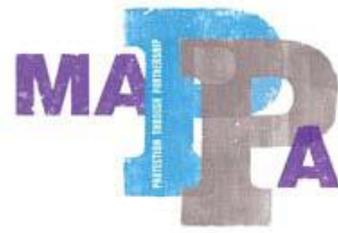




Ministry of  
**JUSTICE**

National Offender  
Management Service



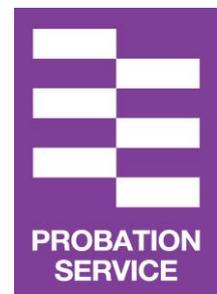
# MAPPA Guidance 2012

**Version 4.1**

[Updated December 2016]



ASSOCIATION OF  
**CHIEF POLICE OFFICERS**



**Produced by the National MAPPA Team**  
*National Offender Management Service*  
*Offender Management and Public Protection Group*



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# Summary of Main Changes from 2009 Guidance

Chapter	Main Changes
1. MAPPA: A basic guide	<ul style="list-style-type: none"><li>• This is a <b>new chapter</b> providing a summary of MAPPA as a whole. Please see the relevant chapters for details.</li></ul>
2. Responsible Authority	<ul style="list-style-type: none"><li>• No significant change.</li></ul>
3. Duty to Co-operate agencies	<ul style="list-style-type: none"><li>• Inclusion of UK Border Agency as a duty to co-operate agency.</li><li>• Amendment to role of Jobcentre Plus as previously circulated.</li></ul>
4. MAPPA SMB	<ul style="list-style-type: none"><li>• The SMB is recommended to meet at least three times a year.</li></ul>
5. Lay Advisers	<ul style="list-style-type: none"><li>• Anyone convicted of or cautioned for a relevant sexual or violent offence cannot become a Lay Adviser.</li><li>• Recruitment process no longer requires the use of a psychometric test.</li><li>• Explanation of the OCPA Code Of Practice for the recruitment of Lay Advisers</li></ul>
6. Identification and notification of MAPPA offenders	<ul style="list-style-type: none"><li>• Providers of Probation Services must identify on their case management records their MAPPA level 1 cases and ensure that their MAPPA Co-ordinator has access to the probation case management system, but no further notification is required.</li><li>• Explanation of Integrated Offender Management.</li></ul>
7. Levels of Management	<ul style="list-style-type: none"><li>• Level 1 cases must be reviewed in line with the lead agency's own policies and procedures.</li></ul>
8. ViSOR	<ul style="list-style-type: none"><li>• Entering detail onto ViSOR now in this section (moved from Identification chapter).</li><li>• YOT and Mental Health responsibilities included.</li></ul>
9. Information-sharing	<ul style="list-style-type: none"><li>• No significant change.</li></ul>
10. Disclosure	<ul style="list-style-type: none"><li>• It is not necessary to inform the MAPPA Co-ordinator about disclosure decisions for level 1 offenders.</li><li>• This chapter offers advice on cases where agreement cannot be made regarding disclosure.</li><li>• Child Sex Offender Disclosure Scheme explained in this chapter.</li></ul>
11. Risk Assessment	<ul style="list-style-type: none"><li>• Risk assessment summary and the importance of information-sharing are included in this chapter.</li></ul>

12. Risk Management Plan	<ul style="list-style-type: none"> <li>• Guidance provided on the Risk Management Plan for all level 2 and level 3 MAPPA offenders.</li> <li>• Referral to be considered for all level 3 MAPPA offenders as Critical Public Protection Cases.</li> <li>• Restrictive Orders and offender role included in this chapter (moved from Identification chapter).</li> <li>• Restrictive / rehabilitative / protective interventions outlined in this chapter.</li> </ul>
13. Multi-Agency Public Protection Meetings	<ul style="list-style-type: none"> <li>• Guidance on level 1 meetings transferred to Level 1 Best Practice Guidance.</li> <li>• Level 2 meetings and level 3 meetings recommended to take place a minimum of every 16 weeks and 8 weeks respectively.</li> <li>• Required rank of police attendance at level 3 meetings changed to Superintendent.</li> <li>• Disclosure of MAPPA minutes moved here from Disclosure chapter.</li> </ul>
14. MAPPA Document Set	<ul style="list-style-type: none"> <li>• Provides focused guidance on the new MAPPA Document Set.</li> </ul>
15. Custody	<ul style="list-style-type: none"> <li>• Prison Service to confirm release dates for level 2 and level 3 no later than 8 months before release (previously no later than 4 months before release).</li> </ul>
16. Recall	<ul style="list-style-type: none"> <li>• Recall and licence conditions included in this chapter, with updated Practice Instructions (moved from Custody chapter).</li> <li>• Role of Public Protection Casework Section included in this chapter.</li> </ul>
17. Transfer	<ul style="list-style-type: none"> <li>• Agency transfer policy to be followed.</li> </ul>
18. Approved Premises	<ul style="list-style-type: none"> <li>• It is the responsibility of the Probation Trust to agree the transfer in line with PI 17/2010. The AP will provide a structured environment as required.</li> </ul>
19. Critical Public Protection Cases	<ul style="list-style-type: none"> <li>• Referral for registration should be made 6 months before release from custody, in line with PI 18/2010.</li> </ul>
20. MAPPA Serious Case Reviews	<ul style="list-style-type: none"> <li>• MAPPA SCR to be completed on MAPPA O.</li> <li>• Guidance on conducting level 1 MAPPA SCRs.</li> </ul>
21. MAPPA and Foreign Travel	<ul style="list-style-type: none"> <li>• This is a <b>new chapter</b> about restrictions on foreign travel for Category 1 and Category 2 MAPPA offenders.</li> </ul>
22. Victims	<ul style="list-style-type: none"> <li>• Guidance on Multi-Agency Risk Assessment Conferences incorporated into this chapter.</li> </ul>
23. Children and Young People	<ul style="list-style-type: none"> <li>• No significant change.</li> </ul>

24. Terrorists and Domestic Extremists	<ul style="list-style-type: none"> <li>• Terrorism chapter and Domestic Extremism chapter combined to reflect all forms of extremism and guidance on risk management.</li> </ul>
25. Foreign National Offenders	<ul style="list-style-type: none"> <li>• This is a <b>new chapter</b> including definition of a foreign national, role of UKBA in MAPPA, and Immigration Removal Centres.</li> </ul>
26. Mentally Disordered Offenders and MAPPA	<ul style="list-style-type: none"> <li>• This is a <b>new chapter</b> including the 6 types of disposal available to the court when sentencing mentally disordered offenders.</li> <li>• Explains the role of the Mental Health Casework Section.</li> <li>• Explains the rights of victims of mentally disordered offenders.</li> </ul>
27. Specialist Police Forces	<ul style="list-style-type: none"> <li>• Includes Civil Nuclear Constabulary, as well as British Transport Police and Royal Military Police.</li> </ul>
28. MAPPA Co-ordination	<ul style="list-style-type: none"> <li>• This is a summary of the MAPPA Co-ordination function. Please see relevant chapters for details.</li> </ul>
29. Complaints	<ul style="list-style-type: none"> <li>• No significant change.</li> </ul>
30. Governance of MAPPA	<ul style="list-style-type: none"> <li>• This is a <b>new chapter</b> and includes the role of the national MAPPA team and relevant ViSOR groups.</li> </ul>
31. Performance Monitoring	<ul style="list-style-type: none"> <li>• Includes details of amended KPIs and the requirement to report nationally on the Probation Performance Hub.</li> </ul>
32. MAPPA Annual Reports and National Statistics	<ul style="list-style-type: none"> <li>• This is a <b>new chapter</b> to explain the annual report and data collection process.</li> </ul>

# 1. Introduction

## MAPPA: a basic guide

*This is a summary of MAPPA: please see the relevant chapters for details.*

1.1 The Criminal Justice Act 2003 (“CJA 2003”) provides for the establishment of Multi-Agency Public Protection Arrangements (“MAPPA”) in each of the 42 criminal justice areas in England and Wales. These are designed to protect the public, including previous victims of crime, from serious harm by sexual and violent offenders. They require the local criminal justice agencies and other bodies dealing with offenders to work together in partnership in dealing with these offenders.

1.2 This Guidance on MAPPA has been issued by the Secretary of State for Justice under the CJA 2003 in order to help the relevant agencies in dealing with MAPPA offenders. These agencies are required to have regard to the Guidance (so they need to demonstrate and record their reasons if they depart from it).

1.3 MAPPA is not a statutory body in itself but is a mechanism through which agencies can better discharge their statutory responsibilities and protect the public in a co-ordinated manner. Agencies at all times retain their full statutory responsibilities and obligations. They need to ensure that these are not compromised by MAPPA. In particular, no agency should feel pressured to agree to a course of action which they consider is in conflict with their statutory obligations and wider responsibility for public protection.

1.4 The MAPPA agencies must be free from discrimination and committed to equal access to services for all groups, particularly in relation to race, gender, gender identity, age, religious belief, sexuality, sexual orientation and disability. This means that all actions undertaken or recommended by the MAPPA agencies, and all policies and procedures, will be based on assessments of risks and needs. They will not draw on stereotypical assumptions about groups that will be discriminatory in outcome.

1.5 In undertaking their work, the MAPPA agencies will be sensitive and responsive to individual differences and needs. They will integrate this understanding into the delivery of their functions to ensure that nobody is disadvantaged as a result of belonging to a specific social group. To assist in achieving this, each Responsible Authority must have plans in place and implemented to ensure that issues of diversity are addressed.

1.6 The operation of MAPPA relies on **component bodies** working through an agreed **process** with MAPPA offenders, making provision as needed for **particular groups**, subject to **regulation and review**. These elements are briefly explored below and are developed in detail in the body of the guidance, in the chapters shown.

## Component bodies

### Responsible Authority

1.7 The Responsible Authority is the primary agency for MAPPA. This is the police, prison and Probation Trust in each area, working together. The Responsible Authority has a duty to ensure that the risks posed by specified sexual and violent offenders are assessed and managed appropriately.

### Duty to co-operate agencies

1.8 Other bodies have a duty to co-operate with the Responsible Authority in this task. These duty to co-operate agencies (“DTC agencies”) will need to work with the Responsible Authority on particular aspects of

an offender's life (e.g. education, employment, housing, social care). The UK Border Agency became a DTC agency in 2011 – the first addition to the list since the scheme in the CJA 2003 was implemented.

## **Strategic Management Board**

1.9 The supervision of this work is carried out by the Strategic Management Board (“SMB”) in each area. It has a range of governance-related functions, including monitoring performance, ensuring anti-discriminatory practice, measuring compliance with the MAPPA Key Performance Indicators (“KPIs”), and producing the annual MAPPA report.

## **Lay Advisers**

1.10 The CJA 2003 also provides for an independent perspective on the work of these groups by means of Lay Advisers, who are members of the public. The Secretary of State has a statutory duty to appoint two Lay Advisers to each area.

# **Process**

## **Identification and Notification**

1.11 The first stages of the process are to identify offenders who may be liable to management under MAPPA as a consequence of their caution or conviction and sentence, and later to notify the MAPPA Co-ordinator of their impending release into the community, or the commencement of a community order or suspended sentence, as appropriate. This responsibility falls to the agency that has the leading statutory responsibility for each offender. Offenders are placed into one of three MAPPA categories according to their offence and sentence.

## **Levels of management**

1.12 MAPPA offenders are managed at one of three levels according to the extent of agency involvement needed and the number of different agencies involved. The great majority are managed at level 1 (ordinary agency management). This involves the sharing of information but does not require multi-agency meetings. The others are managed at level 2 if an active multi-agency approach is required (MAPP meetings), and at level 3 if senior representatives of the relevant agencies with the authority to commit resources are also needed.

## **ViSOR**

1.13 Storing and sharing information about offenders is essential to the multi-agency approach. Information is stored in a central database known as ViSOR, according to each Responsible Authority's business model.

## **Information-sharing**

1.14 The practice of information-sharing between agencies is governed by certain principles. The guidance in this chapter draws on the Data Sharing Code of Practice issued in 2011 by the Information Commissioner's Office.

## **Disclosure**

1.15 There are arrangements for the disclosure of information to the public about individual offenders in particular circumstances.

## **Risk assessment**

1.16 Once offenders have been identified as MAPPA offenders, the next stage is to assess the risk they pose. This could be the risk of reconviction, the risk of reoffending, or the risk of serious harm. A range of assessment tools are available for this purpose.

## **Risk Management Plan**

1.17 Having assessed the risk that each offender poses, the MAPPA agencies need to manage that risk. This will entail the preparation of a detailed and robust Risk Management Plan.

## **MAPP meetings**

1.18 The vast majority of MAPPA offenders will be managed through the ordinary management of one agency, although this will usually involve the sharing of information with other relevant agencies. The structural basis for the discussion of MAPPA offenders who need active inter-agency management, including their risk assessment and risk management, is the MAPP meeting. The Responsible Authority agencies and the MAPPA Co-ordinator are permanent members of these meetings (although it may not be possible for the MAPPA Co-ordinator to attend every meeting). DTC agencies are invited to attend for any offender in respect of whom they can provide additional support and management. The frequency of meetings depends on the level of management deemed appropriate for each offender. Finally, this chapter also deals with the sharing and disclosure of MAPP meeting minutes.

## **MAPPA document set**

1.19 The MAPPA process works not only through the presence of the appropriate agencies but also on the basis of proper documentation. It provides a consistent process for sharing information across England and Wales.

## **Custody**

1.20 Custodial establishments identify which offenders will be liable to MAPPA management when released into the community. Planning for these cases needs to start at least 6 months before the release date. Obviously, the Prison Service plays a critical role in this process.

## **Recall**

1.21 This deals with recall to custody; the role of the Public Protection Casework Section in the Offender Management and Public Protection Group (“OMPPG”); and licence conditions.

## **Transfer of MAPPA offenders**

1.22 It may sometimes be necessary to transfer MAPPA offenders from one area to another within England and Wales, or between different jurisdictions. Transfers need careful handling because of the risk that the arrangements for managing the offender may be temporarily weakened.

## **Approved Premises**

1.23 It may also be necessary to find supported and supervised accommodation for MAPPA offenders in order to manage the risk they pose. This may be the case if they are transferred to a new area.

## **Critical Public Protection Cases**

1.24 Cases designated Critical Public Protection Cases (“CPPC”) are those that require additional oversight. The CPPC team in OMPPG can provide advice and additional resources.

## **MAPPA Serious Case Review**

1.25 MAPPA is designed to reduce the risk of further serious violent or sexual offending, but from time to time offenders do go on to commit such offences. When the most serious offences are committed, the SMB must consider commissioning a MAPPA Serious Case Review to examine whether the MAPP arrangements were applied properly, and whether the agencies worked together to do all they reasonably could to prevent the further offending. There may be lessons for the future, or good practice to disseminate.

## **Foreign travel**

1.26 This deals with foreign travel by Registered Sexual Offenders; temporary foreign travel by offenders released from prison on licence; Foreign Travel Orders; and Notification Orders for UK citizens convicted abroad.

## **Particular groups**

### **Victims**

1.27 The MAPPA process affects a range of groups for whom additional guidance is needed and this includes the victims of crime. This chapter sets out how MAPPA takes the needs of this group into account. This chapter also provides guidance on the Multi-Agency Risk Assessment Conference ("MARAC"), which has developed in response to the many victims who have suffered domestic abuse and who are at risk of further abuse. MARAC has links to MAPPA, without being a formal part of it.

### **Children and young people**

1.28 Offenders aged under 18 are subject to the same procedures as other MAPPA offenders, but additional considerations apply. For example, the MAPPA agencies have a statutory duty to have regard to the needs of the offender as a child. Therefore the Youth Offending Team and Children's Services must be present at a MAPP meeting when the case of an offender aged under 18 is discussed.

### **Terrorists and domestic extremists**

1.29. This chapter emphasises the need to identify terrorists and domestic extremists who are MAPPA offenders; to consider them for active multi-agency management at level 2 or 3; to share all relevant information with other agencies involved; and to maintain appropriate security arrangements.

### **Foreign national offenders**

1.30 MAPPA processes for foreign national offenders living in the community are the same as for UK citizens. This chapter deals with identification, information-sharing, risk assessment and risk management for foreign national offenders.

### **Mentally disordered offenders**

1.31 This chapter provides guidance on identifying mentally disordered offenders who are MAPPA offenders. It summarises the relevant provisions of the Mental Health Act 1983 and the role of the Secretary of State (exercised through the Mental Health Casework Section in OMPPG). The chapter also provides guidance on the role of tribunals, on information-sharing, and on the rights of victims of mentally disordered offenders.

### **Other police forces**

1.32 This chapter explains the role of specialist police forces, such as the British Transport Police and the Royal Military Police, in relation to MAPPA. These forces are not members of the Responsible Authority or DTC agencies, but may need to contribute to the management of MAPPA offenders in certain cases.

## **Regulation and review**

### **MAPPA Co-ordination**

1.33 One person has an important role in co-ordinating the work of the MAPPA agencies in each area. This is the MAPPA Co-ordinator. He or she works on behalf of the Responsible Authority and is accountable to the SMB. Most areas have a MAPPA Co-ordinator, although it is not a statutory role.

## Complaints

1.34 The SMB must have a procedure for dealing with complaints which relate to the MAPPA process itself. Arrangements should already be in place for dealing with complaints against individual agencies.

## Governance of MAPPA

1.35 This chapter summarises some of the structures that are in place to support the effective operation of MAPPA. These include the Responsible Authority National Steering Group, the National MAPPA Team in OMPPG, the National MAPPA Best Practice Workgroup, a number of public protection meetings and forums, and a number of groups relating to ViSOR.

## Performance monitoring and improvement

1.36 For MAPPA to work effectively, each agency needs to fulfil its legal obligations and to work with other agencies to achieve the robust and defensible risk management of MAPPA offenders. The Responsible Authority, through the SMB, needs to be able to demonstrate this empirically through its monitoring and evaluation of its performance. In doing so it needs to use both quantitative and qualitative data, and in the context of a national set of KPIs.

## Annual reports and statistics

1.37 The CJA 2003 requires each Area to publish information annually on the operation of MAPPA at the local level. This chapter provides guidance on the preparation of MAPPA annual reports, including the collection of data, the publication arrangements, and dealing with the media.

## Interpretation

1.38 This Guidance contains many terms and expressions that are commonly used in MAPPA. These are defined here in the interest of clarification. Please see also the Glossary at the end of the Guidance, which sets out the meaning of the many abbreviations and acronyms used.

- “Lead agency” is the agency with the statutory authority and responsibility to manage a MAPPA offender. This management will involve appropriate information-sharing in order to properly identify risk. The lead agency will have primary responsibility for referring the offender to level 2 or level 3 MAPPA management or for continuing management at level 1.
- “MAPPA offender” is someone who satisfies the criteria set out in sections 325 and 327 of the CJA 2003 and is therefore liable to management under MAPPA.
- “Offender Manager” means the police, prisons or probation member of staff who is responsible for supervising an offender.
- “Prison” includes public sector, high security, and contracted-out prisons, young offender institutions, secure training centres, and secure children’s services; and references to “prison staff” are to be construed accordingly.
- “Probation Trusts” includes providers of probation services.
- “Risk” is either risk of reconviction, or risk of re-offending, or risk of serious harm.

## Criminal Justice Act 2003 (summary of relevant provisions)

1.39 Sections 325 to 327B of the CJA 2003 provide the statutory basis for MAPPA. These provisions are set out in full at Appendix 1 and are summarised below.

### Section 325: Arrangements for assessing etc risks posed by certain offenders

This section:

- Defines the Responsible Authority.
- Requires the Responsible Authority to make arrangements for assessing and managing the risk posed by relevant sexual and violent offenders.
- Requires other specified bodies to co-operate with the Responsible Authority in this task, for example by sharing information.
- Requires the Responsible Authority and these other bodies to draw up a memorandum setting out how they will co-operate.
- Empowers the Secretary of State to issue guidance to Responsible Authorities on the discharge of their functions.
- Requires Responsible Authorities to have regard to any such guidance.

### **Section 326: Review of arrangements**

This section:

- Requires the Responsible Authority to keep its arrangements under review.
- Requires the Secretary of State to appoint two Lay Advisers in each area, whom the Responsible Authority must consult in exercising its functions and whose expenses the Responsible Authority must pay.
- Requires the Responsible Authority to publish an annual report on the discharge of its functions, with details of its arrangements and any other information the Secretary of State asks to see included.

### **Section 327: Section 325 – interpretation**

This section defines a number of terms used in section 325, including “relevant sexual or violent offender” (mainly, registered sex offenders, and violent offenders sentenced to at least 12 months in custody).

### **Section 327A: Disclosure of information about convictions etc. of child sex offenders to members of the public**

This section:

- Requires the Responsible Authority to consider disclosing information about the previous convictions for sexual offences against children of a child sex offender to a member of the public.
- Creates a presumption in favour of disclosure (even if no-one has requested it) if the child sex offender poses a risk of serious harm to any children and disclosure is necessary for their protection.
- Empowers the Responsible Authority, in making disclosure to a particular person, to impose conditions preventing any further disclosure.
- Requires the Responsible Authority to record its decision whether or not to make disclosure in each case.

### **Section 327B: Section 327A – interpretation**

This section defines a number of terms used in section 327A, including “child” (person under 18), “child sex offence”, and “child sex offender”.

## 2. Responsible Authority

### Introduction

2.1 The Responsible Authority consists of the police, Probation Trust, and the Prison Service acting jointly in each area. It is fundamental to the operation of MAPPA. This is clear from the statutory provision for the Responsible Authority in sections 325 to 327B of the Criminal Justice Act 2003, set out at Appendix 1 to this Guidance. The Responsible Authority must:

- Make arrangements for assessing and managing the risks posed by sexual and violent offenders in its area.
- Co-operate with a list of other agencies, including the local authority and Youth Offending Teams (“YOTs”), who have a reciprocal duty to co-operate with the Responsible Authority.
- Monitor the effectiveness of its arrangements, and publish an annual report.
- Work alongside Lay Advisers appointed by the Secretary of State.
- Consider disclosing information about previous convictions in order to protect the public.

2.2 The role and functions of the Responsible Authority are generally exercised through the Strategic Management Board (see chapter 4) which oversees the whole MAPPA structure. This chapter focuses on the three criminal justice agencies who make up the Responsible Authority.

### Police

2.3 The police are responsible for managing MAPPA offenders in Category 1 (registered sexual offenders) on ViSOR. Most police forces have established specialist Public Protection Units, which use ViSOR in this task. Guidance for the police is contained within the ACPO 2010 Guidance on Protecting the Public: Managing Sexual and Violent Offenders which sets out guidance on planning and conducting home visits. The guidance is currently under revision but is effective at the time of writing.

2.4 In practice, the police will often share the management of Category 1 offenders with probation or YOTs because many offenders will be subject to supervision on licence or a community order. Some areas have agreed arrangements whereby the Probation Trust takes the lead during the period of statutory supervision, while ensuring that the Public Protection Unit are kept informed of developments. The two agencies might undertake a joint home visit at the start of the supervision period and then agree how supervision and further visits will be carried out. Other areas have established joint Police and Probation Units to manage the high risk of serious harm cases. Whatever the local arrangements, it is essential that the two agencies establish good levels of communication, where each is aware of the other’s activities in managing the offender. This activity must be recorded on all case management systems, including ViSOR.

2.5 The police are responsible for ensuring that all Category 1 offenders are entered on ViSOR. They will ensure that all offenders subject to the notification requirements:

- Register, as required.
- Are assessed by suitably trained staff using RM2000 (the assessment tool Risk Matrix 2000 – for use with all adult male offenders aged 18 and over).

