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Children Law  
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Employment Law  
Family Law  
Human Rights &  
Civil Liberties  
Immigration Law  
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# Criminal Law & Fraud



The Sexual Offences Act 2003 requires people convicted or cautioned in relation to sexual offences to notify the police of their personal details, as well as informing the police of periods of foreign travel lasting for three days or more. This system is commonly referred to as the Sex Offenders' Register.

## Who is on the Register?

Anyone convicted or cautioned in relation to a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003 will be required to provide their details to the police. Additionally, a person who is found not guilty of a sexual offence by reason of insanity or a person found to be under a disability who the court determines to have done the act constituting the offence will be subject to the notification requirements.

A person subject to the notification requirements must provide their details to the police within three days of their conviction, caution or a finding by the court. However, an offender who receives a custodial sentence can provide their details within three days of his or her release from prison, as opposed to immediately following conviction.

## What are the requirements?

Under the notification requirements a sexual offender must initially provide:

- their date of birth;
- their national insurance number;
- their current name, their name as at the date of conviction/caution/finding, and any aliases that they may use;
- their current home address, as well as their home address as at the date of conviction/caution/finding;
- any other addresses at which they may regularly reside or stay.

These details must then be provided to the police on an annual basis. The police must also be notified within three days if any of the details change.

## Foreign travel

A registered sex offender must also notify the police of their intention to travel abroad for a period of 3 or more days. They must inform the police of:

- their date of departure;
- the country to which they will travel;
- the point of arrival in each country to which they intend to travel;

## Success Starts Here Free Information Guide

### Services

[Children Law](#)  
[Criminal Law & Fraud](#)  
[Education Law](#)  
[Employment Law](#)  
[Family Law](#)  
[Human Rights & Civil Liberties](#)  
[Immigration Law](#)  
[Legal Disputes](#)  
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- the carrier(s) they intend to use;
- their point of return within the UK;
- their date of return; and
- the accommodation arrangements for the first night of their travel.

Notification must normally be given not less than seven days before the proposed date of departure. In some circumstances the police will allow a notification of at least 24 hours, but the offender must be able to show that he or she had a reasonable excuse in not giving notice earlier. For example, this might happen where the offender needs to visit a family member abroad who has suddenly become ill.

### Failure to notify

An offender who fails to comply with the notification requirements without reasonable excuse, in relation to either general notification or foreign travel, commits a criminal offence. The maximum penalty is 6 months' imprisonment in the Magistrates' Court and 5 years' imprisonment in the Crown Court.

### Notification periods

The length or nature of the sentence received affects the period that the offender will be subject to the notification requirements as follows:

Sentence	Notification period
Imprisonment for life or a term of 2 and a half years or more	Life
Detention in hospital subject to a restriction order	Life
Imprisonment for less than 2 and a half years but more than 6 months	10 years
Imprisonment for 6 months or less	7 years
Detention in hospital without a restriction order	7 years
Caution	2 years
Conditional discharge	The period of the conditional discharge
Any other sentence (e.g. community sentence, fine)	5 years

An offender who is under 18 at the time of their conviction/caution/finding will be subject to half the period listed above.

### Challenging the indefinite notification periods

As can be seen above, offenders sentenced to more than two and a half years imprisonment will be subject to the notification regime for life.

In April 2010 in the case of *R (on the application of F and Angus Aubrey Thompson) v Secretary of State for the Home Department* [2010] UKSC 17, the Supreme Court held that the indefinite notification requirements with no opportunity for review are incompatible with Article 8 of the European Convention on Human Rights. The Home Office has not yet taken steps to comply with its obligations in relation to this judgment, although it is likely that legislation will be forthcoming soon.

You should obtain specialist legal advice if you are concerned about your rights in relation to the notification period.

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### Services

Children Law  
Criminal Law & Fraud  
Education Law  
Employment Law  
Family Law  
Human Rights &  
Civil Liberties  
Immigration Law  
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### Who will know?

The police, probation and prison services are required to form Multi Agency Public Protection Arrangements (MAPPA) to manage the risks posed by sex offenders. Under these arrangements information may be shared between these bodies where appropriate.

In some situations details about MAPPA offenders may also be disclosed to third parties, although this is relatively rare. For example, a disclosure may be made to a Head Teacher in relation to the risk that an offender may pose to children at their school. Any disclosure must be part of an overall Risk Management Plan specific to the offender concerned.

A Child Sex Offender Disclosure Scheme has also been piloted by several police forces. Under this scheme parents, carers and guardians can make a formal request to the police to determine whether a specific individual who has regular contact with their child has a record in relation to child sexual offences. Any disclosure that is made should be treated as confidential, and there are penalties for anyone who passes the disclosure on to a third party.

### Useful links

Sexual Offences Act 2003  
<http://www.legislation.gov.uk/ukpga/2003/42/contents>

Judgment - R (on the application of F and Angus Aubrey Thompson) v Secretary of State for the Home Department [2010] UKSC 17

[http://www.supremecourt.gov.uk/decided-cases/docs/UKSC\\_2009\\_0144\\_Judgment.pdf](http://www.supremecourt.gov.uk/decided-cases/docs/UKSC_2009_0144_Judgment.pdf)

### I require further advice. What should I do?

If you require legal advice or have concerns about the Sex Offenders' Register, please contact Miriam Andrews for more information on +44 (0)20 7091 2715 or at [miriam.andrews@fishermeredith.co.uk](mailto:miriam.andrews@fishermeredith.co.uk).

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