

**Equality and Human Rights Impact Assessment (EqHRIA)**

# Summary of Results

## Policy/Practice Name:

Serious Crime Prevention Orders, Trafficking Exploitation Prevention Orders and Trafficking Exploitation Risk Orders National Guidance (Version 1.00).

## Owning Department:

Specialist Crime Division

## Date EqHRIA Completed:

23/01/2023

## Purpose of Policy/Practice:

To provide guidance to Police Officers and Police Staff when dealing with members of the public who are subject to the clauses of a Serious Crime Prevention Order (SCPO)

* To promote a consistent approach to referral for SCPO’s
* To mitigate any risks associated with the SCPO
* To work with partner agencies to achieve mutually beneficial outcomes
* To provide officers with a point of reference to support them in decision making

## Summary of Analysis / Decisions:

### What the assessment found, and actions already taken.

The legal basis for the adoption of a toolkit is derived from Serious Crime Act 2007 as amended by the Serious Crime Act 2015.

* The criteria for selecting individuals to apply to the court for a Serious Crime Prevention Order and to subsequently monitor is found with the said Act.
* The SCPO’s will be applied for through a Referral process. The conditions for a referral are set out within the toolkit and reflect the requirements set out within Serious Crime Act 2007.
* Monitoring of SCPO’s will be proportionate, necessary and justified on a case by case basis.
* SCPO Unit is the Single Point of Contact for referrals and liaise with division and is the conduit for communication between PSoS and COPFS and other partner agencies.
* The design of the application process for a SCPO is such that the clauses of the granted order will still afford the SCPO Offender the opportunity obtain certain types of employment, there is also scope to have a clause of a granted order varied.
* SCPO Offenders shall be allocated a specific manager who will be aware of any related issues and can afford arrangements to diminish any negative impact

This assessment found that this Guidance may impact on the following protected characteristics:

**Age, Positive /** **Low**

An SCPO / TEPO / TERO applies to a person over the age of 18 and is stipulated within the Serious Crime Act 2015 and Human Trafficking Exploitation (Scotland) Act 2015 respectively.

Orders may impose conditions concerning working with children or residing with children which could have a positive impact on the age category for children. The restrictions imposed are permissive however are evidence based and justified and proportionate in connection with the subject’s conviction.

**Disability, Positive / Low**

The legislation concerns those who have been convicted of a serious offence and the conditions imposed within the Order.

Recording or disclosure or a known disability, both for individuals subject to the orders themselves and also those who are being protected by the orders will be protected by data handling measures internally within Police Scotland.

**Gender Reassignment, No Impact**

There is no specific data on this protected characteristic in connection with SCPOs / TEPOs.

Potential Offenders are identified as a result of the serious offences that they have been charged with.

It is recognised that there may occur a situation where an SCPO / TEPO / TERO Subject may impact on this Protected Characteristic.

Training and guidance provided to officers includes the use of correct pronouns as advised by the individual. Allowing the person to self- define their gender and record this accurately.

**Pregnancy & Maternity, Race, Positive/Low**

There is no data on this protected characteristic.

If an SCPO / TEPO /TERO Subject is pregnant then this will be taken into consideration in terms of conditions / requirements and suitable measures will be put in place to mitigate any risks associated with protected characteristic.

**Race, Positive/Low**

Where an SCPO / TEPO / TERO Subject is from a race whose preferred language is not English then translation services will be sought with the use of the appropriate guidance on the Interpreting and Translation Intranet Page within Police Scotland.

There is no data collected specifically in relation to race and is therefore not available.

**Religion or Belief, Positive/High**

Potential Offenders are identified as a result of the offence they are under investigation for or convicted of.

It is recognised that SCPO / TEPO / TERO Subjects may be from a particular Religion or belief. It could be the case that this may receive media attention as a result of this particular characteristic.

It is also recognised that certain practices involved in SCPOs / TEPOs / TEROs may impact on certain religions or beliefs and that consideration will be given.

Where this Protected Characteristic exists this should form part of the risk assessment and community impact assessment, where appropriate.

**Sex, No Impact**

Persons subject of an SCPO / TEPO / TERO are identified in terms of the offence committed and this Protected Characteristic is not considered specifically within the legislation.

**Sexual Orientation, No Impact**

There is no data in relation to SCPOs / TEPOs / TEROs for this protected characteristic.

Legislation used in relation to SCPOs / TEPOs / TEROs does not specifically consider this protected characteristic.

**Marriage and Civil Partnership. Positive / High**

Any criminal investigation in relation to a serious offence and a subsequent successful SCPO / TEPO / TERO application and monitoring can have an impact on any relationship.

**The guidance was found to protect the following Articles of the Human Rights Act 1998:**

**Article 2 Right to Life**

These conditions / restrictions of an SCPO/TEPO/TERO are considered proportionate and justified in order to prevent that person from engaging in criminality and to protect the community.

**Article 3 Prohibition of Torture**

Disruption and prevention action into SOC and Human Trafficking will protect Art3.

TERO’s and TEPO’s aim to protect the public or a specific person from physical or psychological harm which would result from a Human Trafficking Offence.

**Article 4 Prohibition of Slavery and Forced Labour**

With regards to SCPOs disruption and prevention action into SOC and Human Trafficking will protect Art4.

TERO’s and TEPO’s aim to protect the public or a specific person from physical or psychological harm which would result from a Human Trafficking Offence.

**Article 6 Right to a Fair Trial**

Where a breach of an SCPO / TEPO / TERO exists and the Subject is arrested and charged, details of the investigation will be reported to the Crown Office and Prosecution Service (COPFS) and to their defence as part of disclosure process in compliance with legislation and SOP’s.

**Article 7 No Punishment without Law**

An SCPO / TEPO / TERO is granted after conviction of a serious offence at court.

The guidance was found to infringe the following Articles of the Human Rights Act 1998

**Article 5 Right to Liberty and Security**

Where corroborative evidence exists that a breach has occurred this will result, in most cases, with the subject being arrested and their appearance at court. A breach of an Order can result in up to 5 years imprisonment or unlimited fine

**Article 8 Right to Respect for Private and Family Life**

It is recognised that the conditions/restrictions of orders may infringe upon their Private and Family life.

**Article 9 Freedom of Thought, Conscience and Religion**

It is recognised that conditions/restrictions could be that they do not have contact with people who are known to be involved in criminality which could impact their religious freedom

**Article 10 Freedom of Expression**

It is recognised that conditions/restrictions could be that they do not have contact with people who are known to be involved in criminality.

## Summary of Mitigation Actions:

### What the assessment found, and actions already taken.

* The Serious Crime Prevention Oder Unit will monitor any changes in legislation/circumstances which may affect this SOP and assess how these changes may impact those subject to the clauses of a SCPO.
* In addition the owning department will be responsible for the cyclical review of both the SOP and EqHRIA