- Are visited at their registered address in line with police policy and guidance. Home visit schedules are assessed, planned, managed and reviewed on a case by case basis. Suggested good practice is as follows: Very high risk – **monthly**; High risk – **every three months**; Medium risk – **every six months**; and Low risk – **every twelve months**.
- Are reviewed in line with their own policies and procedures.
- Have their ViSOR records maintained in accordance with the national standards.

There is a summary of the notification requirements at Appendix 2.

2.6 In addition the police will ensure that all breaches of the notification requirements are promptly followed up and that appropriate action is taken.

## Probation

2.7 The Probation Trust are responsible for the management of Category 2 offenders, aged 18 and over, who are released on licence from a sentence of 12 months custody or more. Those aged under 18 will be managed by the YOT. Cases that are subject to a hospital or guardianship order with restrictions will be managed by Mental Health and Social Services staff on discharge.

2.8 The Probation Trust must ensure that all Category 2 level 2 and Category 2 level 3 cases are recorded on ViSOR and managed at the appropriate level under MAPPA, and are regularly reviewed.

2.9 The Probation Trust will also share the management of some Category 1 offenders with the police and may be the lead agency for Category 3 offenders.

## Prisons

2.10 The Prison Service will ensure that all MAPPA offenders sentenced to custody are identified following reception, and that the Prison Service case management system is marked accordingly. They will ask to be made a partner to all the ViSOR records of MAPPA offenders so that they can enter relevant information on ViSOR.

2.11 In general, cases will be monitored while in custody through the local Interdepartmental Risk Management Team (“IRMT”), which is an internal Prison Service multi-agency meeting. The offender supervisor should attend the IRMT when his or her case is being discussed. The Prison Service must ensure that information from the IRMT is shared with the Offender Manager and is incorporated into the sentence planning process as part of offender management. In cases which involve sexual offenders, the Prison Service must also ensure that information is shared with the appropriate police contact.

2.12 The Prison Service must provide release date information to the police and the Offender Manager. This should be calculated at the earliest opportunity after the sentence begins. It should be sent to the Offender Manager on the relevant form and should also be entered on ViSOR. This information should be provided at least 8 months before release. It is essential that release dates are as accurate as possible, as late changes can adversely affect risk management and public protection.

2.13 The Prison Service will:

- As far as the law permits, share information to enable released offenders to be managed safely in the community.
- Identify MAPPA offenders, exchange information, assess the level of risk and manage the risk.
- When the offender is still in custody, participate in MAPPA level 2 and 3 cases, preferably through attendance at MAPP meetings or, if this is not possible, through video or telephone conferencing. As a minimum they should provide a comprehensive written report on MAPPA F.
- Advise MAPPA colleagues about Prison Service systems and procedures such as transfer between establishments and regime programmes.
- Engage in the MAPPA process to inform parole reports and Risk Management Plans through information-sharing.

2.14 The Prison Service will not assign MAPPA levels to offenders. Through offender management and sentence planning, they will participate in assessing risk and identifying activities aimed at reducing risk while the offender is in custody.

2.15 The Prison Service will participate in the Strategic Management Board (“SMB”) meetings. Representation must be at a sufficiently senior governor grade so as to have the necessary authority to participate effectively. The expectation is that the Prison Service will be represented at each SMB in its region.

2.16 In those areas that have a High Security Prison, the Director of High Security Prisons may decide to be represented at the SMB. In these circumstances the Prison Service must decide whether both representatives (area and High Security Estate) will attend and, if only one attends, how information will be disseminated.

2.17 Arrangements must be agreed separately with the COPs about their involvement in MAPPA and the SMB, but these should be in line with those for the public sector.

2.18 Further information regarding the role of the Prison Service and MAPPA is available in the Prison Service Public Protection Manual 2009.

## 3. Duty to co-operate agencies

### Introduction

3.1 **Section 325(3)** of the Criminal Justice Act 2003 (“CJA 2003”) requires the Responsible Authority to co-operate with the list of agencies specified in section 325(6) of the Act. Please note that:

- **This is a reciprocal duty**, since the Act also places those agencies under a duty to co-operate with the Responsible Authority in its task of assessing and managing risk.
- They are required to co-operate as far as they can do so, **consistent with the exercise of their other statutory functions**.

3.2 They are known as Duty To Co-operate Agencies (“DTC agencies”).

3.3 **Section 325(4)** of the CJA 2003 states that the duty to co-operate may include the exchange of information. For more about this, see chapter 9 on Information-sharing.

3.4 **Section 325(5)** of the CJA 2003 requires the Responsible Authority and each DTC agency to draw up a memorandum setting out how they are to co-operate. This is covered later in this chapter.

3.5 The DTC agencies listed in **section 325(6)** of the CJA 2003 are as follows:

1. Youth offending teams (“YOTs”).
2. Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training (in practice, Jobcentre Plus).
3. The local education authority.
4. The local housing authority.
5. Registered social landlords providing or managing residential accommodation in which MAPPA offenders may reside.
6. The local social services authority.
7. The Health Authority or Strategic Health Authority.
8. The Primary Care Trust or Local Health Board.
9. The NHS Trust.
10. Providers of electronic monitoring services.
11. The UK Border Agency.

3.6 **Section 325(7)** of the CJA 2003 enables the Secretary of State to add to this list, or remove from it, by means of secondary legislation. The relevant Order must be laid before Parliament in draft, and approved by both the House of Commons and the House of Lords, before it may be made.

## What the duty to co-operate means

3.7 The principal responsibility for protecting the public from sexual and violent offenders rests with the criminal justice agencies. However, the effectiveness of public protection often requires more than just a criminal justice response. Other agencies, for example those providing help with employment and training, accommodation, and housing, play an important role in helping offenders to resettle and may help to reduce re-offending. The important contribution other agencies can make is also highlighted in cases where offenders have mental health problems or where they pose a risk of harm to children.

3.8 While the professional starting points and finishing points of all the agencies involved in MAPPA may be different, a formal means of co-operation is required when their responsibilities and expertise overlap. Without co-operation, there is a risk of collision – agencies unintentionally frustrating or compromising the work of one another, sometimes with dangerous consequences. Co-operation also ensures that all agencies involved know what the others are doing. Preventing collision, preventing decisions being made in ignorance of other agencies' actions, and enabling joint working, is fundamentally what the MAPPA duty to co-operate is about.

3.9 In practice, the relevant DTC agency should be invited to all MAPP meetings where the case of an offender in whom it has an interest is discussed. A representative of the agency could attend in person or by video or telephone conferencing where possible. In some cases, the agency will submit a written report.

3.10 The Strategic Management Board ("SMB") should include representation at an appropriately-senior level from each of the DTC agencies in the area. This is not a statutory requirement but is highly recommended.

3.11 MAPPA and the duty to co-operate are a means of enabling different agencies to work together. MAPPA is not a legal entity in itself but is a set of administrative arrangements. Authority rests with each of the agencies involved. While consensus may be reached and joint action agreed, they remain the responsibility of each agency. MAPPA does not aggregate the responsibility and authority of the agencies involved. Instead it clarifies the role each agency is to play.

## The Memorandum

3.12 As noted above, section 325(5) of the CJA 2003 requires the Responsible Authority and each DTC agency in each area to draw up a memorandum setting out how they are going to co-operate. This document articulates the practical arrangements for local co-operation. Although it may reflect local variations, it should be in a standard form and should include the following:

- A description of the MAPPA framework, setting out its purpose and its statutory basis.
- A statement of the role of the Responsible Authority and how it will co-operate with the DTC agency.
- A statement of the role of the DTC agency and how it will co-operate with the Responsible Authority.
- An endorsement at a senior level within both the Responsible Authority and the DTC agency.

3.13 The main areas in which co-operation is likely to be needed are as follows:

- Notification of when offenders enter the MAPPA system.

- Invitations to meetings when cases of interest to the DTC agency are to be discussed.
- Notification of changes in the offender's status.
- Provision of an up-to-date risk assessment and other information to ensure that the offender is managed effectively.
- Provision of general advice about an agency's role and the type of services it provides (including advice about how services can be accessed).
- Co-ordination of activities in a way which complements rather than undermines other agencies.

3.14 For co-operation to work effectively, the Responsible Authority and the DTC agency need to establish clear channels of communication so that they can contact each other in both routine and urgent cases. The relevant contact in the Responsible Authority will generally be the MAPPA Co-ordinator. The DTC agency should provide a Single Point of Contact to receive information and requests from each area. The contact information for the relevant personnel should not be published in the Memorandum but should be distributed separately and maintained regularly by an identified person.

3.15 Although the requirement to prepare a memorandum is placed on the Responsible Authority and DTC agency, it is not intended that they should work in isolation. To ensure consistency, a standard memorandum will be prepared at a national level by the Offender Management and Public Protection Group ("OMPPG") in consultation with the headquarters organisation of any new DTC agency. This will be circulated to the Responsible Authority and DTC agency operating at a local level to help them draw up their own memorandum.

3.16 Areas may want to refer to the Data Sharing Code of Practice, available at <http://www.ico.gov.uk> (see chapter 9 on Information Sharing).

## The Duty to Co-operate Agencies

### 1. Youth Offending Teams

3.17 Local authorities across England and Wales have a statutory duty to establish YOTs, which are themselves multi-agency partnerships whose police and probation members play an important role. YOTs differ from most other DTC agencies in that they have direct supervisory responsibility for their own subset of offenders – all young offenders who are in the community and subject to the sentence of the court, e.g. during the community element of a Detention and Training Order.

3.18 YOTs are responsible for referring to MAPPA all young offenders for whom they are responsible who meet the eligibility criteria for MAPPA. YOTs will undertake a comprehensive risk assessment on all young offenders referred to MAPPA. For more information see chapter 23 on Children and Young People.

### 2. Ministers of the Crown exercising functions in relation to social security, child support, war pensions, employment and training – in practice, Jobcentre Plus

***Jobcentre Plus should assist with and restrict employment and training in order to protect the public***

3.19 Jobcentre Plus is an executive agency of the Department for Work and Pensions. In relation to managing MAPPA offenders, this agency has two primary functions:

- To assist offenders into employment or to access suitable training as this reduces their risk of reoffending and thus protects the public.
- To restrict the types of employment and training when this applies to certain offenders.

3.20 This will:

- Give offenders of working age the help and support to which they are entitled to enable them to work.
- Benefit offenders, as appropriate employment and training can reduce the risk of re-offending. Employment provides stability and purpose to what are often chaotic lives.
- Give offenders the opportunity to contribute positively to their local community, and to society in general, and to lead law-abiding lives.
- Prevent offenders from accessing unsuitable employment and training which could put the public at risk of serious harm.

***The Offender Manager is responsible for notifying Jobcentre Plus of any restrictions on employment and training, and whether the offender presents a risk of serious harm to Jobcentre Plus staff***

3.21 The probation Offender Manager has a dual responsibility regarding employment and training for MAPPA offenders. First, to help them obtain suitable employment and training (**assistance with employment**), and secondly to help prevent them from seeking or obtaining employment or training which may increase or trigger the risk of harm they present (**restrictions on employment**).

3.22 The police also have an Offender Manager responsibility regarding restrictions on employment, for example in obtaining Sexual Offences Prevention Orders (“SOPOs”). The relevant MAPPA agency should therefore notify the relevant Jobcentre Plus Designated Officer / Single Point of Contact (“SPOC”) of any restrictions on employment or training which would render some types of employment or training unsuitable for the offender. (The Designated Officer / SPOC should be identified within a locally-agreed protocol between the MAPPA area Responsible Authority and the local Jobcentre Plus Customer Services Director.)

**Assistance with employment**

3.23 Once an offender is motivated and occupied, there may be a decrease in the risk of reoffending. Where an offender is the responsibility of a probation Offender Manager, the offender should be referred to employment and training providers, and for those who meet their criteria, to Jobcentre Plus in order for them to access suitable employment and training.

**Restrictions on employment**

3.24 Offenders who are released into the community and managed by probation or the police will have restrictions, which may or may not be time-limited, placed upon them by a range of legal requirements which will affect the types of employment and training accessible to them. These restrictions could include specific licence conditions such as exclusion zones and non-contact conditions, SOPOs, Disqualification Orders, or being subject to the Vetting and Barring Scheme. These restrictions may similarly limit the types of employment and training in which an offender may engage.

3.25 In these circumstances, the Offender Manager / police officer must complete MAPPA J for any MAPPA offender who is over the age of 18, notifying Jobcentre Plus of any such restrictions as well as when these restrictions will cease. Where there is a ViSOR record, the date the MAPPA J was sent to Jobcentre

Plus, and a note of the restriction and when that restriction ends, should be recorded on the activity log. Where an offender is subject to police management alone, the police Offender Manager should complete MAPPA J and send it to Jobcentre Plus. Where an offender is subject to probation supervision and to police management, it is the responsibility of the probation Offender Manager to complete MAPPA J to inform Jobcentre Plus. In cases where the management of the offender later reverts to the police, the responsible police Offender Manager should inform Jobcentre Plus of the change of Offender Manager. Jobcentre Plus must also be notified whenever there is any change to the restrictions.

3.26 The MAPPA J should also identify whether there is a risk of serious harm to Jobcentre Plus staff. The completed MAPPA J should be sent, by secure email, to the Jobcentre Plus Designated Officer / SPOC for their area, 6 weeks before the release of a MAPPA offender from custody, or as soon as a court makes a community order or a Sexual Offences Prevention Order.

3.27 It is important that no other information about the offender, including previous or current offences or the risk of serious harm the offender presents to other members of the general public, is shared with Jobcentre Plus on the MAPPA J. The role of Jobcentre Plus is to place an offender into suitable employment or training, being mindful only of any current and relevant restrictions placed on that offender. The dialogue will be about whether the proposed location of employment or training, or the nature of the proposed employment or training, risks contravening any restrictions placed on that offender.

3.28 The offender should be informed when Jobcentre Plus is notified of the details of any restrictions placed on him or her. However, there may, in exceptional cases, be justifiable reasons for imposing a restriction affecting employment or training without telling the offender what these restrictions are. This might apply, for example, when there is reason to believe that an offender will become a greater risk, or pose an unacceptably high new risk, if he or she was informed about the restriction imposed. Given the potential for risk of harm to Jobcentre Plus staff in dealing with these exceptional cases, the MAPPA J should **not** be issued in these circumstances without prior discussion with the relevant Designated Officer / Jobcentre Plus SPOC.

3.29 The notification MAPPA J to Jobcentre Plus which identifies any restriction on employment or training must be identified in the Risk Management Plan, and relevant details placed on ViSOR.

3.30 There may also be a small number of exceptional cases where the offender is not subject to any legal restrictions, but his or her behaviour is of such concern that restrictions on employment and training should be imposed, and can be justified as necessary and proportionate given the risk of serious harm posed. This should be decided on a case-by-case basis. In these cases, MAPPA J should not be issued without prior discussion with the relevant Jobcentre Plus Designated Officer / SPOC. The purpose of the MAPPA J in these circumstances is to inform Jobcentre Plus so that this information can be taken into account. The end date for restrictions of this kind will be the date of the end of the offender's supervision, or earlier, should the restrictions be deemed no longer necessary. MAPPA J should then be used to notify Jobcentre Plus of the change, and the offender should be informed.

***Jobcentre Plus should assist with employment and training, and adhere to any restrictions which are in place in order to protect the public***

#### **The Role of Jobcentre Plus and MAPPA – Assistance with employment**

3.31 Jobcentre Plus will seek to place qualifying offenders, whatever their personal circumstances, into either suitable employment or training. A number of these offenders will be managed at MAPPA level 2 or 3, and Jobcentre Plus may in some cases need to attend a level 2 or 3 MAPP meeting to advise that meeting regarding the employment or training needs of a particular offender.

### **The Role of Jobcentre Plus and MAPPA – Restrictions on employment and training**

3.32 In order for Jobcentre Plus and their providers to be notified of any restrictions which may affect an offender's employment or training, the Designated Officer / SPOC identified in the local protocol in each area will be the person who receives the emailed MAPPA J. That person will also decide who should attend MAPP meetings if required (this will rarely happen), and will ensure that the internal processes of Jobcentre Plus in respect of the offender are followed.

3.33 Once a MAPPA J has been received by Jobcentre Plus, the identified employment adviser should contact the Offender Manager / police officer within 5 working days to confirm receipt.

3.34 Jobcentre Plus should also discuss the case with the Offender Manager when additional clarification is required in order for Jobcentre Plus to pass information which is necessary and proportionate to their providers so that suitable employment and training can be provided.

3.35 Jobcentre Plus should also contact the Offender Manager / police officer within 5 working days of receiving any MAPPA J notifying them of any changes to the restrictions that apply to an offender, to acknowledge receipt of the MAPPA J and to discuss any implications of these changes.

3.36 Should a situation arise where Jobcentre Plus staff, or one of their providers, are informed by an offender about his or her history of sexual or violent offending, Jobcentre Plus staff must inform the MAPPA Co-ordination Unit in the relevant Area. The purpose of this notification is twofold. First, to make those responsible for public protection aware of these disclosures; and secondly, so that Jobcentre Plus staff may receive appropriate advice about whether restrictions should be placed on that person's employment.

3.37 Should an offender seek to access employment or training which would contravene any of the restrictions placed on them, the Designated Officer / SPOC or the employment adviser must contact the Offender Manager / police officer immediately.

3.38 Jobcentre Plus must remove any information about restrictions placed on an offender from their systems on the stated end date of such restrictions, as notified on MAPPA J.

### **3. The local education authority**

3.39 The Education Service, particularly schools, can make a helpful contribution to the work of MAPPA.

- Schools are able to provide their pupils with programmes of child protection awareness training. This training can be reinforced at times when there is a particular local risk.
- School staff are well-placed to be alert and aware regarding local activities that could provide a threat to pupils.
- In particular situations, and with the authorisation of the police, schools are in a position to warn individuals or groups of pupils, or staff, regarding possible dangers.
- Schools are able to provide a safe environment during the daytime for children and young people.
- The local school is often the first port of call for parents who want to voice their concern regarding worrying activities in the area.

3.40 Schools play a key role in safeguarding children. They should have designated a senior member of the leadership team to take lead responsibility for dealing with safeguarding children issues.

3.41 The SMB should be aware that academies are not DTC agencies, because they are not funded by the local education authority. However, information would be disclosed to any educational establishment in order to protect the public.

#### **4. The local housing authority**

3.42 Local housing authorities have two functions that relate to the resettlement of offenders: the allocation of long-term accommodation, and the provision of housing assistance for people who are homeless. It is important to make clear, however, that the duty of local housing authorities to co-operate with the Responsible Authority does not create a new duty to accommodate offenders.

3.43 Under homelessness legislation, local housing authorities must ensure that advice and information about homelessness, and preventing homelessness, is available free of charge to everyone in their district. They must also ensure that suitable accommodation is available for people who apply to them for housing assistance and who are eligible for such assistance; who have become homeless through no fault of their own; or who fall within a priority need group. This is known as “the main homelessness duty”.

3.44 The priority need groups are specified in legislation and include families with dependent children and households that include a pregnant woman or someone who is vulnerable for some reason. A person who is vulnerable as a result of time spent in custody has a priority need for accommodation under the homelessness legislation. Authorities must secure accommodation until a settled home becomes available, or some other circumstance brings the duty to an end.

3.45 Local housing authorities must comply with the Mental Capacity Act 2005 in relation to vulnerable people who lack the capacity to make certain decisions. Best interest decisions are required when people lack the capacity to consent to an accommodation decision. Where an offender lacks capacity, and has no family or friends to support him or her, there is a statutory duty under the Act to make a referral to an Independent Mental Capacity Advocate.

3.46 The allocation of settled social housing by a local housing authority, either within its own stock or through a nomination to a housing association, is governed by Part 6 of the Housing Act 1996. Local housing authorities are required to have and to publish an allocation scheme for determining priorities and for defining the procedures to be followed in allocating housing accommodation, and they must allocate in accordance with that scheme.

3.47 Anyone is eligible for an allocation of accommodation, except for certain persons from abroad specified in regulations and persons whom an authority decides to treat as ineligible, because they or a member of their household have been guilty of unacceptable behaviour serious enough to make them unsuitable to be a tenant of the authority. Unacceptable behaviour in this context means behaviour which would have entitled the local authority to an outright possession order had the person been a tenant of that authority.

3.48 As regards priorities, an allocation scheme must be framed in such a way that overall “reasonable preference” for an allocation goes to certain categories of persons. These are:

- People who are homeless.
- People living in unsanitary, overcrowded or unsatisfactory housing.
- People who need to move on medical or welfare grounds, including grounds relating to a disability.

- People who need to move to a particular locality in the district of the authority, where failure to meet that need would cause hardship to themselves or to others.

3.49 Given the importance of accommodation in the resettlement of offenders and hence in the assessment and management of risk, local authority housing representatives can make an important contribution to MAPPA. As indicated above, they may not necessarily have a specific duty to accommodate an offender, but their advice about accommodation and the procedures by which it is allocated, and the suitability of particular housing stock, should prove very useful.

### **Exemption from the new shared accommodation rate for MAPPA offenders**

3.50 The Local Housing Allowance rules on housing benefit currently restrict the level of help for single people aged under 25 who live on their own to the shared accommodation rate, rather than the one-bedroom self-contained rate if that would apply. This reflects the rent levels of properties with sole use of a bedroom and shared use of at least a living room, kitchen or bathroom. The age threshold was increased to include those aged under 35 from 1 January 2012.

3.51 Two exemptions were introduced at the same time but these are only for those aged 25 and over. The first exemption is for those who have spent at least three months in a hostel or hostels for the rehabilitation or resettlement of homeless people. (*Please note: this does not include offenders living in Approved Premises managed by Probation Trusts.*)

3.52 The second exemption is for those ex-offenders who are being managed under active multi-agency management within MAPPA to be rehabilitated back into the community. This exemption will apply to those claimants who might present a risk of causing serious harm to the public.

3.53 The change in the age threshold came into force on 1 January 2012 through amending legislation (SI 2011 No.1736 – The Housing Benefit (Amendment) Regulations 2011).

3.54 For full details of the changes made to the use of the shared accommodation rate please consult Housing benefit and Council tax benefit Circular HB/CTB A12/2011. This is available as a PDF document on the Department for Work and Pensions website: <http://www.dwp.gov.uk/>. Enter “Circular HB/CTB A12/2011” in the search box on the home page and select it from the results page.

3.55 The exemption from the shared accommodation rate will apply to **level 2 and 3 MAPPA offenders who are aged 25 to 34 and who live in a self-contained property.**

3.56 This exemption was agreed in order to safeguard the public and protect potential future victims. Such offenders are likely to be high risk of causing serious harm and will need active multi-agency management and intervention.

3.57 Other MAPPA offenders will need to make an application for a Discretionary Housing Payment to the local authority who will consider each request on a case-by-case basis depending upon the needs of the offender and the risk of harm level.

### **Practical application of the exemption**

3.58 A proforma (MAPPA P) must be completed by the lead agency within MAPPA where the criteria for meeting the exemption have been met. MAPPA P should then be sent to the Chief Internal Auditor in the local authority that will deal with the individual’s claim for housing benefit, preferably via secure email. This personal and sensitive data must be kept confidential and the Data Protection Act 1998 must be complied with. It is advisable to make contact before sending any personal information to find out the recipient’s email details and ensure that someone is available to take receipt.

3.59 Even if a MAPPA level 2 or 3 offender is re-assessed, this exemption will continue to apply for MAPPA offenders unless the offender obtains new accommodation. It is advisable to issue a new MAPPA P on a change of address, and this is particularly important where the move entails a different local authority dealing with the individual's housing benefit claim.

3.60 As the change came into force on 1 January 2012, there may be individuals who are already in receipt of housing benefit who could be affected by the move to the shared accommodation rate but who meet the exemption criteria. Lead agencies will need to consider issuing MAPPA P regarding these individuals as soon as possible.

