

Risk of Sexual Harm Orders Scotland (RoSHOs)

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A Risk of Sexual Harm Order (RoSHO) is a civil preventative order created by the [Protection of Children and Prevention of Sexual Offences \(Scotland\) Act 2005](#). The aim of a RoSHO is to prevent sexual harm to either a specific child (under 16 years) or children in general (under 16 years) from aspects of an individual's behaviour. It is only the chief constable who can apply to a Sheriff Court for a RoSHO in relation to individuals of any age where "a person who has, on at least two occasions, engaged in sexually explicit conduct or communication with a child or children and as a result there is reasonable cause to believe that the order is necessary to protect a child or children from harm arising out of future acts by that person."

A RoSHO can be used where the concerns regarding an individual's behaviour is such that intervention at this earliest stage is required to prevent harm occurring. There is no requirement that an individual has either been charged or convicted of an offence at any time. In general the timeframe for applying for a RoSHO is within three months of the second of the two incidents coming to the attention of the chief constable. However, the Sheriff has discretion to consider applications made out with this timescale if they consider this appropriate.

The behaviours which may trigger an application for a RoSHO are stated in [s.2 \(5\)](#) of the Act:

- (a) engaging in sexual activity involving a child or in the presence of a child;
- (b) causing or inciting a child to watch a person engaging in sexual activity or to look at a moving or still image that is sexual; For the purpose of the Act, "image" includes photographs, cartoon strips, email attachments and drawings;
- (c) giving a child anything that relates to sexual activity or contains a reference to such activity; communicating with a child, where any part of the communication is sexual.

RoSHOs are only made where the court is satisfied that further such acts would cause a child or children physical or psychological harm and can only prohibit an individual from doing what is described in the order. Any conditions should be effective, clear, realistic, and proportionate and tailored to the individual circumstances of the individual's behaviour in the case. The minimum duration which a RoSHO can be imposed is two years; however, where the police assess no further risk to be posed they should return to court seeking the discharge of the order.

A RoSHO may be sought in relation to a child under 18 years and in such situations it is important to ensure a multi-agency approach as enshrined in the GIRFEC principles - responding to the child in a developmentally, systemically and trauma-informed way. This might mean applying the risk practice outlined in [FRAME for children aged 12-17 years](#) and potentially implementing a formal risk management process to ensure the likelihood and impact of any harm occurring is minimised whilst upholding the child's rights (including legal and procedural rights); ensuring their understanding of the implications of the RoSHO; as well as actively including them in their risk management plan. Creating safe opportunities for the child to practise their developing ability to meet their needs without relying on concerning or harmful sexual behaviours is paramount. It is important to consider that strategies to reduce potential harm will often need to be externally managed by the supports and systems around the child, and the responsibility for harm reduction may need to rest with this support team until such time there is evidence the child has developed the ability to internalise these strategies.

Applications to have a RoSHO varied, renewed or discharged can be made to the Sheriff Court by the individual to whom the RoSHO applies; the chief constable who applied for the original order or the chief constable of an area in which the individual resides, is in or intends to move to. If the child whom the order was imposed to protect has reached the age of 16 years then the individual subject to the RoSHO could apply to the court for the RoSHO to be varied or discharged.

Interim RoSHOs can be applied for where a RoSHO has been sought regarding an individual but no decision has yet been made. The Sheriff may make an Interim order where satisfied on the evidence provided and using the same criteria as for a RoSHO and it is “just” to do so. The interim order has the same standing as a full RoSHO but would be for a specific period and would cease to have effect at the end of that period or if earlier when a decision has been made on the full order.

When someone becomes subject to a RoSHO they do not become subject to Sexual Offender Notification Requirements (SONR) under Part 2 of the [Sexual Offences Act 2003](#) - nor are they subject to Multi Agency Public Protection Arrangements (MAPPA). However, breaching a RoSHO/ Interim RoSHO is a criminal offence and if convicted would result in the individual becoming subject to SONR and MAPPA and if on summary complaint they may receive up to six months imprisonment and/or a fine up to £5000. If they are convicted on indictment (solemn matters) they can receive a maximum of five years imprisonment and/or fine.

RoSHOs will be replaced with [Sexual Risk Orders \(RSOs\)](#) when the provisions within the [Abusive Behaviour and Sexual Harm \(Scotland\) Act 2016](#) are commenced, provisionally expected in autumn 2021. These new orders provide the police with wider grounds for application, will allow for the protection of adults as well as children and have an increased range of conditions that can be implemented including foreign travel restrictions.

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