified: <i>Victims who died by suicide</i>	Total
Coercive Control	26%	67%	88%	64%
Digital Stalking	-	7%	8%	6%
Financial abuse	5%	33%	48%	31%
Forced marriage	-	-	-	-
Honour-based violence	-	2%	-	1%
Immigration issues	-	9%	8%	7%
Physical stalking	-	11%	15%	20%
Number of victims	19	45	26	90

Source: [Key findings from analysis of domestic homicide reviews: September 2021 to October 2022 \(accessible\) - GOV.UK](#)

Influencing new legislation

We note that the Scottish Government is actively considering making non-fatal strangulation a standalone offence. Using information and data concerning previous

spent convictions or alternatives to prosecution in DHSRs could shed further light on non-fatal strangulation and its role in domestic abuse and domestic homicide. In turn, this could and should play a role in the Scottish Government's active consideration of making non-fatal strangulation a standalone offence.

This illustration of how DHSRs could determine worrying patterns assists to determine whether further legislation, such as a law on non-fatal strangulation, can be developed from information on previous convictions.

3. Improving Earlier Intervention

Victim Support Scotland highlights that identifying patterns of behaviour that have occurred in the lead up to a reviewable death have the power to better inform and, in turn, improve rehabilitation programmes for offenders who have a domestic abuse charge. Sound and effective rehabilitation should help to reduce the likelihood of reoffending of any kind, but in the case of this SSI, reduce the likelihood of further domestic abuse which could lead to a domestic homicide.

The Caledonian System, which encourages men to recognise their abuse and take responsibility for themselves and their relationships, has already seen success in the rehabilitation of men who have received a domestic abuse charge. In the year 1 April 2024 to 31 March 2025, 201 men were recorded as completing the Caledonian System Programme.

Key findings² from an evaluation of the system found that:

- a. Women reported that they felt safer and attributed this to: safety planning; support to contact the police about breaches of no-contact orders; and being better able to keep track of men's behaviour because of their involvement with the men's Programme.
- b. Those men who completed it posed a lower risk to partners, children and others by the end of the programme.
- c. These men also reported improved understanding of the nature of abuse and of appropriate behaviour in relationships; a greater awareness and understanding of the inequalities that exist between men and women; and a more 'positive mindset' about both their relationships and themselves.

Victim Support Scotland suggests that using the new analysis derived from the information gathered from domestic homicide or suicide cases, could help to better inform programmes such as the Caledonian System.

We welcome this SSI which we believe can help to improve early intervention. It is our hope that this will reduce the number of domestic homicides and suicides by allowing for the identification of warning sign behaviours at an earlier point before a reviewable death may occur.

4. Ensuring secure data sharing

Victim Support Scotland makes it clear that in order for this information to be shared appropriately, there must be strict and robust information sharing agreements in place in order to best protect the data of those involved.

Any information sharing agreement should be made clear to all involved in a Review, especially families. The process and protections for information sharing between

² [15. The Caledonian System - Learning from 25 years of preventative interventions in Scotland - gov.scot](#)

organisations such as Police Scotland and the Case Review Panel must clearly outlined in any guidance and/or legislation. Assurances must also be given that people's data is safe and how it will be used.

5. Domestic Homicide and Suicide Review Efficiency

As this SSI will allow access to information that could provide answers to questions that arise in the process of a review, data on spent convictions or alternatives to prosecution could help with the swifter conclusion of a review. VSS hopes that in turn, a swifter conclusion of a review will help to reduce the stress and trauma experienced by a family going through a review.