## **5. Registered Social Landlords**

3.61 Registered Social Landlord is the statutory name for social landlords who are registered with the Housing Corporation. Most are housing associations, but there are also trusts, co-operatives and companies. Housing associations are run as businesses but they do not trade for profit. Any surplus is ploughed back into the organisation to maintain existing homes and to help finance new ones. Housing associations are the main providers of new social housing.

3.62 The sector is diverse. Some associations manage only a small number of units of stock whereas others manage a great many more. Many new associations have been formed to manage and develop homes transferred to them by local authorities.

3.63 Not all Registered Social Landlords provide accommodation for MAPPA offenders. It is likely that, as providers of accommodation, the duty to co-operate will only engage Registered Social Landlords when they are considering accommodating a MAPPA offender. However, the precise nature of the duty is determined by Registered Social Landlords with the Responsible Authority in each area: there should be an information-sharing protocol.

## **6. The local social services authority**

*The following guidance relates to children's services and to adult services.*

3.64 Following the Children Act 2004, county and unitary level local authorities have brought together all their responsibilities for children under a Director of Children's Services, including education work and children's social care work. Responsibility for adult social care rests with a new post of Director of Adult Social Services. See Appendix 3 which contains links to extracts from the Children Acts 1989 to 2004.

### **Children's services**

3.65 A key link between children's services departments and MAPPA will be in the area of child protection and safeguarding children. MAPPA agencies will be members of the Local Safeguarding Children Board, and individual practitioners in the police, in probation and in children's social care will also be working together to manage the risk posed to children by particular dangerous offenders.

3.66 Local authorities have a duty under section 47 of the Children Act 1989, where they have reasonable cause to suspect that a child who lives, or is found in their area, is suffering or is likely to suffer significant harm, to make or cause to be made such enquiries as they consider necessary to enable them to decide whether they should take any further action to safeguard or promote the child's welfare. A "reasonable cause to suspect" may arise because of the known presence of a dangerous offender in the area, and local authority staff will need to work with staff from MAPPA agencies to manage the risk that person poses to children.

3.67 A summary of the child protection process can be found in the practice guidance “What to do if you’re worried a child is being abused” (HM Government, 2006). This document also offers guidance on when information can be shared for the purposes of safeguarding children. For the full statutory guidance on child protection, including the roles and responsibilities of different agencies, see “Working Together to Safeguard Children” (HM Government 2010).

3.68 A specific role of the local authority is to set up a Local Safeguarding Children Board. The objective of the Board is to co-ordinate and ensure the effectiveness of the work of their members in safeguarding and promoting the welfare of children. One step they must take is to put in place policies and procedures for safeguarding children, for their members to follow. It will be important to ensure that these are considered alongside, and are consistent with, the MAPPA memorandum. “Working Together to Safeguard Children, Chapter 3 – the guidance for LSCBs” makes it clear that they need to link to the local MAPPA.

### **Adult services**

3.69 Adult Social Care Departments have Safeguarding Adults Boards, sometimes called adult protection boards or committees. These were established under the joint Home Office / Department of Health guidance “No Secrets”, which required local agencies to collaborate and work together, and required all agencies to designate a lead officer and form the adult protection committees later called safeguarding boards.

3.70 The “No Secrets” guidance requires local arrangements to be in place to prevent abuse, and to investigate and to take action where a vulnerable adult is being abused. Local safeguarding adult partnerships have designed systems of alerts for the recognition and reporting of abuse, and they have systems for calling safeguarding meetings and developing safeguarding plans.

3.71 The local Safeguarding Adults Boards are very similar to those for children and have the same wide-ranging duties, including commissioning, providing safe services, developing and reviewing policies, and protecting individuals.

## **7. The Health Authority or Strategic Health Authority**

## **8. The Primary Care Trust or Local Health Board**

## **9. The NHS Trust**

3.72 The duty to co-operate applies to a range of Health Trusts and Authorities, meaning that a range of health practitioners and administrators may be involved in MAPPA. General Practitioners and Accident & Emergency departments, for example, are often amongst the first to witness the effects of the sort of behaviour which MAPPA is established to prevent, and it is important that the Chief Executives of all Trusts and Authorities are engaged in the drafting of the memorandum. Usually, it is Mental Health Trusts with whom the Responsible Authority is likely to deal most frequently because many MAPPA cases will involve offenders with a history of mental disorder.

3.73 Indeed, given the incidence of mental disorder amongst offenders, there are numerous mutual benefits of co-operation in MAPPA for both responsible clinicians and Responsible Authority (and other) agencies, including:

- The facility to exchange data securely to inform risk assessments of offenders / patients.
- An insight into available criminal and clinical interventions, and
- A framework for referral between agencies about high-risk cases.

3.74 Relevant sexual and violent offenders who receive hospital or guardianship orders qualify automatically for MAPPA under Categories 1 or 2 for as long as the hospital order or the sexual offender

notification requirement lasts. Hospital orders expire on discharge from hospital, unless the discharge is conditional, in which case the Secretary of State has the power to recall to hospital for treatment. Conditions will only apply where there is also a restriction order. Conditions may also be added under a community treatment order, which gives the responsible clinician the power to recall to hospital for treatment (see chapter 26 on Mentally Disordered Offenders for details).

3.75 Relevant sexual offenders who receive unrestricted hospital orders will be subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, i.e. will be on the “sexual offenders’ register”, for 7 years, or life if the order is restricted.

3.76 Offenders who receive prison sentences, but are subsequently transferred to hospital for treatment for mental disorder and who remain there beyond the custodial element of their sentence, are treated as if subject to unrestricted hospital orders. The same applies to offenders who were given hospital directions by the sentencing court. These offenders are commonly known as “notional 37s” and, during the currency of their licence, they will be subject to statutory supervision by probation. It is also important to note that the Offender Manager’s sentence planning responsibilities continue, even where the prisoner happens to be in hospital. The Offender Manager should maintain his or her involvement in the Care Programme Approach (“CPA”) process throughout the licence period.

3.77 Mental Health Trusts (together with Social Services) have a statutory supervisory / care role in relation to certain MAPPAs offenders. Under section 117 of the Mental Health Act 1983, there is a requirement on the relevant Health and Social Services authorities to provide after-care services to offenders subject to section 37 hospital orders who are discharged from hospital, for as long as they require them. What the care consists of will naturally vary but in many cases it will be co-ordinated by community mental health teams.

3.78 After-care under section 117 will generally be established and managed via the CPA, which is intended to provide a systematic assessment of health and social care need; an agreed care plan; the allocation of a key worker (care co-ordinator); and a regular review for mentally ill patients who are considered for discharge or accepted by specialist Mental Health Services. The after-care requirement applies in relation to both restricted and unrestricted patients. When the former are discharged, this will generally be subject to conditions, and a Social and Clinical Supervisor reporting to the Secretary of State will be appointed to monitor the patient’s progress in the community. (See chapter 26 on Mentally Disordered Offenders for more details).

3.79 CPA involves a multi-disciplinary approach to care, and Responsible Authority agencies may be involved. This co-operation at level 1 should continue with referral to MAPPAs level 2 or 3 only once it is clear that the CPA is not equipped to deal with the risks identified. It is likely that most offenders subject to hospital orders will be managed within CPA without recourse to MAPPAs levels 2 and 3. The offender will have received a hospital order because the court decided that that was the appropriate way to proceed and, while the care teams may wish to consult Responsible Authority agencies (and will often benefit from doing so), it is likely that the interventions available under CPA or via the supervisory regime for restricted patients will be the most appropriate.

3.80 However, experience shows that this cannot be taken for granted. Without appropriate planning and communication, the Responsible Authority might find itself suddenly dealing with a dangerous offender who has historically been dealt with by a health disposal but who for a variety of reasons is now considered unsuitable for such an approach. In addition, leave decisions may benefit from information-sharing. The Responsible Authority will often hold key information about the offender and the victim which may not otherwise be available to the Trust.

3.81 It is essential therefore that the memorandum includes clear standing agreements about these offenders. In addition to other requirements, for example including Responsible Authority contacts to help Trusts with CPA-managed cases, the memorandum should require Trusts to identify all offenders who fall within MAPPA (both those in hospital and those in the community) so that:

- The details can be notified to the MAPPA Co-ordinator on the form MAPPA I.
- They are well-placed to consult other MAPPA agencies and refer to MAPPA level 2 and 3 as required.
- They can contribute to the area statistical returns and monitoring.

## **10. Electronic Monitoring (“EM”) providers**

3.82 EM providers deliver an electronic monitoring service to the Ministry of Justice under contract. Their duty to co-operate with the Responsible Authority is intended to be synonymous with their contractual responsibilities. In practical terms this may involve EM providers in doing the following:

- Providing advice to the Responsible Authority on the capability and limits of the available technology.
- Attending meetings of the SMB, as and when required, for discussions about policy and practice relating to electronic monitoring.
- (Exceptionally) attending MAPP meetings (generally only level 3 MAPP meetings) when the needs of a particular case so require.

3.83 A significant part of the work of the EM providers concerns tagging offenders released on Home Detention Curfew (“HDC”). Some MAPPA offenders are eligible for HDC and may be released from custody under this scheme. This will usually not require any liaison between the EM providers and the MAPPA agencies, beyond what already takes place between the EM providers and probation and police staff. That is because, under the HDC criteria, the offender will have stable and suitable accommodation, and will be managed under level 1. However, where a MAPPA offender who has been released on HDC becomes a higher risk, the EM provider may be able to contribute to the assessment and further management of that risk.

3.84 Although the general use of electronic monitoring conditions within other licences is not available, Offender Managers can approach the Public Protection and Casework Section in OMPPG to include conditions of electronic monitoring if MAPPA advise that that would be helpful to manage the offender. This would only be in relation to MAPPA level 3 cases.

3.85 The identifying agency for each offender should inform the relevant EM provider of every offender who becomes subject to MAPPA, so that the offender’s MAPPA status may be recorded on the supplier’s database. When this has happened the supplier is authorised by the Ministry of Justice to release any information about the offender to the Responsible Authority as soon as it is requested.

3.86 MAPPA cases are managed more individually by the current suppliers who work to specific protocols with identified contacts and telephone numbers to call in the event of a breach of the electronic monitoring requirement. It is therefore essential that the suppliers are kept informed of the names of the relevant Offender Managers and provided with contact details for key agencies such as the police (including out of hours), updated when necessary. Suppliers can be asked for up-to-date progress reports at any time, for example for MAPP meetings.

## 11. UK Border Agency

3.87 The UK Border Agency (“UKBA”) is responsible, among other things, for the operation of UK immigration controls including asylum, the management of applications for further stay, and enforcement. It aims to protect the public by deporting foreign nationals who commit serious criminal offences (where legislation permits), and by actively monitoring foreign national prisoners who are released into the community.

3.88 All the other DTC agencies were specified in the CJA 2003. UKBA was added to the list in section 325(6) by an Order which came into force on 20 July 2011. The decision to make UKBA a DTC agency was taken in the light of the informal co-operation that has developed between UKBA and local criminal justice agencies in recent years. Placing the co-operation on a statutory basis should make it easier to identify, refer and manage the foreign national offenders in whom UKBA has an interest. Having a clear legal basis for information-sharing about offenders should be a particular benefit.

3.89 There are other potential benefits, such as ensuring that UKBA can prioritise enforcement action for the most dangerous sexual and violent offenders, and improving the information flow to immigration detention centres in respect of risk management and safeguarding – for example, avoiding the placement of certain offenders with children and vulnerable adults at the centres.

3.90 A memorandum that was agreed in 2011 sets out what the duty to co-operate between UKBA and the local criminal justice agencies means in practice. On the criminal justice side, for example, this includes:

- Notification of a foreign national offender’s entry into MAPPA.
- Notification of MAPP meetings to discuss relevant cases, so that UKBA may attend where appropriate and where resources permit.
- Notification of when the offender’s MAPPA status changes or comes to an end.
- Providing up-to-date risk assessments.

3.91 Similarly, UKBA will ensure that, among other things:

- A MAPPA Single Point of Contact is identified by each UKBA case management directorate and by the operational regions so that requests to exchange information between UKBA and other MAPPA agencies are handled effectively.
- The Offender Manager is notified of developments and changes in status, e.g.
  - An application for immigration bail is received from the offender.
  - The offender is released from immigration detention.
  - The offender is granted permission to work (but not leave to remain).
  - The offender is granted leave to remain in the UK or other immigration permission.
  - The offender is removed from the UK.

## 4. Strategic Management Board

**Standard: There is a properly-constituted Strategic Management Board for all MAPPA areas**

### Introduction

4.1 The Strategic Management Board (“SMB”) is the means by which the Responsible Authority fulfils its duties under section 326(1) of the Criminal Justice Act 2003 to:

“keep the arrangements [i.e. MAPPA] under review with a view to monitoring their effectiveness and making any changes to them that appear necessary or expedient.”

4.2 The SMB is therefore responsible for managing MAPPA activity in its area. This will include reviewing its operations for quality and effectiveness and planning how to accommodate any changes as a result of legislative changes, national guidance or wider criminal justice changes. The Secretary of State retains the power to issue guidance to the Responsible Authority on the discharge of its functions under MAPPA. The SMB are responsible for the implementation of the MAPPA Guidance in their area, in line with local initiatives and priorities.

### Effective operation of the SMB

4.3 The effective operation of the SMB requires the following.

- There are protocols and memoranda of understanding which formalise which agencies will be represented on the SMB and set out the role of the different agencies within the SMB.
- An annual MAPPA Business Plan is produced in accordance with the Responsible Authority National Steering Group Business Plan.
- Data is collected as required to populate the MAPPA Annual Report and national MAPPA statistics.
- The MAPPA Annual report is prepared and published in accordance with instructions from the Offender Management and Public Protection Group.
- MAPPA operations are consistent with the national MAPPA Guidance, issued on behalf of the Secretary of State. The SMB must approve and record any departures from this Guidance.
- Cases which require a MAPPA Serious Case Review (see chapter 20) are identified and a review is carried out in qualifying cases, in accordance with this guidance.
- The SMB produces an annual communication and media strategy plan.
- Effective monitoring and evaluation of MAPPA operations enables the SMB to know that MAPP arrangements within its area are working well.
- The SMB develops an Information-Sharing Agreement to regulate the sharing of information with other agencies under MAPPA (see chapter 9).

- The Responsible Authority can demonstrate, through the records maintained by its agencies, that cases managed under MAPPA meet the defensibility test, i.e. everything which reasonably could have been done, was done, to manage the risk of harm presented by offenders and to prevent them from re-offending.
- ViSOR is populated and used in accordance with the relevant agencies' agreed business models and ViSOR National Standards.
- There is effective liaison and operational work with other public protection bodies, for example, local Safeguarding Children Boards, Crime and Disorder Reduction Partnerships; Local Criminal Justice Boards, local Safeguarding Adults Boards, and Multi-Agency Risk Assessment Conferences ("MARACs").
- The training and development needs of those working in MAPPA are met.
- The work of MAPPA is promoted as appropriate in the local area.

## Membership of the SMB

4.4 The SMB should include senior representatives of each of the Responsible Authority and the Duty to Co-operate ("DTC") agencies. Representatives should have sufficient seniority to enable them to contribute to developing and maintaining effective inter-agency public protection procedures and protocols on behalf of their agency and to address the practical and resource implications of MAPPA.

4.5 The membership of the SMB should include as a minimum:

- **Probation Trust** – at Assistant Chief Officer grade or above.
- **Police Service** – at Assistant Chief Constable rank.
- **Prisons** – at a level equivalent to the Deputy Director of Custody.
- **MAPPA Co-ordinator** – to provide operational context and management information to the meeting.
- **Lay Advisers** – each area should have two Lay Advisers, who are appointed by the Secretary of State.
- **Housing** – representation from the local authority and housing suppliers. The SMB will need to agree with the housing representative how he or she will ensure that information is disseminated within the various strands of local housing providers.
- **Health Services** – this should be someone who can provide a senior managerial, clinical and mental health perspective.
- **Social Services** – this should be one or more people who can reflect the range of social services responsibilities including children and vulnerable adults, mental health, disabilities and looked-after children.
- **Education Services** – the SMB will agree who in Education Services can represent the local educational provision.

- **Youth Offending Team** – where there is more than one Youth Offending Team (“YOT”) operating in an area, the SMB will agree the representation arrangements with the YOT managers to ensure that information is disseminated across the teams.
- **Employment Services** – representation from Jobcentre Plus.
- **Electronic Monitoring Providers** – the SMB will need to agree with the local representatives how they will participate in the work of the SMB.
- **UK Border Agency** – here too, the SMB will need to agree how the representatives of UKBA will participate in the work of the SMB.

## The SMB and other agencies

4.6 The Responsible Authority will make arrangements to involve others in the work of the SMB as needed. This may involve co-option (or possibly full membership) where there is a significant and sustained engagement with MAPPAs. But mostly it will be sufficient for the Responsible Authority to ensure that there is effective dialogue and that the agency is aware of MAPPAs and local public protection issues. Those with a relevant interest may include:

- Treatment providers.
- The Crown Prosecution Service.
- Housing Associations.
- The Court Service.

4.7 For those agencies that have co-terminus boundaries with the MAPPAs area (for example police and probation), the representation will be relatively straightforward.

4.8 Where agency boundaries are not co-terminus, the Responsible Authority should negotiate a protocol with the DTC agencies to agree who will attend the SMB meetings and resolve how information from the SMB will be disseminated to relevant colleagues.

### Standard: The SMB develops appropriate links with other local multi-agency forums

4.9 The SMB should ensure that MAPPAs has effective links with local multi-agency forums in its area, which facilitate a joint approach to addressing common public protection issues.

4.10 It is recommended that the Responsible Authority develops written protocols to identify how MAPPAs will work and exchange information with, for example:

- Local Safeguarding Children Boards.
- Community Safety Partnerships.
- Local Criminal Justice Boards.
- Safeguarding Adults Boards / Safeguarding Vulnerable Adult Partnerships.

- Domestic Violence victim protection arrangements – MARACs.

## **SMB Meetings**

**Standard: The full SMB will meet at least every 4 months to monitor the work of MAPPA locally**

**Standard: The SMB will be chaired by a senior member of the Responsible Authority**

4.11 It is usually the Assistant Chief Constable or the Assistant Chief Officer representing the Probation Trust who chairs the SMB, but the Prison Service representative can also take on the role of Chair. The role of the Chair can be shared, although it is important that this does not hinder consistency or the development of good practice.

4.12 It is good practice for the chair to rotate between the Responsible Authority agencies with each agency holding the chair for a period of time.

4.13 The structure of the meetings is a matter for the Responsible Authority, in consultation with its MAPPA partners, and will reflect how the SMB chooses to organise itself. For example it may use sub-groups to carry out specific functions, although other ways of structuring the work are possible.

## **Other SMB matters**

**Standard: The SMB is responsible for monitoring and improving the operation of MAPPA**

4.14 See chapter 31 on Performance monitoring.

**Standard: The SMB has a communication strategy which includes liaison with NOMS and the Ministry of Justice Press Office or Home Office Press Office in appropriate cases**

4.15 National and local media interest can be acute following serious further offences or the publication of Serious Case Reviews. It is important that local communication staff liaise with the Ministry of Justice Press Office (or in some cases Home Office Press Office) at the earliest opportunity and throughout periods of intense media coverage.

4.16 To ensure a consistent approach for proactive and reactive media activity, the general protocol to follow is that local areas handle local media, and the Ministry of Justice and Home Office Press Offices, in partnership with the local area, handle national media.

4.17 The Ministry of Justice and Home Office Press Offices have a specialist desk to deal with NOMS-related enquiries and they can provide support, advice, up-to-date lines or statements, and Q&A material. They are also in a position to ensure that Ministers and other relevant departments are kept informed of issues and developments.

4.18 SMBs who wish to promote the work of MAPPA within the area should liaise with their local communications officer. Questions or advice on how to go about approaching the media should be directed to the Ministry of Justice Press Office.

**Standard: The SMB takes steps to ensure that all staff involved in MAPPA are appropriately trained**

4.19 Agencies within MAPPA have a responsibility for the training and supervision of their own staff. The Responsible Authority has a duty to ensure that all SMB members and the MAPPA Co-ordinator and MAPPA administrators receive the training they need. The SMB must assist its constituent agency members in identifying training needs in respect of MAPPA for their staff.

4.20 The training needs of relevant MAPPA staff may be progressed through the creation of a specific training sub-group, but other approaches are also permissible.

4.21 Participation in the National MAPPA Training and Best Practice Workgroup (two representatives from the Responsible Authority from each region) will assist in identifying best practice nationally, and sharing developments at a national level.

4.22 The Offender Management and Public Protection Group has produced and disseminated a training manual which can be adapted for local use for a range of audiences.

## 5. Lay Advisers

### Introduction

#### **Standard: The SMB must, via the Secretary of State, appoint two Lay Advisers**

5.1 Section 326 of the Criminal Justice Act 2003 requires the Secretary of State to appoint two Lay Advisers to each Responsible Authority area. (He has appointed an extra Lay Adviser to London, making three in total, in view of its size.) The Act makes clear that Lay Advisers are appointed to assist in MAPPA review functions and not the organisational decision-making. Lay Advisers will operate as full members of the area's Strategic Management Board ("SMB"), participating in the SMB itself and any relevant sub-groups or working parties.

#### **Standard: The SMB will adhere to the agreed role of the Lay Adviser**

5.2 The Lay Adviser role is a voluntary and unpaid one. It is expected that they will attend each of the SMB meetings and undertake such familiarisation and reading as necessary to enable them to understand and to contribute to those meetings. They are not expected to become experts; their value is as informed observers and as posers of questions which the professionals closely involved in the work might not necessarily think of asking. As such, the role is invaluable as they can provide a challenge to the professionals by acting as a "critical friend". Their role is not akin to that of an independent auditor, nor is it as a representative of the local community in the same way as an elected councillor. They bring to the SMB their understanding and knowledge of the area but they have no role in reporting or briefing the community, except as part of the SMB's communication strategy.

### Expectations of Lay Advisers

5.3 Lay Advisers should:

- Attend each SMB meeting.
- Be able to provide up to 8 hours a month to the SMB, but should not be expected to provide more than 16 hours per month.
- Contribute to the monitoring and evaluation of the operation of MAPPA in their area.
- Attend a level 2 or 3 MAPP meeting quarterly, to assist them in understanding the process and to enable them in fulfilling the task of monitoring and evaluation of MAPPA.
- Confirm that the SMB has created effective links with other multi-agency forums, e.g. the Local Criminal Justice Board and the Local Safeguarding Children Boards.
- Assist in the preparation of the MAPPA annual report.
- Participate in any SMB sub-groups, working parties or projects.
- Participate in reviewing the SMB Business Plan and broader communication strategy.
- Participate in reviewing and questioning local MAPPA statistics.

- Attend local and regional events with the agreement of the Responsible Authority.

5.4 Lay Advisers should not:

- Work on a full time basis for MAPPA. Any additional time worked must be agreed with the SMB through the MAPPA Co-ordinator.
- When attending level 2 or 3 MAPP meetings, participate in the decision-making relating to the risk assessment and subsequent MAPPA Risk Management Plan(s).
- Have an involvement in operational activity.
- Audit meetings.
- Lead on the development of strategy.
- Attend media or public engagements, unless they have consulted the SMB and are accompanied by a representative of the Responsible Authority.

**Standard: The Lay Adviser must adhere to the confidentiality and diversity policy**

5.5 Lay Advisers must not disclose information given to them in confidence as members of the SMB or information acquired by them in that role which they believe to be of a confidential nature, without the consent of a person authorised to give it or unless required to do so by law.

