

PE2102/F: Require anyone found guilty of rape or sexual assault to be registered as a sex offender

Petitioner written submission, 3 December 2024

It is essential to understand that an absolute discharge can only be issued if there is no minimum sentence for the crime fixed by law. There are laws already in place that state being convicted of sexual assault or rape makes the offender automatically subject to sex offender notification requirements. However, due to the notification requirements not being recognised as a form of sentencing, this allows judges to disregard this requirement of the law by issuing an absolute discharge. If notification requirements are not supposed to act as a form of sentencing, the decision of a judge in any case, whose position is to pass sentencing, should have no impact on the enforcement of notification requirements. Therefore, the absolute discharge needs to be removed as a sentence disposal to close this loophole.

Additionally, taking into consideration that it is the law that the offender is automatically subject to notification requirements at the point of conviction, the sentence, or lack thereof, should have no bearing on whether the notification requirements are enforced, as a person becomes convicted of the crime before sentencing takes place. I would like to highlight that it is not the judge's sentence that determines whether the offender has been convicted or not, but rather the jury's verdict which takes place before sentencing and should be the point at which the notification requirements are enacted.

Regarding the Scottish Government's submission, and the comments that there are no current plans to adjust the powers of the court, I would urge the Scottish Government to seriously reconsider its position on this issue, taking into consideration the views of Rape Crisis Scotland and Victim Support Scotland on the issues raised in the petition. These organisations work in close capacity with victims on a daily basis to support them not only in the aftermath of these horrific crimes but also throughout the process of attempting to achieve justice. In doing so, they can give the most accurate representation of how equally traumatic both experiences can be. I am grateful that both Rape Crisis Scotland and Victim Support Scotland have made their position clear in that they do not believe an absolute discharge is ever warranted for those convicted. I would ask the Scottish Government to recognise the importance of these views by acting on the issues raised in the petition, in order to give victims the confidence that the Scottish Government's promises to tackle violence against women and girls can be backed up by actions.