5.6 They must also not disclose information that they receive during the course of being a visitor to any criminal justice premises and at restricted meetings such as level 2 and 3 MAPP meetings.

5.7 Lay Advisers must recognise and value diversity by ensuring inclusiveness, equality and fairness in the treatment of people and the discharge of their duties. They must ensure that they do not discriminate against individuals because of their gender, race, ethnicity, religious beliefs, age, disability, and sexual orientation, or for any other reason.

## **Recruitment of Lay Advisers**

5.8 The new Office of the Commissioner for Public Appointments (OCPA) Code of Practice for Ministerial Appointments to Public Bodies comes into force on 1 April 2012. Under the Code, the Ministry of Justice must ensure that its public appointments processes meet the OCPA principles of merit, fairness and openness. However, the Code recognises that appointments processes can vary and should be proportionate to the nature of the appointment; it sets out essential requirements for meeting the OCPA principles which must be followed in all cases. The appointment of MAPPA Lay Advisers will follow the principles of the Code but it has been agreed with OCPA that a proportionate approach to implementation can be taken. This approach is set out in the Ministry of Justice 'Guidelines for Multiple Regional Bodies or Other Arrangements' which is available at Appendix 7.

5.9 These guidelines should be adhered to as closely as possible when appointing MAPPA Lay Advisers. If there are any reasons why the guidelines could not be followed or the OCPA principles have not been met, these should be justified, documented and retained by the SMB for audit purposes and provided to the national MAPPA team.

5.10 SMBs are advised to familiarise themselves with the OCPA Code of Practice and the MoJ Guidelines for Multiple Regional Bodies or Other Arrangements' but in summary, the main implications are:

- The selection panel to oversee the appointment process of a MAPPA Lay Adviser should include an 'external perspective'. This could be a representative from a Responsible Authority from another MAPPA area. All members of the panel should understand the principles and requirements of the OCPA code and pay particular attention to attracting a strong and diverse field of candidates including those from underrepresented groups.
- The Selection Panel Chair must produce a proportionate Chair's Report at the end of the each of sift and interview stage of the process. The Reports should summarise and evidence the reasons for the Panel's conclusions, including the reasons why those not recommended for interview or appointment were considered less suitable than those who were recommended. The Reports should also describe the stages and outcome of the selection process, how the external perspective was achieved, and confirm that the process was conducted in accordance with the OCPA principles. **A copy of the report should be provided to the national MAPPA team.**
- There must be proportionate publicity of the recruitment process so that all members of the public have access to the opportunity to apply for a Lay Adviser appointment in order to ensure diversity and equality. **Vacancies must be published on the Cabinet Office Website, full details to be provided by the national MAPPA team.**
- All documentation, including the Chair's Reports should be retained for at least two years.
- The OCPA Kite mark must be used for all publicity material.
- Any individual may complain that a competition has not been in compliance with the principles of the OCPA Code. The OCPA complaints process must be included in the application pack. Complaints in the first instance should be referred to the SMB. The complainant should be informed that if the complainant remains dissatisfied the complainant can complain to the National MAPPA team who will take the appropriate next steps.
- The NOMS MAPPA team will provide a form requesting the required diversity and other statistical information for areas to complete and will return it to the Public Appointments Team.

5.11 Lay Advisers must be resident within the Responsible Authority area. In exceptional circumstances they may, at the discretion of the Responsible Authority, live just outside their area, but they must still be able to demonstrate strong and sustained connections with the communities within that area.

5.12 As part of the recruitment process, all Lay Advisers must undergo Criminal Records Bureau ("CRB") vetting procedures at an enhanced level. Whilst not all previous convictions will automatically bar someone from becoming a Lay Adviser, serious consideration should be given to the suitability of someone with previous convictions to undertake the Lay Adviser role. Any convictions which mean someone is or was liable to management under MAPPA (including where previous offending pre-dates the existence of MAPPA) is likely to render him or her unsuitable. The Responsible Authority will ensure the enhanced CRB check is carried out. In addition, the Responsible Authority must obtain and verify two personal references concerning the suitability of the person to become a Lay Adviser.

5.13 The specification for a Lay Adviser is as follows:

- No formal educational qualifications are necessary, but they must be able to understand complex information in written and numerical form.

- They must be interested in community and social issues, preferably with a history of involvement in them.
- They must be able to make decisions based on and supported by the available information.
- They must demonstrate a capacity for emotional resilience. In particular, this includes an ability to understand the needs and feelings of victims.
- They must be able to work effectively with people in groups and informal meetings.
- They must have an awareness of, and commitment to, equality and diversity.
- They must be able to challenge constructively the views and assumptions of senior professionals.
- They must be able to maintain confidentiality appropriate to the circumstances and local protocols.

5.14 It will be clear from the above that Lay Advisers need to be independent of the MAPPA organisations with which they work. Otherwise it will be difficult for them to challenge the thinking of the professionals in the criminal justice agencies and duty to co-operate agencies. SMBs should make this clear in recruitment campaigns and explore any conflicts of interest that arise at interview.

5.15 Other categories who are likely to be deemed unsuitable are:

- Lay Advisers who have served two terms in any area (by this time they may no longer be sufficiently independent).
- Anyone whose paid employment involves working with offenders who fall within the remit of MAPPA. A similar exclusion may apply to voluntary work where the primary focus is with MAPPA offenders.
- Anyone whose personal or family circumstances may give rise to a conflict of interest with the duties and responsibilities of the MAPPA role.
- (As noted above) Anyone who has been convicted of, or cautioned for, a relevant sexual or violent offence.

5.16 In order to attract suitable candidates for selection, the SMB must consider how they reach out to the diverse communities within its area in order to stimulate people's interest in the work of MAPPA locally and the role of the Lay Adviser. Areas may wish to advertise in the local press, including their local free newspaper, local radio, libraries, and local authority and Responsible Authority websites.

5.17 An application form has been introduced, together with a job specification, interview questions and case study which the national MAPPA Team in the Offender Management and Public Protection Group will provide to Areas to use at their discretion.

5.18 Given the demanding nature of any selection process, it is important that areas attract sufficient candidates to enable them to effectively short-list those who are suitable. Good practice principles must apply to all short-listing and selection processes. All papers must be retained until the Lay Advisers are appointed by the Secretary of State.

5.19 The selection process is intended to be demanding and has two main components that will help identify individuals who are able and suitable to undertake the role of Lay Adviser.

5.21 There is a structured two-part interview. The first part makes reference to a case study which will be given to the candidate at the interview. The second part will allow further examination of skills and motivation. The interview should last approximately 60 minutes. The panel should consist of three people who adequately represent the interests of the Responsible Authority (including the SMB Chair), incorporating the specialist public protection skills associated with MAPPA and a diverse community perspective.

5.22 The recruitment process no longer involves the use of a psychometric test.

## Appointment of Lay Advisers

**Standard: Lay Advisers are appointed for an initial period not exceeding 4 years, and may be re-appointed for a further period not exceeding 3 years (i.e. a maximum of 7 years in total)**

5.23 The SMB recommends candidates for Lay Adviser positions to the Secretary of State and the Secretary of State makes the formal appointments. Lay Advisers are appointed for a period of up to 4 years. Each SMB should be clear which of their Lay Advisers was appointed for what term, and must notify the national MAPPA Team accordingly. Lay Advisers may also serve for a further period not to exceed 7 years in total, provided the SMB supports the re-appointment and the Secretary of State agrees. This decision should be based upon an annual meeting between the Lay Adviser and a nominated SMB member, and will be dependent on the Lay Adviser's performance. Where the Responsible Authority is proposing that the Lay Adviser should continue in post, they must write to the national MAPPA Team outlining their proposal and confirming that the SMB supports it. The national MAPPA Team will confirm the continuation of the Lay Adviser in post and will communicate this to the MAPPA Co-ordinator in order for that person to inform the SMB and the Lay Adviser.

5.24 Once the Responsible Authority has identified a suitable candidate to nominate to the Secretary of State for the initial period, the MAPPA Co-ordinator should send the Lay Adviser Notification Form to the national MAPPA Team. The notification form should include the proposed Lay Adviser's full personal details and a biographical pen-picture as well as the length of the term of the appointment and the contact details of the SMB Chair. This is required in order for the written submission to the Secretary of State to be made regarding the appointment of the Lay Adviser.

5.25 Once the Secretary of State has made an appointment, he will notify the Lay Adviser directly with a copy to the SMB Chair informing him or her of that decision.

5.26 The Lay Adviser's role is unpaid, but under section 326 of the CJA 2003 he or she is entitled to claim legitimate expenses such as travel, refreshments and, where necessary, accommodation for attending official functions. The level of payment is to be agreed by the Responsible Authority in the Area.

5.27 Compensation for loss of earnings or childcare expenses should also be available and identified prior to appointment. These issues should be addressed during the induction process.

## Induction, training and review

### **Standard: The SMB ensures that the Lay Adviser has induction, training support, and an annual review**

5.28 All newly appointed Lay Advisers must, following their appointment, be provided with an induction. The Responsible Authority or SMB will nominate a Single Point of Contact ("SPOC") who will provide ongoing support and guidance to Lay Advisers, facilitate their induction, and meet them at least once a quarter for further support during their tenure as a Lay Adviser. Notes should be kept of these meetings to form part of the annual review process.

5.29 The shape and duration of this induction period will vary between individuals but it is essential that it equips Lay Advisers to undertake their role within the SMB. The Lay Adviser should be provided with an opportunity to learn about the basic structure of the criminal justice system and sentences, as well as the roles of the local duty to co-operate agencies.

5.30 As part of their induction programme, within the first three months, they should be provided with:

- The MAPPA Guidance.
- The SMB Business Plan.
- Previous SMB minutes.
- Any other relevant information including local serious case reviews of MAPPA offenders.
- An opportunity to attend a level 2 or 3 MAPP meeting with sufficient time to meet and discuss with the MAPPA Chair and other members of the panel.

5.31 Visits should also be arranged for the Lay Advisers to provide them with a broad understanding of the work of the agencies within the Responsible Authority. Lay Advisers should visit:

- A probation office where they may, if possible, observe a pre-sentence report interview or a supervision session with a MAPPA offender.
- A local police station including, if possible, a visit to the Custody Suite.
- A prison, where they should meet the Offender Management Unit and, if possible, observe a sentence planning meeting.

5.32 Within 6 months, the Lay Adviser should be provided with further information on public protection covering victim work including a meeting with the local Victim Liaison Officers; and accredited programmes, and the role they play in changing offenders' behaviour, particularly programmes for sexual offenders; and Domestic Abuse programmes.

5.33 The national MAPPA Team provide a MAPPA newsletter and SMBs should share this with Lay Advisers. They will also arrange national training subject to available resources.

5.34 An informal review should be conducted once a year between the Lay Adviser and a nominated member of the SMB (not the MAPPA Co-ordinator). It is a two-way review, and a forum for discussing how the Lay Adviser sees himself or herself fitting into the SMB and the operation of MAPPA, and for any

feedback that the SMB Chair might be able to give. The Lay Adviser may be accompanied by his or her SPOC if he or she wishes.

5.35 Arrangements should also be made for each Lay Adviser to be given a secure email account so that RESTRICTED information is treated in accordance with the appropriate procedures.

## **Change of circumstances and termination of appointment**

### **Standard: The SMB is made aware of any change of circumstances which may affect the Lay Adviser's suitability**

5.36 During the induction process, Lay Advisers should be advised that they must notify the Chair of the SMB of any change in circumstances that could affect their suitability to undertake their role. This would include being charged or summonsed for any criminal offence, a change of residence outside of the area, or a change in personal relationships that would affect their role as Lay Advisers. It would also include any circumstances where a member of the public having knowledge of the relevant facts could reasonably regard it as so significant as to compromise the Lay Adviser's ability to discharge his or her responsibilities.

5.37 The Chair of the SMB, in conjunction with his or her Responsible Authority colleagues, will determine whether suspension or other action is appropriate.

### **Standard: The SMB can, via the Secretary of State, terminate the appointment of the Lay Adviser**

5.38 The Secretary of State retains the right to terminate the appointment of a Lay Adviser whose conduct or performance is not deemed to be of the required standard. Misconduct will include such matters as lack of commitment, conviction for a criminal offence whilst in post, or abusing his or her position as a Lay Adviser.

5.39 Recommendation for the termination of an appointment will require the endorsement of the chief officers of the Responsible Authority.

5.40 A letter will be sent from the Responsible Authority to the national MAPPA Team, who will review the recommendation and will advise the Responsible Authority if it meets the necessary criteria. If it does, they will prepare a submission to the Secretary of State outlining the situation and a recommendation to terminate the appointment. Once the recommendation is accepted, a letter from the Secretary of State will be sent to the Lay Adviser, copied to the Chair of the SMB, notifying him or her of the termination of the appointment.

## 6. Identification and Notification of MAPPA Offenders

### Introduction

6.1 This chapter establishes the requirements for the Responsible Authority to ensure that statutory obligations for identifying all MAPPA offenders immediately after sentence are fulfilled and that the MAPPA Co-ordination Unit is informed of all MAPPA offenders in the community.

### Standard – Every MAPPA offender must be identified in one of the three categories outlined below

**Category 1** – Registered sexual offender as specified under Part 2 of the Sexual Offences Act 2003.

**Category 2** – Violent Offenders and Other Sexual Offenders:

- (a) An offender convicted (or found not guilty by reason of insanity or to be unfit to stand trial and to have done the act charged) of murder or an offence specified under Schedule 15 of the Criminal Justice Act 2003 (CJA 2003) who received a qualifying sentence or disposal for that offence (see paragraph 6.6 parts A and B) or
- (b) An offender subject to a Disqualification Order for an offence listed under Schedule 4 of the Criminal Justice and Court Services Act 2000 (see paragraph 6.6 part C).

**Category 3** – Other dangerous offenders: a person who has been cautioned, reprimanded, warned or convicted of an offence which indicates that he or she is capable of causing serious harm **and** requires multi-agency management at level 2 or 3. The offence might not be one specified in Sch.15 of the CJA 2003.

Please note that:

- (a) The full list of Schedule 15 offences is available at Appendix 4 and (in greater detail) at <http://www.legislation.gov.uk/ukpga/2003/44/schedule/15>.
- (b) Offenders can only be identified in one of the three Categories at a time. Offenders can only be considered for Category 3 if they do not meet the criteria for Category 1 or Category 2. Offenders only fall into Category 2 if they do not meet the criteria for Category 1. However, an offender who ceases to meet the criteria of one Category can be identified in a different category if they meet the relevant criteria. For example an offender subject to a Disqualification Order for an offence listed both in Sch. 3 of SOA 2003 and sch. 4 Criminal Justice and Court Services Act 2000 will move from Category 1 to Category 2 at the expiry of his or her registration period.

### Category 1 Offenders: Registered Sexual Offenders (RSO)

6.2 This Category includes offenders required to comply with the notification requirements set out in Part 2 of the Sexual Offences Act 2003 (SOA 2003). These offenders are often referred to as being on the “Sexual Offenders’ Register.”

6.3 A person convicted of, cautioned for, or found to be under a disability and to have done the act charged or found not guilty by reason of insanity for an offence listed in Sch. 3 to the SOA 2003 will become subject to the notification requirements of Part 2 of the Act.

6.4 It is essential that the police are notified in advance of the release or discharge of offenders who will be subject to the notification requirements in the community. There are national arrangements in place to make sure this happens for offenders leaving prison or youth custody, but not for those leaving hospital. The MAPPA Co-ordination Unit must therefore inform the police of any notifications from the mental health services of offenders who are about to be discharged from hospital and who will be in Category 1.

### **Category 2 Offenders: Violent Offenders and Other Sexual Offenders**

6.5 It is important to note that a conviction for a *violent offence in Part 1* or a *sexual offence in Part 2* of Sch. 15 of the CJA 2003 does not make the offender subject to MAPPA Category 2 unless he or she receives one of the sentences listed below at **A** in respect of that conviction.

6.6 The following offenders should be included in Category 2:

**A.** Those convicted of a relevant offence (murder or any of the offences in Sch.15 of the CJA 2003) who receive one of the following sentences:

- Imprisonment for a term of 12 months or more (please note that this includes a sentence of an indeterminate term and cases where the sentence is suspended).
- Detention in youth detention accommodation for a term of 12 months or more (please note that this includes a sentence of an indeterminate term and cases where the sentence is suspended).
- A hospital order (with or without restrictions) or guardianship order. See below for details.

**B.** Those found not guilty of a relevant offence (murder or any of the offences in Sch.15 to the CJA 2003) by reason of insanity or to be under a disability (unfit to stand trial) and to have done the act charged who receive a hospital order (with or without restrictions).

**C.** Those subject to a Disqualification Order (DO) imposed under sections 28 to 29A of the Criminal Justice and Court Services Act 2000 (CJCSA 2000). The order disqualifies the offender from working with children. The courts' power to impose DOs was repealed by the Safeguarding Vulnerable Groups Act 2006 (SVGA) and no new ones can be imposed as of June 2013. They have been replaced by a barring scheme run by the Disclosure and Barring Service. Those subject to existing DOs did not have them revoked and they continue to be included in category 2.

6.7 In the majority of cases where sexual offenders attract the serious penalties described above (in paragraph 6.6 parts A, B and C), they will also be liable to registration as a sexual offender and therefore listed as Category 1. However, there are a number of sexual offences listed in Sch.15 of the CJA 2003, which do not attract registration. These are listed in Appendix 8. Furthermore, some sexual offences only attract sex offender registration when specified threshold criteria are met. When an offender is convicted of a schedule 15 sexual offence and receives a disposal listed in paragraph 6.6 parts A, B or C above for that offence but the disposal does not reach the threshold for sex offender registration then the offender will be identified as Category 2.

6.8 Those convicted of sexual offences who have served their sentence before the introduction of sex offender registration in 1997 should not be listed under Category 2 on this basis, nor should those offenders who have completed their period of registration (unless they also have a Disqualification Order). If there are concerns about the risk an offender presents, options for consideration are:

Applying for a Sexual Offences Prevention Order.

Considering whether they meet the criteria for Category 3.

6.9 The legislation is not retrospective and therefore only includes those offenders who have been sentenced (or received a Disqualification Order) since April 2001 or who were serving a sentence for a relevant offence on that date. They remain in Category 2 only for so long as the sentence for that offence or Disqualification Order is current.

### **Category 3 Offenders: Other Dangerous Offenders**

6.10 This Category contains offenders who do not meet the criteria for either Category 1 or Category 2 but who are considered by the Responsible Authority to pose a risk of serious harm to the public, which requires active multi-agency management. For example, it could include offenders under the supervision of probation services or youth offending services on a community sentence or order.

6.11 To register a Category 3 offender, the Responsible Authority must establish that:

(a) the person has either:

a conviction for any offence (current or historic, within the UK or abroad); or

received a formal caution (adult or young person) or reprimand/warning (young person) for any offence; or

been found not guilty of any offence by reason of insanity; or

been found to be under a disability (unfit to stand trial) and to have done any act charged against him or her;

#### **and**

(b) the offence for which they received the disposal in paragraph 6.11(a) above indicates that the person may be capable of causing serious harm to the public.

6.12 Offenders should not be registered as Category 3 unless a multi-agency approach at level 2 or 3 is necessary to manage the risks they present. The current risks do not always have to relate directly to the offence in paragraph 6.11(a) above. Offenders convicted abroad could qualify for Category 3 on this basis.

6.13 In most cases, the offence in paragraph 6.11(a) above will be of a clearly sexual or violent nature, although it need not be listed in Sch. 15 of the CJA 2003. There may, though, be some cases where only an examination of the circumstances surrounding the offence will indicate that the offender may cause serious harm. This may show, for example, a pattern of offending behaviour indicating serious harm (e.g. domestic abuse or gang related violence ) or an escalation in risk of serious harm (e.g. deterioration in mental health) that was not reflected in the charge on which the offender was actually convicted .

6.14 Any agency (including, but not limited to, Responsible Authority and Duty To Cooperate agencies) may refer a case for consideration as a Category 3 offender, but it is for the MAPPA Co-ordination Unit, on behalf of the Responsible Authority, to determine whether the offender meets the criteria.

### **MAPPA Identification and Recording**

<b>Standard – Each responsible agency must identify and record MAPPA offenders under their supervision</b>
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6.15 The agencies required to identify MAPPA offenders are:

Probation

Police

Prison Service

Youth Offending Teams (YOT)

Mental Health Services

6.16 Each responsible agency must record MAPPA offenders on their internal case management system.

6.17 In order to assist with correct identification, all agencies should have clear case management coding systems or a flagging process in place. This should ensure that both MAPPA Categories and the level of management can be identified easily.

6.18 The purpose of identification is to:

Ensure that offenders are assessed appropriately and the level of required MAPPA management is agreed before their release into the community.

Ensure that accurate data on all MAPPA cases is recorded for the MAPPA annual report and for other information requests, e.g. Freedom of Information requests.

6.19 Identification of MAPPA offenders should be within 3 days of sentence, by the responsible agency.

**Standard – All MAPPA offenders must be managed by an identified MAPPA Lead Agency**

6.20 All MAPPA offenders must be managed by the Lead Agency in the relevant MAPPA area.

6.21 Pre-release – Where an offender is serving a prison sentence, the Responsible Authority will be identified by the agency managing the case. If there is any dispute over the location of the Responsible Authority this will be determined by the original committing magistrate's court. ViSOR will indicate the officer, agency and area managing the offender.

6.22 Post-release – When an offender is released on licence or discharged from hospital, the Responsible Authority will be identified by the agency managing the case. If the offender is not returning to live in the original area post-release, the location will be determined by:

The transfer policy of the National Probation Service; or

The Young Offender Service transfer process; or

Registration requirements for sexual offenders; or

Discharge arrangements from hospital.

**Information management by the different agencies**

**Standard – The MAPPA Co-ordination Unit needs to have access to information on all the MAPPA offenders who are being managed in the community**

## 1. Police

6.23 It is the responsibility of the police to enter all Category 1 cases on to ViSOR. Best practice is for the entry to be created 3 days after sentence. The police should ensure that the record is maintained to the National ViSOR Standards.

6.24 The police are responsible for managing information on ViSOR for all Category 3 offenders who are not under the management of the Probation Trust.

6.25 The MAPPA Co-ordinator in each area must have access to ViSOR to enable him or her to draw appropriate management reports to calculate the number of MAPPA offenders in his or her community.

## 2. Probation Trust

6.26 It is the responsibility of the Probation Trust to enter Category 2 MAPPA level 2 and 3 offenders on ViSOR no later than 6 months before release or discharge from prison, youth custody, or hospital, and to manage the ViSOR record thereafter.

6.27 Most MAPPA level 1 cases managed by the Probation Trust will not have a ViSOR record. Therefore, Probation Trusts must identify on their case management records their MAPPA level 1 cases and ensure that the MAPPA Co-ordinator has access to the probation case management system. No further notification is required.

6.28 Probation Trusts will enter and manage information on ViSOR in those Category 3 cases where the offender is under their statutory supervision.

## 3. Prison Service

6.29 While the offender is in custody, the prison establishment will request partnership from the Probation Trust or the police for MAPPA offenders who are on ViSOR. The police or the Probation Trust should create the Prison Service (the prison establishment where the offender is located) as a partner to the ViSOR record in all cases. All users of the system within the establishment can be partnered to each ViSOR record. The Prison Service will ensure that the record is updated with relevant information.

## 4. Youth Offending Team

6.30 **Identification:** All MAPPA offenders managed by the YOT must be identified on the internal case management system within 3 days of sentence. YOTs are responsible for the supervision of all young offenders (those aged under 18 years) on community sentences and following release from a custodial sentence (12-month Detention and Training Order or longer).

6.31 **Notification:** The MAPPA Co-ordinator does not have routine access to case records of MAPPA offenders held by YOTs. It is, therefore, required that YOTs notify the relevant MAPPA Co-ordinator with brief details of all relevant MAPPA offenders using the notification **MAPPA H**, 6 months before release. The relevant MAPPA Co-ordinator is the one for the area where the offender currently resides in the community or into which he or she will be released or discharged.

## 5. Mental health services

6.32 **Identification:** All MAPPA offenders managed by mental health services should be identified on the internal case management system within 3 days of sentence or admission to hospital.

6.33 There are a number of provisions under which mentally disordered offenders may become subject to MAPPA. The relevant statutory provisions are sections 325 and 327 of the CJA 2003. An offender may be subject to MAPPA through one of two ways.

6.34 Firstly, under section 325(2)(a) of the CJA 2003, an offender must be managed by the responsible authority under the MAPPA if the offender is relevant sexual or violent offender. This is set out in subsections 327(2) to 327(5) of the 2003 Act. These may be summarised as follows.

1. The offender is subject to the notification requirements of Part 2 of the SOA 2003;
2. The offender is convicted of an offence specified in Schedule 15 to the CJA 2003 and receives either a custodial sentence of 12 months or more, or a hospital or guardianship order under the MHA 1983;
3. The offender is charged with murder or an offence specified in Schedule 15 to the CJA 2003, is found not guilty by a court by reason of insanity or to be under a disability but the court finds that the offender has done the act and as a result gives the offender a hospital order or a guardianship order under the MHA 1983.

6.35. Secondly, under section 325(2)(b) a mentally disordered offender may also be subject to MAPPA if the RA considers the offender, by reason of his or her offences, to present a risk of causing serious harm to the public. Paragraphs 6.10 to 6.14 above contain guidance on the criteria to be applied in these cases. This group will include an offender who is given “notional section 37” of the MHA 1983 at the end of a prison sentence, who has a past conviction for a violent or sexual offence, is still assessed as posing a risk of serious harm to the public which requires management at level 2 or 3.

6.36. Mentally disordered offenders who are subject to MAPPA may be detained in hospital either:

- having been sent there directly by the court making a hospital or guardianship order (s.37 of the MHA 1983), with or without a restriction order (s.41 of the MHA 1983); or
- as prisoners whose detention in hospital was directed by the court (s.45A of the MHA 1983) or by the Secretary of State (s.47 of the MHA 1983).

6.37 Mentally disordered offenders who are subject to MAPPA may alternatively be living in the community while subject to the powers of the MHA 1983. These are:

- offenders who have been conditionally discharged under section 42 of the MHA 1983; and
- offenders subject to a community treatment order made under section 17A.

6.38 **Notification:** The MAPPA Co-ordinator does not have routine access to case records of MAPPA offenders held by mental health services. It is recommended therefore that at the first Care Programme Approach meeting where a discharge or a community treatment order is considered, a designated member of the care team should be tasked with completing the appropriate notification **MAPPA I** and sending it to the MAPPA Co-ordination Unit. The relevant Co-ordinator will be in the original area the offender comes from, and the area where the community leave is to be taken, depending upon the circumstances of the case. This is not a referral: the management of the case remains the responsibility of the hospital. This will provide the opportunity both to share clinical information with the criminal justice agencies and to request information from the police and the Probation Trust to inform risk assessment.

6.39 For detained patients, the responsible clinician has discretion to communicate significant events to the MAPPA Co-ordinator at each stage of care that may involve a move outside the secure perimeter e.g. the grant of leave out of the hospital grounds, or transfer to a different hospital. This applies also to clinicians treating patients on trial leave away from the hospital where they are liable to be detained. It is

recommended that the MAPPA Co-ordinator should be informed by the care team when it is intended that the patient will be unsupervised in the community.

## **Termination of MAPPA offender status**

### **Standard – Termination of an offender’s MAPPA status must be recorded by the lead agency**

6.40 The period an offender remains a MAPPA offender varies significantly. Some will be MAPPA offenders for life and some for less than 6 months. The period will be dependent upon the offence committed and the sentence imposed.

6.41 Offenders will cease to be MAPPA offenders in the following circumstances:

- Category 1 offenders – RSOs – when their period of registration expires. In the most serious cases, registration is for life (those subject to life registration will soon be able to apply for a review of their registration requirement).
- Category 2 offenders – violent and other sexual offenders – when the licence expires, the offender is discharged from the hospital order or guardianship order, or the disqualification order is revoked.
- Category 3 offenders – other dangerous offenders – when a level 2 or 3 MAPP meeting decides that the risk of harm has reduced sufficiently or the case no longer requires active multi-agency management.

6.42 All Category 1 and 2 offenders managed at MAPPA levels 2 or 3 who are coming to the end of their notification requirements or period of statutory supervision must be reviewed and should be considered for registration as a Category 3 offender. However, registration as a Category 3 offender should only occur if they meet the criteria and continue to require active multi-agency management.

6.43 All except Category 2 level 1 offenders will have an active ViSOR record. When they cease to be MAPPA offenders, the record will be archived. The record will remain in ViSOR until the offender’s 100th birthday. At this point, the case will be reviewed with the expectation that the record will be deleted.

## **Particular types of MAPPA offender**

### **Standard – All MAPPA areas should have a consistent approach for managing MAPPA offenders in the cases below**

#### **1. Prolific and other Priority Offenders**

6.44 Prolific and other Priority offenders (“PPOs”) are usually offenders who commit large volumes of often acquisitive crime. Where an offender has been convicted of a sexual or violent offence, he or she may also qualify as a MAPPA offender.

6.45 MAPPA areas should consider the benefits of managing an offender within both the PPO scheme and MAPPA. When the offender is managed by both schemes there must be an effective communication process in place to ensure that there is a consistent Risk Management Plan. The advantage of using both

schemes is that offenders will receive PPO resources and the MAPPA representatives will be informed of potential risks.

## **2. Integrated Offender Management**

6.46 Integrated Offender Management is a framework for bringing together agencies in local areas to prioritise interventions with offenders who cause crime in their locality. Arrangements and structures will vary nationally but have typically built on closer working between the PPOs and the Drugs Intervention Programmes. Integrated Offender Management brings together local criminal justice agencies and a range of social agencies, including the voluntary sector, to develop a multi-agency problem-solving approach to managing offenders. Integrated Offender Management aims to involve all relevant local partners in strategic planning, decision-making and funding choices and in making maximum use of existing programmes and governance structures.

6.47 Areas operating Integrated Offender Management must ensure that the MAPPA guidance is applied to MAPPA offenders who are included in Integrated Offender Management structures.

## **3. Lifers and Indeterminate Public Protection Sentence Offenders**

6.48 Where an offender is serving life or an indeterminate public protection sentence, he or she will be a MAPPA offender under Category 1 or Category 2.

6.49 These offenders will need support to resettle into the community and they should generally be managed through ordinary agency management at MAPPA level 1.

6.50 There may be cases where the Parole Board decides to release an offender who will require management at MAPPA level 2 or 3, and there will always be cases which have exceptional needs which may require management at MAPPA level 2 or 3.

## **4. Offenders convicted overseas**

6.51 In some cases, there are bilateral arrangements exist between the UK and some other countries for flagging up individuals who are being returned to or deported from the UK. An assessment will be made, initially by the police, on whatever information is available, whether these offenders currently pose a risk of serious harm which requires multi-agency management.

6.52 If convicted of a sexual offence, they may qualify for a Notification Order and be made subject to the notification requirements of the SOA 2003, making them a Category 1 offender. Generally, though, those returning will not qualify for any form of statutory monitoring or supervision but could be managed as a MAPPA Category 3 offender.

## **5. Suspended sentences**

6.53 Where the suspended sentence is one of imprisonment for 12 months or more for a relevant offence, the offender is liable to be managed under MAPPA Category 2. The wording is important. Where the sentence stipulated is of 52 weeks, this is less than 12 months and would not therefore qualify the offender for Category 2.

# 7. Levels of management

## Introduction

7.1 The three levels of MAPPA management are:

- Level 1: ordinary agency management.
- Level 2: active multi-agency management, and
- Level 3: active enhanced multi-agency management.

### Level 1 cases

7.2 Ordinary agency management level 1 is where the risks posed by the offender can be managed by the agency responsible for the supervision or case management of the offender. This does not mean that other agencies will not be involved, only that it is not considered necessary to refer the case to a level 2 or 3 MAPP meeting.

7.3 It is essential that information-sharing takes place, disclosure is considered, and there are discussions between agencies as necessary.

7.4 The Responsible Authority agencies must have arrangements in place to review cases managed at level 1 in line with their own policies and procedures. Please see the guidance document MAPPA Level 1 Ordinary Agency Management Best Practice, issued by the Offender Management and Public Protection Group in March 2011 and available on EPIC at [http://npsintranet.probation.gsi.gov.uk/document\\_library/Documents/mappa\\_level\\_1\\_best\\_practice-march\\_2011.doc](http://npsintranet.probation.gsi.gov.uk/document_library/Documents/mappa_level_1_best_practice-march_2011.doc).

### Level 2 cases

7.5 Cases should be managed at level 2 where the offender:

- Is assessed as posing a high or very high risk of serious harm, or
- The risk level is lower but the case requires the active involvement and co-ordination of interventions from other agencies to manage the presenting risks of serious harm, or
- The case has been previously managed at level 3 but no longer meets the criteria for level 3, or
- Multi-agency management adds value to the lead agency's management of the risk of serious harm posed.

### Level 3 cases

7.6 Level 3 management should be used for cases that meet the criteria for level 2 but where it is determined that the management issues require senior representation from the Responsible Authority and Duty-to-Co-operate agencies. This may be when there is a perceived need to commit significant resources at short notice or where, although not assessed as high or very high risk of serious harm, there is a high likelihood of media scrutiny or public interest in the management of the case and there is a need to ensure that public confidence in the criminal justice system is maintained.

**Standard – The SMB has in place a process for ensuring that offenders are managed at the right level and for the right length of time**

## **Levels of management, and risk**

7.7 The three different levels enable resources to be deployed to manage identified risk in the most efficient and effective manner. Although there is a correlation between the level of risk and the level of MAPPA management, the levels of risk do not equate directly to the levels of MAPPA management. This means that not all high-risk cases will need to be managed at level 2 or 3. Although MAPPA management does not equate directly to the risk of serious harm the offender has been assessed at, this will always be central to the reasons for increased oversight and management.

7.8 The complexities of managing a low or medium risk case might, in exceptional circumstances, justify it being managed at level 2 or 3, especially where the offender is notorious.

7.9 The central question in determining the correct MAPPA level is:

“What is the lowest level of case management that provides a defensible Risk Management Plan?”

7.10 As risk can and will change, so the means of managing risk can and will change with it. MAPPA provides the framework within which changes can be effectively and consistently managed. The overriding principle is that cases should be managed at the lowest appropriate level, determined by defensible decision-making.

## **Screening**

**Standard – The SMB is confident that effective screening is in place for level 2 and level 3 cases**

**Standard – All level 2 and 3 referrals will be made using MAPPA A**

7.11 Each MAPPA area must have in place a process which enables professional judgement to be exercised on behalf of the Responsible Authority in order to determine whether Level 2 or Level 3 management is appropriate. Following receipt of the **MAPPA A**, the referral must be screened to identify the level at which the case can be effectively managed. This may be undertaken by a screening panel, but other arrangements are possible.

7.12 All agencies that are responsible for the management of MAPPA offenders (police, probation, Youth Offending Teams (YOTs) and mental health services) must have in place a means of assessing all their MAPPA offenders at an early stage. Where a case is identified for consideration of management at MAPPA level 2 or 3, **MAPPA A** must be completed and sent to the MAPPA Co-ordinator. For offenders who are in custody this must take place at least 6 months before release. Where an offender subject to licence has been recalled, it will be a local decision to determine when the meeting should take place.

7.13 Where a mentally disordered offender is being considered for discharge from hospital into the community, and the responsible clinician considers that active multi-agency management is required, a designated member of the care team should make a MAPPA referral. This referral should be sent to the

coordinator where the offender is being discharged, for consideration for management at level 2 or 3. The MAPP meeting should, wherever possible, take place no later than 6 months before the potential discharge.

## Process

7.14 In completing MAPPA A, the referring agency must:

- Estimate the likelihood of re-offending.
- Estimate the risk of serious harm (when and to whom).
- Estimate the imminence of serious harm.
- Identify those who need to be invited to the meeting.
- Include the lead agency risk assessment.
- Include the lead agency risk management plan.

7.15 The referral must demonstrate that there are specific issues that require active inter-agency involvement, conferencing, information-sharing, risk assessment and risk management beyond what ordinary agency management can provide.

7.16 The MAPPA Co-ordinator will provide the referring agency with a decision within 10 days of receipt of the **MAPPA A** whether the case meets the criteria for active multi-agency management at level 2 or 3, and the date for the level 2 or 3 meeting. Where the case has not met the criteria from the referral information, the MAPPA Co-ordinator will explain to the referring agency why the case can be managed at level 1. Similarly, if the case was referred for level 3 management but, from the information provided, it could be effectively managed at level 2, the MAPPA Co-ordinator will explain this to the referring agency.

7.17 In disputed cases, where the MAPPA Co-ordination Unit cannot resolve the matter, the Chair of the SMB will be the final arbiter of whether the case should be referred to a level 2 or 3 MAPP meeting. The meeting will then verify whether the case does require management at either level 2 or 3. Where it is decided that this is not necessary, the MAPPA Chair will explain this to the referring agency.

7.18 Where an urgent meeting is required and the case cannot wait until the next scheduled meeting, the agency managing the case must contact the MAPPA Co-ordinator direct to arrange this.

## 8. ViSOR

### Introduction

8.1 This section explains how the ViSOR database operates and supports MAPPA.

8.2 ViSOR provides a central store for up-to-date information about offenders that can be accessed and updated by the three Responsible Authority agencies – the police, the Prison Service (both public and the contracted-out estate) and Probation Trusts. ViSOR operates in other UK jurisdictions and it is potentially a vital component for any cross-border transfer discussions. It is available to police forces in Scotland, Jersey and Northern Ireland, the British Transport Police and the Royal Military Police, as well as to all Scottish prisons, mental health bodies and Scottish Criminal Justice Social Work departments.

8.3 Cases in ViSOR are known as “nominals.”

8.4 The benefits of ViSOR are as follows.

- ViSOR provides a secure database, graded as CONFIDENTIAL, enabling the prompt sharing of risk assessment and risk management information on individual offenders who are deemed to pose a risk of serious harm to the public.
- ViSOR improves the capacity to share intelligence and improves the safe transfer of key information when these offenders move between areas. This enhances public protection measures.
- In addition, ViSOR provides the opportunity to access some level of consistent management information to support the Strategic Management Board (“SMB”) in performance analysis and improved working practices.
- It will also provide information for the MAPPA annual reports.
- It acts as a central store for the minutes of MAPP meetings.
- There is new functionality on ViSOR which allows for the specific recording of Notification requirements for both Registered Violent Offenders (subject to Violent Offender Orders) and Registered Terrorist Offenders (subject to notification under the Part 4 Notification Requirements of the Counter-Terrorism Act 2008).

**Standard – SMBs must ensure that there is an objective regarding the integrated and cohesive usage of ViSOR by the Responsible Authority agencies in their MAPPA Business Plan**

8.5 ViSOR usage within the MAPPA area should be a routine topic for discussion, review and action within SMB meetings.

## Handling ViSOR Data

### **Standard – All information held on ViSOR should be graded as CONFIDENTIAL**

8.6 The collective information held on ViSOR is classified under the Government Protective Marking Scheme (“GPMS”) as CONFIDENTIAL. Individual offender information may be classified as RESTRICTED. Each classification requires certain security measures to be implemented and requires all ViSOR users to adhere to them.

8.7 As it is a CONFIDENTIAL application, requests under the Data Protection Act 1998 for information contained within it, such as Subject Access Requests, will probably be denied, but must still be considered on a case-by-case basis.

8.8 Similarly, requests to MAPPA Areas under Freedom of Information (“FOI”) legislation should be carefully considered. This is because ViSOR contains confidentially-graded information such as active police and prison intelligence. To disclose such information could adversely affect police and prison activity.

8.9 Nominal record owners should be mindful that individual agencies retain the ownership of ViSOR data supplied by their organisation. Therefore, record owners should ensure that they do not share information owned by other ViSOR users without consulting them.

8.10 In order for ViSOR to be an effective information-sharing and risk management tool, it was agreed that each nominal record should consist of a front-page summary screen of information and a number of attachments that contain detailed information relating to the relevant offender. Each nominal has a ViSOR Manager who has responsibility for the collation and quality assurance of information stored on that record. There can also be a number of partners to a record who have the ability to input information into the nominal record. Whoever inputs information into ViSOR is responsible for ensuring that the information is accurate.

### **Standard – All Category 1 offenders and all other categories managed at level 2 and level 3 must have a ViSOR record created**

8.11 All of the relevant MAPPA population should be entered on ViSOR, including those offenders currently serving custodial sentences.

8.12 The responsibility for creating and managing ViSOR records is as follows:

- Category 1 offenders – the Police Service.
- Category 2 offenders – the Probation Trust. Currently the Probation Trust will only enter Category 2, managed at level 2 and 3 cases on to ViSOR, and
- Category 3 offenders – where the case was actively managed by the Probation Trust on licence and at its expiry the management has been transferred to Category 3, or the offender is currently being managed on a community order, the Probation Trust will be responsible for the management of the case on ViSOR.
- For all other Category 3 cases, the police will be responsible for the creation and management of records.

## **Standard – Named police, probation and prisons staff should be partnered to all live ViSOR records managed at level 2 and level 3**

8.13 The SMB should ensure that there are local mechanisms in place to regularly review the application of this standard which promotes the systematic and necessary exchange of information in order to support MAPPA.

## **Standard – All live ViSOR records will be actively and accurately maintained and updated by Record Managers and relevant partners**

8.14 Details of all MAPPA offenders will be entered on ViSOR following sentence, except for Category 2, level 1 cases. Information regarding these will be available via the local probation case management systems and eventually the National Probation Case Management system.

### **Category 1**

8.15 It is the responsibility of the police to enter all Category 1 cases (including those jointly managed with YOTs, Probation Trusts, or mental health services) on ViSOR. Best practice is to create a nominal entry 3 days after sentence. The police should ensure that the record is maintained to the National ViSOR Standards. While the offender is in custody, they should create the Prison Service (the prison establishment where the offender is located) as a partner to the ViSOR record in all cases, and the Probation Trust as a partner in MAPPA level 2 and 3 cases. After local Responsible Authority agreement, they could also create the Probation Trust as partners in relevant MAPPA level 1 cases.

### **Category 2**

8.16 It is the responsibility of the Probation Trust to enter all Category 2 cases (managed at level 2 or 3), including cases managed by YOT and mental health services, **no later than 6 months** before release from prison, youth custody, or hospital, and to manage the record thereafter. The Probation Trust will be responsible for:

- Ensuring that the ViSOR record is maintained according to National ViSOR Standards.
- Ensuring that the Prison Service (the prison establishment where the offender is located) is created as a partner to the ViSOR record whilst the offender is in custody.
- Ensuring that the relevant MAPPA Co-ordinator is created as a partner to the ViSOR record, in cases where offenders are detained in hospital out of area.
- Activating the MAPPA flag on local (national) case management systems within three working days of the sentence. This flag will include details of the offender's MAPPA level when this is decided 6 months before release.

### **Category 3**

8.17 Probation Trusts will enter and manage information on ViSOR in those Category 3 cases where the offender is under their statutory supervision, plus those which have transferred **directly** from Category 2, for example, where the licence has ended but the case still requires level 2 or 3 management.

8.18 The police will be responsible for managing information on ViSOR in relation to all other Category 3 offenders.

## **YOT and Mental Health responsibilities and ViSOR**

### **Standard – YOTS and Mental Health Services and Teams must provide relevant data for updating ViSOR cases**

8.19 **Category 1 (Registered Sexual Offenders)** – All Category 1 offenders will have a ViSOR record and a nominated police Offender Manager who is the owner of the record. The YOT case worker or relevant Mental Health case worker must contact the police Public Protection Unit to inform them that he or she is involved in the case, provide his or her contact details, and obtain details of the police officer responsible for managing the record. The YOT / Mental Health Service and Team and the police will be expected to work closely together to manage the case, with each informing the other of any significant changes or developments. This will allow the police to keep the ViSOR record updated. Where the case is managed at level 2 or 3, the MAPP meeting will also identify new information which should be entered on ViSOR.

8.20 **Category 2 (Violent Offenders)** – the YOT / Mental Health Service and Team must ensure that the MAPP Co-ordinator is kept informed of significant changes and events, for example, the date of release from custody and the date of expiry of supervision. Where the case is managed at level 2 or 3, the MAPP meeting will identify new information which should be entered on ViSOR. This must be supplied quickly to the Probation Trust ViSOR Administrator for action.

8.21 **Category 3 (Other Dangerous Offenders)** – the MAPP meeting will identify which new information should be entered on ViSOR, e.g. updating risk assessments, a change of personal circumstances, arrests and other intelligence pertinent to the effective MAPP management of the case. The YOT / Mental Health Trust and Team must supply this promptly to relevant ViSOR staff.

## **Archiving arrangements**

### **Standard : All ViSOR records should be archived appropriately at the end of the relevant inclusion period**

8.22 When a ViSOR nominal ceases to be an active MAPP case, it will be archived. This means that the information will remain within ViSOR and, if necessary, can be re-activated. The nominal record will be retained until the 100th anniversary of the individual's birth. At this point, it will then be reviewed and, in most cases, will be removed from ViSOR.

8.23 The period for which an offender remains subject to MAPP varies significantly. Some will be subject to MAPP for life, others for less than 6 months. The period will depend upon the offence committed and the sentence imposed. The discharge of offenders from MAPP can only take place in the following circumstances:

- Category 1 offenders will be discharged from MAPP and archived when their period of registration expires. In the most serious cases, registration will be for life (subject to current review plans) and the case will be archived when the offender dies. At the end of any determinate period of registration, they may alternatively be re-categorised as a Category 3 offender.

- Category 2 offenders will be discharged from MAPPa and archived on licence expiry, discharge from hospital, discharge from post-hospital supervision or revocation of Disqualification Order. They may alternatively be re-categorised as a Category 3 offender. The current probation business model allows them to be archived when they are no longer managed at level 2 or level 3.
- Category 3 offenders will be discharged from MAPPa and archived when a level 2 or 3 MAPP meeting decides that the risk has reduced sufficiently.

8.24 Further guidance on the retention of information can be obtained from the ACPO 2006 Guidance on the Management of Police Information.

8.25 For further information on how records in ViSOR should be completed, guidance is available in the ViSOR Handbook: NOMS Guidance for Prison and Probation Services on the use of ViSOR and NPIA (2010) ViSOR Standards 2.0. The ViSOR Standards are available online at [http://www.acpo.police.uk/documents/crime/2011/20110404%20ViSOR%20Standards%20v2%200\\_Nov%202010.pdf](http://www.acpo.police.uk/documents/crime/2011/20110404%20ViSOR%20Standards%20v2%200_Nov%202010.pdf).

***Please note that this is a link to a document, not a web page. If given the choice to Open or Save, choose Open.***

***To avoid confusion: the standards set out in this chapter do not form part of the ViSOR Standards 2.0.***

## 9. Information-sharing

### Introduction

9.1 This chapter provides guidance on the sharing of information between agencies under MAPPA. These agencies are the Responsible Authority, duty-to-co-operate agencies, and other bodies with an interest in the management of these cases.

9.2 Information that is shared under MAPPA remains the responsibility of the agency that owns it. For example, Probation Trusts own information regarding their statutory supervision of the offender, and the police own information regarding their management of a registered sexual offender. It will be for the relevant agency to deal with Subject Access Requests under the Data Protection Act 1998. MAPPA as such is not an organisation, but a set of statutory arrangements for managing the risks posed by high-risk offenders. It therefore cannot be the owning agency for any information on MAPPA offenders.

9.3 This guidance should be read alongside the Data Sharing Code of Practice issued by the Information Commissioner in May 2011. It is available from the website of the Information Commissioner's Office ("ICO") which is at <http://www.ico.gov.uk>. The code of practice deals with a number of important issues such as Data Sharing and the Law; Fairness and Transparency; Security; Governance; and Individuals' Rights. It is a statutory code. Although it is not binding, it can be used in evidence in legal proceedings.

9.4 The following chapters of this Guidance are also relevant:

- 8 – ViSOR.
- 10 – Disclosure.
- 13 – MAPP meetings.

### Principles of information-sharing

9.5 The purpose of sharing information about individuals ("data subjects") is to enable the relevant agencies to work more effectively together in assessing risks and considering how to manage them. This points towards sharing all the available information that is relevant, so that nothing is overlooked and public protection is not compromised. On the other hand, agencies must respect the rights of data subjects, which will tend to limit what can be shared. In order to strike the right balance, agencies need a clear understanding of the law in this area. The most relevant legislation is the **Data Protection Act 1998 ("DPA 1998")** and the **Human Rights Act 1998 ("HRA 1998")**. The principles derived from this legislation may be summarised as follows.

#### Information-sharing must be lawful

9.6 This means, first, that the sharing of information must be in accordance with the law. As far as the MAPPA agencies are concerned, there should be a statutory basis for sharing information. This exists for the agencies who make up the Responsible Authority or who have a duty to co-operate with it. Section 325(4) of the Criminal Justice Act 2003 ("CJA 2003") expressly permits the sharing of information between these agencies for MAPPA purposes.

9.7 The Responsible Authority and the duty to co-operate agencies are routinely and regularly involved in the management of MAPPA offenders, but, from time to time, other agencies can contribute significantly

to the Risk Management Plan. Information-sharing between the MAPPAs agencies and these third parties does not benefit from section 325(4) of the CJA 2003. In general, non-statutory bodies are able to share information provided this does not breach the law. They are bound by the common law duty of confidence. The key principle of the duty of confidence is that information provided should not be used or disclosed further in an identifiable form, except as originally understood by the provider, or with his or her subsequent permission. However, case law has established a defence to breach of confidence where an individual breaches the confidence in the public interest. The prevention, detection, investigation and punishment of serious crime and the prevention of abuse or serious harm will usually be sufficiently strong public interests to override the duty.

9.8 Second, the information-sharing must comply with the eight Data Protection Principles set out in the DPA 1998 and reproduced in the ICO Code of Practice. Among other things this means that the information shared must be accurate and up-to-date; it must be stored securely; and it must not be retained any longer than necessary.

### **Information-sharing must be necessary**

9.9 Article 8 of the European Convention on Human Rights, given domestic effect by the HRA, provides a right to respect for private and family life, home and correspondence. Any interference with this right by a public authority (such as a criminal justice agency) must be

“necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

9.10 The sharing of information by MAPPAs agencies for MAPPAs purposes satisfies these conditions in that it is clearly aimed at preventing disorder or crime or administering justice. Provided the information shared is only used for MAPPAs purposes the necessity test will be met, as information-sharing by way of MAPPAs is not an excessive or unreasonable way of assessing and managing these risks.

### **Information-sharing must be proportionate**

9.11 In human rights law, the concept of proportionality means doing no more than is necessary to achieve a lawful and reasonable result.

9.12 The third Data Protection Principle provides that personal data must be relevant, and not excessive in relation to the purpose for which it is being shared.

9.13 For MAPPAs agencies, this essentially means ensuring that information about the data subject is relevant to assessing and managing risk and that no more information is shared than is needed to manage that risk. For example, if what is actually needed is the names and addresses of individuals, sharing their race and religion as well would be likely to be disproportionate.

## **Standard – Each SMB should develop an Information-Sharing Agreement**

9.14 Each agency should follow its own data protection policies in sharing information with other agencies under MAPPAs. There may be differences on points of detail. Co-operation between agencies will be easier if there is a shared understanding of each others’ policies. For this reason, the Strategic Management Board for the MAPPAs agencies in each area should develop an Information-Sharing Agreement setting out how they will share information with each other, so that they are following a common set of rules and security standards as far as possible.

9.15 Sections 8 and 14 of the ICO Code of Practice are concerned with the issues that an information-sharing agreement should cover. These include what information is to be shared, with whom, and why; the quality and security of the information; the circumstances governing the length of time for which the information is retained; and what happens if the agreement is breached.

9.16 Although the exchange of information with non-MAPPA agencies has to be considered on a case-by-case basis, formal protocols or agreements should be in place in advance if possible. These agreements should pay particular attention to ensuring the safety and security of the personal information shared.

# 10. Disclosure

## Introduction

10.1 This chapter deals with:

- Disclosing information to individuals or agencies in respect of a specific offender under MAPPA as part of a Risk Management Plan (“RMP”), and
- The Child Sex Offender Disclosure Scheme.

10.2 For the purposes of the Guidance, **information-sharing** is the sharing of information between all the agencies involved in MAPPA. **Disclosure**, on the other hand, is the sharing of specific information about a MAPPA offender with a third party (not involved in MAPPA) for the purpose of protecting the public. The third party could be a member of the public such as a victim, an employer, a person forming a relationship with an offender, or a person acting in a professional capacity but not party to the MAPP arrangements.

## Whether disclosure should be made

10.3 This section summarises the standards applying to the disclosure of information about a MAPPA offender with a third party.

### **Standard – Disclosure to a third party must be considered for all MAPPA offenders at each review**

10.4 The MAPPA Guidance requires the risk assessment of all MAPPA offenders to identify those persons who may be at risk of serious harm from the offender. The RMP must identify how these risks will be managed. As part of this process, the Responsible Authority must consider in each case whether disclosure of information about an offender to others should be made to protect victims, potential victims, staff, and other persons in the community. This applies to all categories and levels of MAPPA cases. The overriding factor is the need to protect the public and safeguard children.

10.5 Some examples of what could be considered are:

- When there is evidence that grooming may be taking place, for example through leisure clubs, churches, employment.
- If there is a condition in a Sexual Offences Prevention Order / licence excluding offenders from a specific location or having contact with named persons.
- Where others may be at risk, for example in supportive accommodation. This may include other service users, but usually it will be staff and managers who are told for placement purposes and for greater vigilance to be exercised.
- Where there is a need to protect past or potential victims, in particular where offenders strike up new relationships with partners who have children or grandchildren. In some cases, this may include friends or neighbours who have children.
- Where the public may be at risk through the offender’s employment, training or education.

- In schools and colleges if grooming needs to be prevented. In the case of young offenders, limited and controlled disclosure may be made to school or college staff.
- Where a person may be in a position to actively assist in the risk management of an offender by being briefed about risk factors and scenarios.

**Standard – The disclosure decision must be recorded on the case management system (level 1) or in the MAPP meeting minutes (levels 2 and 3)**

**Level 1 cases**

10.6 Cases being managed at level 1 must be reviewed in line with the lead agency's policy. Part of the review will consider disclosure. It is not necessary to inform the MAPPA Co-ordinator about disclosure decisions for level 1 offenders, but details must be recorded on the lead agency's system and must be made available if required. A decision to disclose to a third party may result in a referral for level 2 or level 3 multi-agency management.

**Level 2 and 3 cases**

10.7 The decision whether to disclose to a third party must be considered for all offenders managed at level 2 or 3. This is essential at the initial MAPP meeting and it must be re-assessed at each review MAPP meeting. Where disclosure is not to take place, the reasons must be fully recorded in the MAPP meeting minutes.

10.8 In the event that, after considering the balance of public protection issues and human rights issues, the MAPP meeting attendees cannot agree whether to make disclosure, the agency that holds and owns the information will make the decision. This should be in line with its own policies and should take account of the relevant legislation and other issues in 10.11 to 10.13 below. Any significant concerns should be referred to the Assistant Chief Constable (or the equivalent in the Metropolitan Police) for information as he or she will have to manage any public order consequences resulting from the decision. In other cases, the meeting will agree on disclosure and the relevant agency will carry it out. All this must be fully recorded in the MAPP meeting minutes.

10.9 In cases where the decision is made to disclose information about the offender to the media, or where it includes the release of the offender's photograph to the media, approval is required from a police officer of Assistant Chief Constable rank (or the equivalent in the Metropolitan Police). The police should refer to the ACPO 2010 Guidance on Protecting the Public: Managing Sexual and Violent Offenders for further guidance on this. If a decision is made to disclose to the media, and the offender is under NOMS supervision, the Ministry of Justice Press Office should be informed.

10.10 If the offender is aged under 18, the Youth Justice Board Policy Unit must be informed. Disclosure for children and young people must be handled sensitively, given that they can be particularly vulnerable.

**Standard – Disclosure of the details of MAPPA offenders to a third party must comply with the law, must be necessary for public protection, and must be proportionate**

10.11 There are various areas of law to consider when making a disclosure decision:

- The common law power for the police to share information for policing purposes (for the prevention and detection of crime).

- The Data Protection Act 1998.
- The Human Rights Act 1998.
- The Children Acts 1989 and 2004.
- The Criminal Justice and Immigration Act 2008.

10.12 In relation to the proportionality requirement, the following criteria should be met before disclosing information about an offender to a third party:

- The likelihood and degree of harm which may arise as a result of the disclosure, including the potential impact on the offender, must be assessed. Information should be disclosed only where this is a necessary and proportionate step to protect the public.
- Correct identification of the individual(s) to receive disclosure.
- Alternatives to disclosure must be considered and reasonably rejected as inappropriate or ineffective in all the circumstances. This must be recorded.
- Preparation and discussion with those third parties receiving the information. This includes checking what they already know; checking that they understand the confidential and sensitive nature of the information they are receiving; and checking that they know how to make use of the information, what to do in the event of anything occurring which they need to report, and whom to contact; and how to access support if required.
- An informed decision (via the level 2 and 3 MAPP meeting) about what level of disclosure is required. For example, this might include risk factors but not necessarily an offence history.
- Details of the key triggers for offending behaviour and the requirements for successful risk management, for example, “This is what you need to look out for...” or “if you see X, you need to do Y.”
- Mechanisms and procedures to support both victims and offenders in case there is a breakdown in the process.
- For offenders under 18, their wellbeing and safety must be taken into account. Except for urgent cases, no decision on disclosure should be made unless a senior member of the YOT and of Children’s Services is present. For more information see chapter 23, Children and Young People.

Even in emergency situations, the decision to disclose without the consent of the offender should wherever possible be made on a multi-agency basis. Single agency decision-making about the disclosure of information on offenders is strongly discouraged.

## **Involvement of the offender**

10.13 Consideration must be given to seeking representations from the offender before a decision is made to disclose, in order to ensure that all of the information necessary to make a properly-informed decision is available. Seeking representations should be the norm, but there might be occasions when it is not possible or safe to seek representations. Circumstances where it is possible that representations would not be sought might include, but will not be limited to, those where:

- seeking representations would risk prejudicing an ongoing or prospective criminal investigation
- seeking representations would give rise to the risk of harm to children/vulnerable people
- seeking representations would give rise to the risk of harm to a new partner
- seeking representations would risk reinforcing grievance thinking on the part of the offender in a way that would increase the risk presented by the offender generally
- seeking representations would involve informing the offender about information that the offender has not provided, and to do so would risk compromising intelligence sources or putting such sources at risk
- disclosure is necessary to avoid an imminent risk of harm and there is insufficient time to seek representations
- it is not possible to trace the offender and it is therefore not possible to seek representations.

Each decision must be considered on its merits, having regard to the individual circumstances of the case. In particular, when considering the risks referred to in this paragraph (or any other risks that might arise on the facts of an individual case), both the level of risk and the potential impact of that risk should be taken into account.

10.14 All decisions on disclosure must be recorded, especially any decision not to seek representations from the offender.

10.15 On occasion, the offender may make the disclosure himself or herself in the presence of the police or the Offender Manager, or may later confirm or verify the content of the disclosure. If representations are not sought from the offender the person receiving the disclosure should be told that the offender does not know that disclosure has been made.

## **The Child Sex Offender Disclosure Scheme**

10.16 In June 2007 the Government published the Review of the Protection of Children from Sex Offenders. Action 4 of the Review resulted in a process which allows members of the public to register a child protection interest in an identified individual who has access to or a connection with a particular child or children.

10.17 If an individual is found to have convictions for sexual offences against children and poses a risk of causing serious harm, there is a presumption that this information will be disclosed to the person who is best placed to protect the child or children, where this is necessary for this purpose.

10.18 This disclosure process (The Child Sex Offender Disclosure Scheme) builds on existing MAPPA procedures and on the provisions of section 327A of the Criminal Justice Act 2003. It provides a clear access route for the public to raise child protection concerns and to be confident that action will follow.

10.19 It is of paramount importance to all involved in delivering this process that children are being protected from harm. By making a request for disclosure, a person will often be registering concerns about possible risks to the safety of a child or children. For that reason, it is essential to this process that police forces, local authority children's social care and Local Safeguarding Children Boards work closely together to ensure that any possible risks of harm to the child or children are fully assessed and managed.

10.20 The Child Sex Offender Disclosure Scheme was rolled out across the country in three stages and was implemented throughout England and Wales in April 2011. The scheme is primarily the responsibility of the police, but they may ask other agencies to provide information on the subject(s) of the external enquiry.

10.21 It is important that the current practice of the disclosure of information about previous convictions for offences which are not child sexual offences continues, where necessary to protect others or prevent crime or both. It is not the intention of the disclosure process to restrict access to information which helps to safeguard children.

***Guidance on the disclosure of MAPPA minutes is now in chapter 13 on Multi-Agency Public Protection Meetings.***

# 11. Risk Assessment

## Introduction

**Standard – All MAPPA offenders must be subject to a thorough risk assessment to ensure that they are managed at the correct MAPPA level**

11.1 The risk assessment of offenders is the systematic collection of information to help determine the degree to which an offender poses an identified risk of serious harm to the public. Risk cannot be eliminated, but it can be managed.

11.2 The assessment of risk, and the identification of the factors that have contributed to offending, are the starting points for all work with offenders.

11.3 Risk assessment is a dynamic process which requires ongoing re-evaluation in the context of the offender's changing circumstances. It should be reviewed regularly. Reviews should take place in accordance with the responsible agency's policies and procedures.

## Risk assessment tools

**Standard – All MAPPA offenders must be assessed using the approved risk assessment tools where appropriate**

11.4 Risk assessments must consider both static and dynamic risk factors in order to assess risk correctly. There are a number of clinical and actuarial tools that assist with this process:

1. OASys – Offender Assessment System for offenders managed by NOMS (section 11.18).
2. RM 2000 – Risk Matrix 2000 for all male sexual offenders aged 18 and over. Used by police / probation / prison (section 11.22).
3. SARN – Structured Assessment of Risk and Need for sexual offenders in NOMS treatment programmes (section 11.27).
4. SARA – Spousal Assault Risk Assessment for domestic abuse offenders used by NOMS (section 11.29).
5. Asset – Structured risk assessment for young offenders used by YOTs (section 11.31).

11.5 Further details of these tools are outlined in the summary at the end of this section (see above references in brackets).

11.6 However, no risk assessment tool can be 100% predictive. Good risk assessment practice depends on those undertaking it using the tool correctly, having all the relevant information, and having time to consider it. For this reason, the Guidance places great emphasis upon the identification of risk and information-sharing to assess risk. Once risk has been identified, and after information has been shared, it is the skills of practitioners, enhanced by the involvement of other professionals, that make the procedure meaningful.

## Categorisation of risk

### Standard – Risk of serious harm must be assessed using the Risk of Serious Harm definitions below

11.7 For the purpose of this Guidance, serious harm is defined as:

“An event, which is life-threatening and/or traumatic, from which recovery, whether physical or psychological, can be expected to be difficult or impossible.”

11.8 The level of risk of serious harm is the likelihood of this event happening. The levels are:

- Low: current evidence does not indicate a likelihood of causing serious harm.
- Medium: there are identifiable indicators of serious harm. The offender has the potential to cause such harm, but is unlikely to do so unless there is a change in circumstances, for example failure to take medication, loss of accommodation, relationship breakdown, drug or alcohol misuse.
- High: there are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact would be serious.
- Very High: there is an imminent risk of serious harm. The potential event is more likely than not to happen imminently and the impact would be serious.

11.9 This provides a categorisation of risk levels for all MAPPA offenders. (Please note that the definitions used by YOTs will be different. Local YOT teams can advise.) The categorisation of risk is refined by reference to those who may be the subject of that harm. They include:

- The public: either generally or a specific group such as the elderly, vulnerable adults (for example, those with a learning disability), women or a minority ethnic group.
- Prisoners: within a custodial setting.
- A known adult: such as a previous victim or partner.
- Children: who may be vulnerable to harm of various kinds, including violent or sexual behaviour, emotional harm or neglect, or because they are in custody.
- Staff: anyone working with the offender whether from the Probation Trust, the Prison Service, the police or any other agency. This relates to all forms of abuse, threats and assaults that arise out of their employment.
- Self: the possibility that the offender will commit suicide or self-harm.

## Information-sharing

### **Standard – Risk assessment must draw on the widest information available from all agencies involved**

11.10 All agencies involved with managing an offender must contribute to the risk assessment process by sharing information. This includes both responsible authorities and duty to co-operate agencies.

- Probation: the Probation Trust must assess the offender's risk of reoffending and risk of serious harm. They provide an overview of an offender's compliance with supervision, their current dynamic risk factors, protective factors, and relevant interventions. (See chapter 23 for Children and Young People.)
- Police: the police must share intelligence to inform the risk assessment. This may include allegations of further offences, lifestyle concerns and known criminal associates. They will also provide a RM2000 level for all male sexual offenders aged 18 and over.
- Prison: Prison service staff, and those working in the youth justice secure estate, have much to contribute to an offender's ongoing risk assessment through the identification of offence-related behaviours observed and monitored in prison. They can also provide information on visits received by the offender, compliance with the prison regime, and relevant interventions. This information will be reported on MAPPA F.
- Social Services: the Social Services should share information regarding the welfare of relevant children or vulnerable adults.
- Mental health services: the mental health services will be able to provide a clinical risk assessment and an insight into the mental health of an offender and the relevant clinical interventions available.
- Local Authority and Registered Social Landlords: these can provide advice on suitable accommodation and a report on the success of current arrangements.

## Risk assessment summary

### **Standard – All MAPP meetings at level 2 and 3 must outline a risk assessment summary to inform the Risk Management Plan**

11.11 Once all the relevant information has been shared, it is the role of the Chair of the level 2 or 3 meeting to summarise the risks identified, grouping them as follows:

- Static risk factors – those factors that cannot change but do affect the risk, for example, type and number of previous convictions; age and gender.
- Dynamic risk factors – those factors linked to offending which can change, for example, the offender is drinking heavily or has a lack of suitable accommodation; a mental disorder; evidence of victim access behaviours.
- Protective factors – for example, a stable relationship, suitable accommodation or employment; offenders motivation to change.

11.12 The meeting should then agree a risk assessment based upon the information provided. This will generally be an endorsement of the assessment from the referring agency, but additional factors may come to light which require it to be amended.

11.13 The referring agency will need to take all the new information into account and update their risk assessment following the MAPP meeting.

## **Justifying the risk assessment**

### **Standard – All risk assessment must be transparent and defensible**

11.14 Risk assessment is not an infallible science. Eliminating risk entirely can never be achieved. Risk management should be understood as harm reduction, either through the reduction of the likelihood of a risk occurring or the reduction of its impact should it occur.

11.15 The idea of defensible decisions is not about being defensive, rather it is making sure that decisions are transparent and can be easily understood. It is intended to embed risk assessment with rigour, and risk management with robustness.

11.16 Risk assessment is more likely to be transparent and defensible if:

- All reasonable steps have been taken, and reliable assessment methods have been used.
- Information has been collected and thoroughly evaluated.
- Decisions have been recorded (and subsequently carried out).
- Policies and procedures have been followed.
- Practitioners and their managers have adopted an investigative approach and have been proactive.

11.17 Risk assessment must never become formulaic. There must always be a place for using discretion and professional judgement.

## **Summary of approved risk assessment tools**

### **1. OASys**

11.18 This is the tool used by the Prison Service and the Probation Trust to assess the likelihood of the risk of reoffending and the risk of serious harm. It is a comprehensive assessment tool that applies to all offenders aged 18 and over, using static and dynamic indicators.

11.19 OASys helps practitioners to make defensible decisions. It plays a pivotal role in assessment, case management, targeting of treatment programmes, referrals to partnerships, resource allocation and risk management for offenders aged 18 and over.

11.20 OASys is the tool that allows NOMS practitioners to assess an offender's likelihood of reoffending by systematically examining a number of offending-related factors, including offending history; education, training and employability; relationships; drug misuse; alcohol misuse; emotional well-being; thinking and behaviour; and accommodation, lifestyle, and associated thinking, behaviour and attitudes.

11.21 By quantifying the risk of serious harm, identifying to whom it applies and in what circumstances, OASys will help to prioritise public protection concerns and establish the basis for Risk Management Plans.

## **2. Risk Matrix 2000**

11.22 Risk Matrix 2000 (RM2000/S) is an evidence-based risk assessment tool, using static factors only, for men aged 18 and over with at least one conviction for a sexual offence. It is used by prisons, the police and probation in England and Wales, by staff who have completed and passed an RM2000 training course. At least one of the sexual offences should have been committed when the offender was over the age of 16. It predicts the likelihood of reconviction for a sexual or violent offence.

11.23 It is a useful tool to predict which offenders are most likely to be reconvicted and who require greater resources to manage their risk. Each RM2000 level (Low, Medium, High, Very High) equates to a statistical likelihood of reconviction for a sexual offence (RM2000S) or a violent offence (RM2000V).

11.24 Both static and dynamic indicators should be taken into account when determining the overall risk of reoffending and risk of serious harm and deciding upon the level of management. Where there is more than one agency involved in management of the case, it is essential that the Offender Managers consult and agree the overall risk level at which the offender will be managed. This must be recorded by the lead agency as the level of risk management required.

11.25 Where there is any disparity between the two assessment tools (OASys and RM2000), the overall assessment of risk of serious harm will be informed by OASys.

11.26 Probation Circular 17/2007 requires the report writer to complete the RM2000 assessment before preparing any pre-sentence report or any parole assessment report on sexual offenders.

## **3. SARN**

11.27 Structured Assessment of Risk and Need (SARN) assessments should be undertaken on all NOMS sexual offenders programme completers.

11.28 The SARN report format was developed in the Prison Service to act as an evidence-based assessment of both progress in treatment and future treatment needs. The final SARN report contains information that is gathered throughout the treatment programme. It provides a summary of progress in treatment followed by an indication of remaining treatment needs to be addressed by offender managers.

## **4. SARA**

11.29 Spousal Assault Risk Assessment (SARA) will be triggered by an OASys assessment and should be carried out by NOMS staff in all cases where offending is linked to domestic abuse.

11.30 It is a checklist that has been designed to screen for risk factors for spousal or family-related assault. It covers a range of static, dynamic and risk management factors.

## **5. Asset**

11.31 Asset is a structured assessment tool to be used by Youth Offending Teams (YOTs) in England and Wales on all young offenders who come into contact with the criminal justice system. It aims to look at the young person's offence or offences and to identify a range of factors or circumstances, such as lack of educational attainment or mental health problems, which may have contributed to such behaviour.

11.32 Asset must be completed for all young people subject to:

- Bail supervision and support.
- A request for a court report (pre-sentence report and specific sentence report).
- Community disposals during the assessment, quarterly review and closure stages.
- Custodial sentences at the assessment transfer to the community and closure stages.

11.33 There are common elements between Asset and OASys, which allow information to be drawn from Asset to OASys when a case is transferred from a YOT to a Probation Trust. Asset, like OASys, provides a risk of serious harm assessment, which will assist the MAPPA agencies in identifying the risk factors to be addressed.

# 12. Risk Management Plan

## Introduction

### **Standard - All MAPPA offenders have an effective Risk Management Plan**

12.1 Effective risk management is the core function of MAPPA, and achieving it requires all agencies to share relevant information. All agencies should look to do all they can within their powers to contribute to risk management.

12.2 Risk management is the construction and implementation of a plan which addresses the identified risk and protective factors. In effect, it is what staff do with an offender that is crucial. Risk management is not an exact science as it is not possible to eliminate risk entirely. It is therefore critical that the decisions made are defensible, the Risk Management Plan (RMP) is implemented and monitored through regular reviews, and adjustments to the RMP are made as necessary. RMPs should be shared with all relevant agencies following a review, including reviews for Level 1 cases.

12.3 When an offender is identified as a MAPPA offender, the lead agency has a duty to ensure that any identified risks are managed robustly at the appropriate level of MAPPA management.

12.4 The RMP must include actions to monitor and where possible change the behaviour and attitudes of the offender in order to minimise the risk of serious harm. RMPs should relate to current and expected future risks and should draw upon information from all relevant agencies within MAPPA.

12.5 All MAPPA offenders must have an RMP completed by the lead agency to its own required standards. Information from any DTC agencies involved and other Responsible Authority agencies should inform the RMP.

## **Level 2 and 3 Risk Management Plans**

### **Standard - Every level 2 or 3 MAPPA offender has a RMP agreed by the MAPPA Chair**

12.6 All level 2 and 3 offenders require a MAPPA RMP. The MAPPA risk assessment will identify all areas of risk of serious harm and the MAPPA RMP will set out all the single and multi-agency actions agreed at the MAPPA meeting to manage those risks. Alternative actions should be considered if an action is identified that an agency is not able to carry out. The final decision on whether an agency agrees to accept an action rests with that agency and explanations for where considered actions could not be taken forward should be recorded in the minutes. Once an agency has accepted an action it is responsible for ensuring that it is completed.

12.7 There should be only one risk management plan. The risk management plan is that of the lead agency. When a MAPPA meeting takes place the meeting will devise the risk management plan with the lead agency. The lead agency when recording the risk management plan on its own systems will reflect the RMP agreed by the MAPPA meeting. There may be cases where some elements of the RMP will not be recorded on the lead agency system, e.g. details of victim safety planning or sensitive police information or tactics. Where a decision is taken for there to be a difference between the recording of the plan this should be clearly stated in the MAPPA minutes.

### **Standard - The lead agency RMP and ViSOR are updated after every MAPPA meeting**

12.8 Once the MAPPA RMP is in place, the case manager must update the lead agency RMP and ViSOR accordingly. Other agencies must also ensure that their own databases are updated in line with the MAPPA RMP.

12.9 The MAPPA RMP must:

- Be specific, measurable, achievable, realistic and time-limited (SMART). It should clearly identify ownership of each action point, with a named agency and wherever possible a named individual in that agency.
- Identify what will be done and how this will manage the risk. Action descriptions must provide enough detail to explain what must be achieved and must cover each risk identified.
- Be reviewed formally at a specified future date.
- Have a completion date for each action. The date should be specified and not left to be achieved 'as soon as possible.' The completion date for ongoing actions could be the date of implementation or a milestone as appropriate.
- Contain actions to protect victims or other identified individuals at risk.
- Include specific safeguarding actions to manage and reduce the identified risk(s) where an offender is assessed as posing a risk of harm to children (identified child, children in general, unborn child) or adults at risk (identified adult, adult at risk in general). An adult at risk is an adult who has care and support needs; is experiencing, or is at risk of, abuse or neglect; and, as a result of those care and support needs, is unable to protect themselves from either the risk, or the experience, of abuse or neglect.
- Align with the child protection plan (CPP) if there is one in place for an identified child.
- Include a contingency plan should the original RMP break down or if there is any other change of circumstances.

## Elements of Risk Management

### **Standard - RMPs address supervision, monitoring and control, interventions and treatment, victim safety and contingency plans**

12.10 SMBs are not obliged to adopt the MAPPA working arrangements promoted in the Four Pillars of Risk Management<sup>1</sup> but the headings below provide a useful framework for analysing risk and developing the RMP whether or not the Four Pillars framework is used. The headings are:

- Supervision.
- Monitoring and control.
- Interventions and treatment.
- Victim Safety.

The RMP must include contingency plans and record all licence conditions.

### **Supervision**

12.11 Supervision is not limited to statutory supervision by the NPS or YOT but also includes engagement with any other agency that has a role in helping offenders to lead law-abiding lives.

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<sup>1</sup> The 4 Pillars of risk Management is a new approach to the planning and delivery of risk management developed by Prof. Hazel Kemshall at De Montfort University. The model is based on the four pillars of Supervision, Monitoring & Control, Interventions and Treatment and Victim Safety Planning.

12.12 Examples of supervision:

- Office-based supervision.
- Home visits (by police and probation) and other regular visits to the offender's premises.
- Contact with healthcare professionals.
- Interaction with staff in Approved Premises.
- Tenancy support from Housing Associations.
- Help from the Department for Work and Pensions (DWP) in finding work.
- Actions to build on offenders' strengths and protective factors.
- Education.
- Involvement of children's social care.

## **Monitoring and Control**

12.13 Monitoring and control are strategies aimed at controlling and reducing opportunities for harmful behaviour.

12.14 Examples of monitoring and control:

- The use of licence conditions (see PI 09/2015 for details).
- A licence condition placing restrictions on residence - for example, residing at Approved Premises or residing as directed.
- Restrictions on association, activities and movements.
- Surveillance and electronic monitoring.
- Polygraph examinations.
- The use of restrictive orders.

12.15 Restrictive orders: where offenders pose a continuing risk of serious harm, the police will consider whether these risks are high enough to justify applying for a restrictive order. Examples include:

- Notification Order (Sexual Offences Act 2003 (SOA 2003) sections 97 to 101).
- Sexual Harm Prevention Order (SOA 2003 sections 103A to 103K).
- Violent Offender Orders (Criminal Justice and Immigration Act 2008, Chapter 4, Part 8).

12.16 Sexual Risk Order (SOA 2003 sections 122A to 122K) can be applied for restrictions as a preventative measure before a conviction. Please see appendix 5 for details of this and for the other civil orders for managing MAPPA offenders.

## **Interventions and Treatment**

12.17 Interventions and treatment are activities that focus more on developing the offender's own ability to avoid and manage risk situations and to build strengths and protective factors that enable desistance from offending. They may be mandatory, such as complying with a licence condition, or voluntary. They may include, but will not be limited to, accredited programmes.

12.18 Examples of interventions and treatment:

- Attendance at programmes that address the causes of offending behaviour.
- Interventions that emphasise self-management of risk and which promote the use of internal controls over the longer term.

- Interventions that combine intensive supervision with the appropriate use of sanctions and responding to non-compliance.
- Supportive and integrative approaches where risk assessments indicate their usefulness, e.g. Circles of Support and Accountability.
- Referral for medical or psychological interventions as required.
- Co-operation with drug and alcohol advisory services.
- Involvement in other activities to divert the offender from offending, such as appropriate employment or voluntary work.
- Identifying a role for family, parents and carers.

## Victim Safety

12.19 Victim safety strategies are designed to protect previous and **potential** victims from harm.

12.20 Examples of victim safety actions:

- The disclosure of information to third parties.
- Relocation of the victim.
- Safety advice and physical safety measures for victims.
- Action by Children's Services.
- Exclusion zones and non-contact orders and arrangements to monitor them.

## Contingency Plans

12.21 Contingency plans should be included in all RMPs to set out the action(s) to be taken if the RMP is no longer enough to manage the risk. They will include rapid response arrangements to changing situations or a deterioration in circumstances or behaviours. Contingency plans should consider what actions will be taken in the event of a change of circumstances. In particular it is helpful to consider the factors that are likely to indicate an increase in risk for an individual. The following factors are associated with escalating risk:

- A change in situational risk - this could be because an offender has increased proximity to victims, or is behaving in ways that are likely to increase proximity or to increase opportunity to offend in other ways. It could also be because of a change to someone else's circumstances, such as a partner's pregnancy.
- Deterioration in lifestyle - examples could be loss of accommodation, relapse into drug or alcohol use, or increased association with offending peers. The MAPPA meeting (?) will need to consider which lifestyle factors would be associated with increased risk for each offender.
- Psychological factors - examples may be an increased preoccupation with offending or offending-related issues (e.g. sexual preoccupation, offence-related sexual interests or emotional congruence with children) or it may be a deterioration in mental or psychological wellbeing (e.g. as a result of not taking medication).
- Breakdown in supervision - this may be missing appointments, or where compliance is superficial, with the offender attending appointments but not engaging with the process or not engaging with wider interventions or treatment.

The MAPPA meeting needs to be alert to which changes are linked to an increase in risk in each individual case and provide contingency plans accordingly.

## Other Considerations

**Standard - Referral for CPPC is considered for all level 3 MAPPA offenders**

12.22 All level 3 cases should be considered for referral to NOMS for registration as a Critical Public Protection Case. Where referral is agreed, the lead agency will ensure that the paperwork is completed within a week and will inform the next meeting of the outcome of the decision. The minutes should record the fact that referral has been considered. For further guidance, see Chapter 19 – Critical Public Protection Cases and PI 06/2013.

**Standard - The critical contribution that offenders make towards changing their behaviour is recognised and RMPs draw on the strengths, skills and resources of the offender**

12.23 Offenders should know that they are being managed through MAPPA, what MAPPA is, and what this means for them. The MAPPA leaflet 'Information for Offenders' should be used for this purpose. This responsibility should be discharged by the Offender Manager or Case Manager primarily involved with the offender.

12.24 It may be helpful to invite the offender to write down, or to tell the offender manager, information they would like to be discussed at a level 2 or level 3 meeting. (See also 13.8 and 26.37-38.)

12.25 Although the expectation is that offenders are told that they are being managed through MAPPA, there may be very exceptional cases where information about MAPPA management at level 2 or 3 may be withheld from them on the ground that it might increase their risk. This decision and the nature of the information to be withheld must be agreed at a MAPPA meeting and the reason(s) clearly recorded in the MAPPA meeting minutes and case record(s).

**Standard - Public protection is the paramount consideration in the development of the Risk Management Plan**

12.26 As a general principle, the human rights of offenders must not take priority over public protection. However, restrictions, such as licence conditions, must still be necessary and proportionate. In other words, restrictions must be limited to the minimum necessary for effectively managing the risks presented by the offender (see PI 09/2015). Furthermore, there is a responsibility to consider the needs and vulnerabilities of an offender where he or she is a child or young person, but this should not take precedence over protecting the public. Proportionate protection of the public outweighs all other considerations when constructing an RMP.

**Standard - The MAPPA Chair summarises the meeting and agrees the required level of MAPPA management**

12.27 The Chair will summarise the issues raised during the meeting and agree with the attendees the MAPPA level at which the offender should be managed. The Chair will confirm whether the case requires active multi-agency management at level 2 or 3. Ideally, the Chair will facilitate agreement if there are initial differences in views. Where this is not possible the Chair will ask the lead agency to make the final decision and will ensure the range of views is recorded in the minutes.

12.28 The reasons for a decision to manage the case at a particular level must be clearly recorded, whether the level is different from the one for which the meeting was called or the same (see Chapter 7 – Levels of Management for more details on determining MAPPA levels).

# 13a. Multi-Agency Public Protection Meetings

## Introduction

13a.1 The purpose of level 2 and level 3 MAPPA meetings is to share information to support multi-agency risk assessments, and formulate effective MAPPA Risk Management Plans (MAPPA RMPs), in order to ensure action is taken to manage the risk of serious harm posed by the offender. These meetings enable the provision of authority, resources and skills that may be unavailable at level 1.

13a.2 See also Chapter 9 – Information-sharing, and the Data Sharing Code of Practice issued in May 2011 by the Information Commissioner's Office.

## Information-sharing

### **Standard - The Strategic Management Board (SMB) has agreed effective information-sharing procedures**

13a.3 The Responsible Authority must have in place robust arrangements for the sharing of information. Information-sharing agreements (ISAs) drawn up by the SMB should include the information sharing necessary for the purposes of assessing and deciding upon the management of the risk an offender poses at MAPPA meetings.

13a.4 The SMB should produce an ISA outlining how communication between the MAPPA Co-ordinator and the duty to co-operate (DTC) agencies takes place. Where possible, DTC agencies should have a Single Point of Contact (SPOC) to whom information can be securely passed. Where a SPOC is not be feasible, the agency should provide a list of named individuals to the MAPPA Co-ordinator.

## Attendance at meetings

### **Standard - The SMB is confident that those chairing and in attendance at level 2 and level 3 MAPPA meetings are at an appropriately senior level**

#### **Agency Representation**

13a.5 An effective level 2 or level 3 meeting requires agency representatives to be able to make decisions that commit their agencies' resources. Therefore, all agencies must either be represented at level 2 and level 3 MAPPA meetings by the level of personnel agreed by the SMB or representatives with delegated authority.

13a.6 Continuity of personnel enhances the effectiveness of level 2 and level 3 MAPPA meetings by establishing good working relationships across agencies. Establishing a core membership from key agencies for level 2 and 3 MAPPA meetings is good practice and can strengthen shared understanding. Core members will ensure that all relevant information from their areas of work is made available to the meeting. They may also suggest who should be invited to assist in the management of a specific case.

13a.7 The SMB will determine the criteria for chairing MAPPA level 2 and 3 meetings locally. However, chairs must be employed by the Police or NPS, be MAPPA trained, have enough knowledge and skills as a chair to be effective, and be of sufficient seniority to command respect. Chairs must not be the only representative of their agency at the meeting.

## **Police**

13a.8 The police must attend all level 2 and 3 meetings. The officer attending the meetings should be of high enough rank to allocate police resources. This will usually be Inspector for level 2 meetings and Chief Inspector for level 3 meetings. However, a lower-ranking officer may attend where necessary if they have experience of the MAPPAs process and delegated authority to allocate police resources at the appropriate level.

13a.9 All registered sexual offenders should be allocated a suitably trained offender manager from the police and a named officer from the police should also be identified for all violent and other dangerous offenders who are subject to actively co-ordinated management. These individuals should attend all MAPPAs meetings about the offenders they manage or, if not available, agree with their line manager who will attend on their behalf.

13a.10 There should also be appropriate police representation from specialist units, e.g. child protection, domestic abuse, or an officer from the Local Policing Unit to provide local intelligence where the offender manager is not from one of these units.

## **National Probation Service**

13a.11 The NPS must attend all level 2 and 3 meetings. The grade required to attend MAPPAs meetings should be high enough to allocate NPS resources. This will usually be a middle manager (**Senior Probation Officer** or equivalent) from the NPS for level 2 and the Head of **Local Delivery Unit** (or equivalent senior manager) for level 3. A Senior Operational Support Manager may attend level 3 meetings where necessary if they have experience of the MAPPAs process and delegated authority to allocate additional NPS resources.

13a.12 In addition, the offender manager responsible for the case must attend where the NPS manages the case or, if not available, agree with his or her line manager who will attend instead.

13a.13 Victim Liaison Officers must attend or provide a report where they are actively engaged with the victim or his or her family under the statutory Victim Contact Service. Other probation staff who are actively engaged with the offender and who can assist in the risk assessment and management should also attend, for example a member of staff from an Approved Premises.

## **Community Rehabilitation Company**

13a.14 Where a case has recently been escalated from a CRC to the NPS the CRC offender manager who previously managed the case should attend.

## **The Prison Service**

13a.15 A MAPPAs F must be provided where the offender is in custody, whether or not a representative from the Prison Service attends the meeting. It is the responsibility of the establishment that holds the offender's records to provide the MAPPAs F. The request for the MAPPAs F and related MAPPAs correspondence should be sent to the prison via the prison secure functional mailbox. The prison should consider whether representation from the Prison Service would be appropriate at the MAPPAs meeting, either in person or via video or telephone conference, especially in complex or MAPPAs level 3 cases. The MAPPAs meeting invitation should be sent to the prison at the earliest opportunity and in any event no later than 14 days in advance of the meeting, unless it is an emergency meeting.

## **Young Offenders**

13a.16 Representatives of Youth Offending Services (YOS) must attend where the offender is a young person. Children's Services should also attend so that the meeting can ensure that the meeting appropriately safeguards and promotes the welfare of the offender as a child as well as managing the risk of harm the young offender presents to others. These individuals should have sufficient authority to make decisions and commitments on behalf of their agencies.

## **Mental Health Services**

13a.17 Each borough or MAPPA area should have a core mental health services representative to meet the general duty to co-operate. This person should have the authority to commit resources on behalf of their agency and possess relevant experience of risk and needs assessments. There should be continuity of personnel in order to sustain good working relationships. The core member may or may not have direct knowledge of the MAPPA case under discussion. Therefore, a representative of the patient's clinical team should also be invited to attend MAPPA meetings to contribute on individual cases. Attendance in person is the expectation, particularly when mental health services are the lead agency, but if that is not possible video/telephone conferencing should be considered. Mental Health Trusts and University Health Boards (Wales) should prioritise attendance at MAPPA meetings where they are the lead agency and in cases involving transferred prisoners (see 26.71-26.72).

## **Children's Services**

13a.18 It is good practice for each borough or MAPPA area to have a core children's services representative with the relevant experience and authority to commit resources. The lead social worker for the child (or family) should attend where there is a risk to an identified child. Where the lead social worker does not have the authority to make decisions and commitments on behalf of the local authority and in the absence of a core representative able to do so, the lead social worker's manager should attend as well or instead.

## **Adult Social Care**

13a.19 It is good practice for each borough or MAPPA area to have a core adult social care representative with the relevant experience and authority to commit resources. The lead social worker for the adult (or family) at risk should attend, both where the offender poses a risk to a vulnerable adult and where the offender has been identified as an adult at risk. Where the lead social worker does not have the authority to make decisions and commitments on behalf of the local authority and in the absence of a core representative able to do so, the lead social worker's manager should attend as well or instead.

## **Other Agency**

13a.20 Representatives from all other DTC agencies that are involved with the offender should attend MAPPA meetings. These representatives should be in a position to make an active contribution to the discussion and of sufficient seniority to allocate the appropriate level of resources. DTC agencies may provide a core member and a representative who is familiar with the offender if appropriate.

13a.21 In very exceptional circumstances, Responsible Authority communications officers might need to attend MAPPA meetings to discuss important media handling issues. Normally, however, it will be enough for the relevant meeting attendee to brief them afterwards. The national MAPPA team should be informed whenever MoJ Press Office are involved in a case.

13a.22 Representatives from other organisations may attend part or all of a MAPPA meeting at the discretion of the meeting Chair. The meeting Chair will satisfy themselves that the organisation has appropriate data protection facilities and procedures before allowing a representative to attend the meeting.

13a.23 Where an action is agreed for an agency that is not at the meeting (e.g. where the prison has submitted a MAPPA F or a DTC has not been invited) the meeting Chair will identify someone at the meeting to communicate the action to the relevant agency, indicate who the agency should contact with a response and give timescales.

### **Representing Offenders' Views**

13a.24 Neither offenders nor their representatives are allowed to attend MAPPA meetings. The presence of an offender at a MAPPA meeting could significantly hinder the core business of sharing and analysing information objectively and making decisions. However, offenders' views on their risk management should actively be sought and fed in to the meeting by a written communication or via the offender manager or referring agency.

## **Planning MAPPA meetings**

13a.25 Invitations must be sent to the right people at the right agencies. The lead agency referrer should decide who is required at the MAPPA meeting, in conjunction with their line manager. The invitation letter should make clear that it is expected that all those invited will come to the meeting, having reviewed the information available to their agency on the offender, and should make clear the potential consequences of failing to share vital information. The invitation should usually be sent in enough time to allow the agencies to interrogate their systems for all appropriate information (i.e. at least 14 days before the meeting unless it is an emergency meeting).

13a.26 The person organising the meeting should ensure that an appropriate location is booked and that copies of the minutes are available. There should be enough copies for each attendee (except for those not invited to attend the whole meeting) but they must not be taken away (see Chapter 13b – MAPPA Meeting Minutes for further guidance on MAPPA meeting minutes). An appropriate location will be confidential, and will have disabled access, transport links, teleconferencing facilities, information about the availability of parking, and a waiting area. It is the SMB's responsibility to ensure meetings are administered properly.

## **Management of MAPPA meetings**

### **Standard - The SMB is confident that MAPPA meetings are managed effectively**

13a.27 The purpose of the meeting is for agencies to identify and assess risks and agree a risk management plan. To support this attendees must arrive at the meeting prepared and able to share information which:

- Is pertinent to undertaking a multi-agency risk assessment.
- Identifies the likelihood of re-offending.
- Identifies serious risk of harm issues and their imminence.
- Identifies protective factors.
- Supports victim safety planning

13a.28 It is important that MAPPA meetings are well organised and allow sufficient time to discuss the case properly. Although an area may decide to hold successive meetings on different cases, only core panel

members and those people who are required to discuss a particular offender should be present at the relevant meeting.

13a.29 The Chair should be trained and well-briefed, and should have copies of all the papers relevant to each case. A dedicated minute-taker should be identified beforehand to support the Chair.

13a.30 Chairing MAPPA meetings involves combining the roles of facilitator and leader. The task is to ensure that the business of the meeting (i.e. the identification of the risks and the production and appropriate review of the MAPPA RMP and associated actions) is conducted in an effective and efficient manner.

13a.31 The Chair should follow the meeting agenda as laid out in the MAPPA (or 4 Pillars) Document Set. Attendees at the MAPPA meeting should be provided with the original referral information (sections 2-6 and 9 of MAPPA B) on all occasions when the case is discussed. Additional information from other agencies will be provided at the meeting.

13a.32 Chairs must ensure that the following are covered:

- Confidentiality statement.
- Current assessment of risks (see Chapter 11 – Risk Assessment).
- Disclosure decision: every level 2 and 3 MAPPA meeting must consider whether disclosure of information to a third party should take place (see Chapter 10 – Disclosure).
- Risk Management Plan: including safety planning if there is an identified individual at risk (see Chapter 12 – Risk Management Plan). Every MAPPA action must be fully accounted for and the outcome incorporated into the minutes.
- Communication - media handling: where media interest is expected, the Chair will identify a police and a probation single point of contact (SPOC) to communicate with Press Office and the national MAPPA team.
- ViSOR record updating: the Chair will identify the ViSOR record owner and the person who will be responsible for reviewing any new or amended information that will need adding to the ViSOR record. The record should be updated as soon as possible and certainly within 3 working days of the minutes being agreed.
- Human Rights Act validation: the chair of the meeting should ensure that all present are satisfied that decisions taken at the meeting comply with the Human Rights Act 1998 (see Chapter 9 – Information-sharing and 12.26).
- The meeting must consider whether any of the nine protected characteristics set out in the Equality Act 2010 (i.e. age, disability, gender reassignment, marriage & civil partnership, pregnancy & maternity, race, religion or belief, sex, sexual orientation) applies to the offender; whether there are other diversity issues that may affect the offender or have a bearing upon the risks he or she presents to others; and how they can be managed.
- Issues for reporting to the SMB: if any concerns, issues or examples of best practice come out of the meeting, the Chair should ensure that these are communicated to the Chair of the SMB.
- Critical Public Protection Cases (CPPC): referral to CPPC must be considered for level 3 offenders (see Chapter 19 – Critical Public Protection Cases).

13a.33 A MAPPA review meeting date must be set (unless a decision has been taken to manage the case at level 1). Reviews for offenders managed in the community should be held at least every 16 weeks for level 2 cases and at least every 8 weeks for level 3 cases, in line with MAPPA KPIs.

13a.34 The appropriate level of MAPPA management should be considered at the end of every meeting. The appropriate level of management should be based on the added value provided by holding Level 2 and 3 meetings, not on the level of assessed risk. However, levels of management should not be reduced where

information is missing or where a key partner is not represented at the meeting. Where the management level is dropped or a category 3 case is removed from MAPPA, the rationale for the decision must be spelled out and recorded. (See 11.16 for more information on defensible decision making.) Equally, where a case is retained at level 2 or 3, the reasons for deciding on the particular level of management must be recorded.

13a.35 A case should always be re-referred if it warrants a higher level of MAPPA management because of changing circumstances. Where a category 3 case is taken out of MAPPA it is particularly important that the process for a further referral and which agency is responsible for it is agreed and recorded in the minutes.

13a.36 Detailed guidance for MAPPA meeting Chairs can be found at Annex C.

## **Professionals' Meeting**

13a.37 The lead agency (for Level 1 cases) or the MAPPA meeting (for Level 2 and 3 cases) may decide that a small group will be responsible for reviewing the RMP between meetings. The group will generally comprise three or four people who are actively engaged in working with the offender. It will always include the referrer, who will be responsible for co-ordinating and managing meetings, completing meeting notes, and returning them to the MAPPA Co-ordinator. Information shared at these meetings is shared under MAPPA but it is important to distinguish them from formal MAPPA meetings.

## **MAPPA management of sensitive information**

13a.38 There will be occasions when MAPPA meetings will need to consider and manage exceptionally sensitive information, e.g. in cases of terrorist offenders, high-profile offenders and offenders or victims under the management of the United Kingdom Protected Persons Scheme (UKPPS). Advice on managing these cases should be sought from [Al.Reid@noms.gsi.gov.uk](mailto:Al.Reid@noms.gsi.gov.uk).

13a.39 The MAPPA meeting Chair will need to ensure safe and secure management of any such information from and between partners. Consideration will need to be given to:

- Vetting levels of the MAPPA meeting Chair and partners for sharing and receiving information;
- The need for a pre-meeting, led by the MAPPA meeting chair, to discuss the nature of the information and agree whether and how it should be shared in the full meeting, if needs be by way of an agreed form of words;
- The need to restrict membership of a MAPPA meeting to facilitate the secure management of sensitive information, while still ensuring effective risk management;
- The recording of minutes, decisions and actions, and how those will be shared.

13.a40 ViSOR records for these offenders should be Restricted Access

13a.41 Where there is a decision to conduct the meeting outside of standard arrangements, an explanation should be provided and reasons recorded within the minutes of the meeting.

# 13b. MAPPA Minutes

## Introduction

13b.1 Accurate records of MAPPA meetings must be kept. MAPPA B should be used for this purpose (or the relevant 4 Pillars document). The use of any other document or alterations to the MAPPA B must be approved by the SMB and a clear rationale for departing from the statutory guidance recorded. MAPPA minutes must be written in a way that allows those not present at the meeting to understand the nature of the discussion and the issues involved in the case without any prior knowledge of the offender. The records must also demonstrate defensible decision-making (see 11.16 for more information on defensible decision making<sup>2</sup>).

13b.2 The minutes of a level 2 MAPPA meeting should be agreed for distribution within 10 working days and minutes of a level 3 MAPPA meeting within 5 working days. If attendees wish to ask for amendments and corrections to be made they must notify the Chair promptly. The Chair should also confirm that the minutes are correct at the next meeting. The minutes must be stored on ViSOR. Any amendments and corrections should be approved by the Chair before the ViSOR record is updated. The minutes should be printed only in a secure environment and never removed from that environment (unless absolutely necessary e.g. the location of the meeting does not have printing facilities or secure waste disposal). Where MAPPA minutes are removed, appropriate data security measures must be taken. MAPPA meeting minutes must never be taken to or from meetings by attendees. The MAPPA meeting administrator should provide numbered copies of the minutes for attendees at the meeting and should collect them in again at the end of the meeting.

13b.3 MAPPA meeting minutes will normally be sent via secure email to those who attended the meeting and to those who were invited but did not attend. Minutes should be sent to prisons where they have sent a MAPPA F but not attended. Any decision not to send the minutes to any of these individuals or to send them to any other party must be made by the meeting Chair and recorded in the minutes. Where another person who is not party to the Information Sharing Agreement (ISA) attends part of the meeting only, they may be sent agreed action points rather than the full minutes. The minutes will be provided to NOMS as a matter of routine in relation to Critical Public Protection Cases and terrorist offenders, and in other cases if requested by the national MAPPA Team. An attendee receiving the minutes is entitled to share them within his or her own agency, if necessary. However, they should not be shared widely within the agency and must not be shared with anyone outside the agency without the agreement of the MAPPA meeting Chair. MAPPA minutes may not be included in court bundles unless agreed by the MAPPA meeting Chair. Any breach of these instructions will be treated as a data loss incident and may be referred to the Information Commissioner's Office (ICO) for investigation.

13b.4 Where an organisation retains MAPPA meeting minutes outside ViSOR, they must be held under the organisation's own data protection procedures, including those on the retention and destruction of records. For example, MAPPA minutes should not be stored on nDelius. Given the highly confidential nature of the minutes, all agencies should ask themselves whether they actually need to keep a copy of the minutes in their files, or whether a record of the actions for their agency and a reference to the fact that the minutes are held on ViSOR would be sufficient.

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<sup>2</sup> Kemshall, H. (1998) Defensible Decisions for Risk: Or It's the Doers Wot Get the Blame. *Probation Journal*, 45 (2) 67-

72, <http://prb.sagepub.com/content/45/2/67.abstract>

Kemshall, H. (2009) Working with sex offenders in a climate of public blame and anxiety: How to make defensible decisions for risk. *Journal of Sexual Aggression*, 15 (3) 331-343;

<http://www.tandfonline.com/doi/abs/10.1080/13552600903031195>

## Requests for MAPPA minutes

### Standard - All agencies have a procedure for dealing with requests for the disclosure of MAPPA meeting minutes

13b.5 In working with offenders, victims, and other members of the public, all agencies have agreed boundaries of confidentiality. The information contained in the MAPPA meeting minutes is distributed under a shared understanding that the meeting is called in circumstances where it is felt that the risk presented by the offender is so great that issues of public or individual safety outweigh those rights of confidentiality.

13b.6 MAPPA is not an official body in itself but is a set of arrangements that exist to assess and manage the risks posed by offenders. As a result, MAPPA cannot own the data contained in the MAPPA meeting minutes. Instead, all agencies that retain copies of the MAPPA meeting minutes act as joint data controllers under the Data Protection Act 1998 (DPA). This means that any of them may be required to respond to requests for MAPPA meeting minutes under DPA or the Freedom of Information Act 2000 (FOIA).

13b.7 Requests for copies of MAPPA meeting minutes can come from a number of sources, including:

- Courts (including family and coroners' courts, and tribunals).
- The Parole Board.
- The Independent Police Complaints Commission.
- The Crown Prosecution Service.
- Other branches of RA and DTC agencies.
- Offenders (subject access requests).
- Other third parties.

13b.8 Whenever an agency receives a request for MAPPA meeting minutes they must inform the MAPPA Co-ordinator. The MAPPA Co-ordinator will keep a record of all such requests in order to ensure that they are dealt with appropriately and to identify where any new information sharing protocols are required. A copy of the final reply to the request should also be sent to the MAPPA Co-ordinator. The MAPPA Co-ordinator must have a retention and destruction schedule for these requests and responses in line with the data retention policy of the system used to store the data.

## Third Party Requests

13b.9 Most, if not all of the information provided at MAPPA meetings is derived from information stored on the databases of individual agencies. Providing such information to a third party (i.e. anyone whose personal data is not contained in the MAPPA meeting minutes and who does not represent anyone whose personal data is contained therein) is the responsibility of the agency that provided the data to the meeting. This will be done in line with that agency's data protection policies and processes.

13b.10 When an official request<sup>3</sup> is made for a copy of the MAPPA minutes the person receiving the request should ask for clarification to determine exactly what information is being sought. As time is often short, it is essential that this is done promptly and, wherever possible, in writing. This will ensure that there is an audit trail. If a specific document from the meeting is being sought, the request should be directed to the agency that provided it. For example, requests for NPS risk assessments should be directed to the NPS, requests for prison adjudications should be directed to the Prison Service, and requests for mental health assessments should be directed to mental health services. But if the information required can only be

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<sup>3</sup> Request received from one of the MAPPA Reasonable Authorities, DTC agencies, Courts, Parole Board, the Independent Police Complaints Commission or the Crown Prosecution Service.

provided by the contents of the MAPPA meeting minutes, the request should be sent to either the MAPPA Co-ordinator or to the Chair of the most recent MAPPA meeting for reply (this should be decided locally and remain consistent). Where the response is drafted by the MAPPA Co-ordinator, decisions on what information to include should be made by the meeting Chair.

13b.11 The Chair will consider what information it is lawful and appropriate to share. There must be a lawful basis for sharing information and it must be necessary and proportionate to do so. Full guidance on sharing information lawfully is provided in Chapter 9 – Information-sharing and must always be complied with. Information from the MAPPA minutes should not be shared without the involvement of the agency that originally provided it. MAPPA minutes should be shared using an executive summary unless it is absolutely necessary to provide the full minutes. Any reports referencing the MAPPA minutes must be cleared with the MAPPA meeting chair prior to publication to ensure that no sensitive material is disclosed.

13b.12 Courts, tribunals and the Parole Board should be offered executive summaries in the first instance. If this offer is rejected and provision of the full minutes is ordered, they must be provided unless an agreement can be reached to provide a summary. For example, the full minutes and executive summary could be shown to a judge in chambers to demonstrate that the executive summary contains all of the relevant information and then the executive summary could be used in proceedings. If full minutes are provided and there are concerns about the safety of an individual being compromised as a result of the information being shared within court or parole proceedings, this should be made clear in a covering letter.

13b.13 Requests from chairs of reviews (domestic homicide reviews, child serious case reviews etc.) should clarify what they need to know that is not, or could not be, provided by information from individual agencies. If the information required is only held in MAPPA meeting minutes, an executive summary is usually the most appropriate way to respond.

13b.14 It may be necessary and proportionate for the Independent Police Complaints Commission to have a full copy of the minutes where they are conducting an investigation into police management of a MAPPA case. There should be a clear agreement for each case about how sensitive and third-party data will be protected in such circumstances. All agencies whose information is contained in the minutes should have the opportunity to contribute to that agreement.

13b.15 Examples of MAPPA minutes may be provided to DTC agency inspectorates (such as Ofsted) as long as it is clear how each set of minutes will contribute to the published aims and objectives of the inspection. A written agreement should be produced before any minutes are shared, setting out how sensitive information will be protected and data protection requirements complied with. Any personal data should be redacted. All agencies whose information is contained in the minutes should be involved in this process.

13b.16 MAPPA minutes should not be shared widely within RA and DTC agencies. The routine sharing of the MAPPA minutes within an agency should be agreed by the SMB. Any further distribution must be agreed individually with the MAPPA meeting Chair.

13b.17 Requests for information from other third parties (such as relatives or journalists) should be dealt with under the Freedom of Information Act (FOIA).

## **Freedom of Information**

13b.18 A Freedom of Information (FOI) request relating to MAPPA meeting minutes must be dealt with according to the policies and procedures of the agency that receives the request, rather than those of the lead agency or MAPPA meeting Chair. The SMB should determine locally which agency's procedures

should be followed when a FOI request is received by the MAPPA Co-ordinator/Unit. FOI requests must be considered within the timescales set out in the FOIA.

13b.19 Although any third party may request information under FOIA, the MAPPA meeting minutes will include personal data and sensitive personal data, confidential third-party data (including that relating to victims), and operationally sensitive information that will be exempt from being released. Each case must be considered on its merits and the information requested must be fully considered in line with FOIA guidance before any response is issued. However, it will usually be necessary to Neither Confirm Nor Deny (NCND) that the information is held (FOIA s40(5)) for any request where confirming that a meeting took place would confirm that the offender was being managed at MAPPA Level 2 or 3. This will apply in nearly all cases.

13b.20 Even where a NCND response is not appropriate, one or more of the following exemptions in the FOIA is likely to apply to some or all of the information contained therein:

- Investigations and proceedings by public authorities (section 30(1)(b)).
- Law enforcement (section 31).
- Health and safety (section 38).
- Personal information (section 40).
- Information provided in confidence (section 41).

13b.21 There may also be restrictions under the DPA on disclosing this information to others. For further advice on FOI requests please contact the national MAPPA team.

## **Subject Access Requests**

13b.22 Good practice includes discussing with offenders their risk assessment and risk management plan and explaining how the MAPPA arrangements work to support the management of risk. Where offenders ask, they are entitled to know what is written down about them, albeit with some caveats. This applies to MAPPA minutes in the same way as it does to case records.

13b.23 Any request for a copy of the MAPPA meeting minutes from the offender (or possibly from the victim if his or her personal data is contained within the MAPPA meeting minutes) must be dealt with as a SAR in accordance with the DPA, even if no specific reference is made to DPA or SAR in their correspondence. This includes requests made on behalf of an offender by his or her solicitor or other representative. An executive summary of the MAPPA meeting minutes meets the requirements of a SAR under DPA and should be provided in response to such a request. However, if an offender specifically requests information under FOIA then clarification should be sought as to whether they want the information under SAR. If they insist on a response under FOIA then a NCND response should be sent as an individual's personal data is exempt under FOIA, even where the individual concerned asks for it.

13b.24 The DPA contains a number of exemptions to protect sensitive data. These must only be applied on a case by case basis and cannot be used as a blanket ban on the disclosure of MAPPA meeting minutes. The most likely exemptions to be engaged in relation to MAPPA minutes are:

- s29(1)a the detection or prevention of crime
- s7(4) information relating to another identifiable individual.

13b.25 In applying these exemptions, the potential impact on the data subject, the public and other individuals can be taken into account. Disclosure can be refused where it would be likely to prejudice the prevention or detection of crime, even where there is no firm suggestion that the offender is involved in any criminal activity. The degree of risk must be such that there "may very well" be prejudice, even if the risk

falls short of being more probable than not. For further advice on this please consult the relevant agency's data access compliance colleagues.

13b.26 A Subject Access Request (SAR) relating to MAPPA meeting minutes must be considered within the timescales set out in data protection legislation and must also be dealt with according to the policies and procedures of the agency that receives it. If a request is received by NPS or Prison Service staff it should be referred to the Ministry of Justice Data Access and Compliance Unit (DACU) at Branston immediately, in line with the process for dealing with all SARs. DACU Branston will then send it to the relevant MAPPA Co-ordinator, who may assign it to the relevant meeting Chair. The Co-ordinator or meeting Chair will be responsible for producing the executive summary and returning it to DACU Branston within 30 days of receipt. If the MAPPA Co-ordinator produces the executive summary, it must be approved by the meeting Chair; if the Chair produces it, it must be copied to the MAPPA Co-ordinator. DACU Branston will then send the executive summary to the data subject along with a covering letter explaining what has been included/excluded and why. The covering letter will be completed by DACU Branston but meetings Chairs (or MAPPA Co-ordinators) should tell them about the exemptions engaged in completing the summary. If the request was made to NPS, the Chair (or MAPPA Co-ordinator) producing the executive summary should follow the process outlined above even if they are employed by the police. Equally if a request is made to the Police, the Chair (or MAPPA Co-ordinator) will follow the police process even if they are employed by probation. This applies to all agencies, including Mental Health Services and Youth Offending Services. The underlying principle is that it is the agency who receives the SAR whose procedures must be followed and not the agency who employs the Chair of the meeting (or MAPPA Co-ordinator).

## **Executive Summary**

13b.27 An executive summary for an offender should include:

- Risk assessment outcomes (eg OASys, ARMS, RM2000).
- Reason for referral.
- Date of the meeting and next meeting.
- Attendance and apologies. This should be recorded by role or organisation rather than individuals' names.
- A summary of the meeting, including updates, discussions and decisions.
- An outline of the risk assessment summary and risk management plan, including the nature of the risk, factors likely to raise or reduce risk, any actions put in place to manage the identified risk, whether these actions were completed, and reasons for any change in MAPPA level.
- Any considerations in relation to disclosure.
- Any other actions.

13b.28 To ensure the executive summary is accurate and all agencies agree to the release of the information contained within it, the MAPPA meeting Chair (or MAPPA Co-ordinator) should circulate the draft to those who attended the meeting, or who provided reports or contributed information that was recorded in the minutes. This circulation should be copied to the MAPPA Co-ordinator. These agencies cannot prevent information from being released but they may be aware of circumstances that mean an exemption is engaged. The final decision on what information is released lies with the meeting Chair. Once agreed the completed executive summary should be stored with the full MAPPA minutes and be subject to the same controls. All agencies should follow their own data protection and retention policies in relation to executive summaries stored on their systems or in their files.

## **Information for court reports**

13b.29 Reports for recall, courts or the Parole Board must not quote a MAPPA meeting as a source of information. Where a specific piece of information that has been shared at a level 2 or 3 MAPPA meeting is necessary, the report writer must first consult the agency that provided it to seek approval to use the information in a report. The information must be attributed to the agency and the content agreed with the agency representative who attended the MAPPA meeting. Where it is known that the report is required, it is helpful for this to be agreed at the meeting. The rationale for any recommendations in reports need to be clear. Lead agencies need to own decisions taken at MAPPA meetings (see 12.6).

13b.30 Where an offender is being, or will be, actively managed at MAPPA level 2 or 3 in the community, the report writer may wish to explain this in the report. It is essential, where MAPPA management is referred to, that it is properly explained and its contribution to risk management is set out.

## 14. MAPPA Document Set

**Standard: The SMB should ensure that the Responsible Authority and Duty to Cooperate (“DTC”) agencies are using all of the documents outlined in this section**

### Introduction

14.1 This section describes the MAPPA Document Set as recommended by this Guidance, the purpose of each MAPPA document, and a brief description of its use. Any deviation from the recommended documents should be agreed by the Strategic Management Board (“SMB”).

14.2 The revised MAPPA Document Set has been developed following extensive consultation nationally. The documents have been introduced in order to establish national consistency, particularly with regard to referral and minute-taking for level 2 and 3 cases.

### Document protective markings

**Standard: The SMB is satisfied that information is shared and stored according to the Government Protective Marking Scheme (“GPMS”)**

14.3 The SMB must have in place Information Sharing Protocols which address how information can be shared with all Responsible Authority and DTC agencies. These Protocols must demonstrate that the agencies understand their responsibilities regarding the confidential handling of such information and that they are able to meet the requirements.

14.4 Once completed, the MAPPA documents are RESTRICTED. However, when information is entered on ViSOR, it becomes CONFIDENTIAL (although only in respect of its entry on ViSOR – in other respects it remains RESTRICTED), because the whole of the ViSOR system is CONFIDENTIAL.

14.5 Minutes of MAPP meetings will be sent to those who attended the meeting. They will be marked RESTRICTED and must be handled as such by the receiving agency.

14.6 Where an agency or individual is invited to a MAPP meeting who is not a signatory to the SMB Information Sharing Protocols, the MAPPA Co-ordinator should ensure that the MAPP meeting Chair is aware of this. The MAPP meeting Chair must ensure that the individual is aware of the restrictions and duties in relation to information being shared in the MAPP meetings and confirm that he or she is willing and able to abide by them. If unable to do this, the individual should not be allowed to attend the meeting, and arrangements should be made to allow appropriate information to be disclosed to him or her following the meeting.

### The Document Set

14.7 The MAPPA Co-ordinator will ensure that the document set is publicised in his or her area, particularly to all referring agencies, offender managers, case managers and DTC agencies, together with the instructions for completing the MAPPA A and the MAPPA B.

### **MAPPA A. Referral to a level 2 or 3 meeting**

14.8 The greatest proportion of referrals for level 2 and 3 MAPPA are made by Probation Trusts, and it is intended that an electronic version of the MAPPA A should be available in time. The MAPPA A should be used by all referring agencies.

14.9 The MAPPA A should contain the details of any additional invitees to the MAPP meeting, in order for the Co-ordinator to arrange those invitations. Invitations should be sent at least two weeks in advance of the meeting, unless a meeting is called as a matter of urgency.

### **MAPPA B. Minutes of level 2 and 3 MAPP meetings**

14.10 By completing the MAPPA A electronically, MAPPA Co-ordination Units will also be provided with an electronic copy of the MAPPA B, with specific sections automatically populated from the MAPPA A. The MAPPA B contains significant and appropriate information from the lead agency including the lead agency's original risk assessment and Risk Management Plan ("RMP"). This is to enable the agencies involved in MAPPA to have sufficient information in order for them to contribute to the development of the MAPPA RMP, and to review and update the MAPPA RMP at MAPP meetings. Information from the MAPPA B should be used to update the ViSOR record.

### **MAPPA C. Aide-mémoire for the MAPP meeting chair**

14.11 By following the aide-mémoire, the Chair will be able to manage the meeting effectively and ensure that all necessary information is recorded.

### **MAPPA D. Confidentiality Statement**

14.12 The Confidentiality Statement must be either read or displayed at each MAPP meeting. Where this is not read, the Chair must draw attention to it at the start of the meeting.

### **MAPPA E. Record of agencies attending the meeting**

14.13 This is the record of the agencies attending the MAPP meeting. By signing the attendance sheet, each agency is agreeing to abide by the Confidentiality Statement.

### **MAPPA F. Prison service report**

14.14 Where required, the MAPPA Co-ordinator will ensure that the Prison Service is requested to provide the MAPPA F contribution to the level 2 and 3 MAPP meeting. A Prison Service representative should also attend in person or by video or telephone conferencing, where possible.

### **MAPPA G. Transfer**

14.15 This should be completed once the lead agency transfer policy has been followed, and sent to the local MAPPA Co-ordinator. This will ensure that the ViSOR record is transferred, and a MAPP meeting can be agreed within the required timescale.

### **MAPPA H. YOT Notification**

14.16 The YOT should send the notification MAPPA H for all young offenders who are liable to MAPPA management to the relevant MAPPA Co-ordinator. Information regarding when this should be provided is described in the Notification chapter of the Guidance (chapter 6).

### **MAPPA I. Mental Health Notification**

14.17 The mental health service should send the notification MAPPA I for all patients who are liable to MAPPA management to the relevant MAPPA Co-ordinator. Information regarding when this should be provided is described in the Notification chapter of the Guidance (chapter 6).

## **MAPPA J. Notification to Jobcentre Plus of offenders who are liable to MAPPA management**

14.18 Probation and police offender managers should send MAPPA J to Jobcentre Plus to inform them of any restrictions placed upon the offender with regard to employment or training. See chapter 3 on Duty to Co-operate agencies for information.

## **MAPPA K. Audit of Level 2 and 3 cases**

14.19 Areas may wish to use MAPPA K to audit cases managed at level 2 or 3 in order to provide information to the SMB. *The scoring for this document is not based on research and is for guidance only.*

## **MAPPA L. Audit of Level 2 and 3 meetings**

14.20 Areas may wish to use MAPPA L to audit MAPPA level 2 or 3 meetings in order to provide information to the SMB.

## **MAPPA M. Minute Executive Summary**

14.21 The Minute Executive Summary is completed and provided by the MAPPA Co-ordinator in reply to a request for MAPPA minutes as described in chapter 10 on Disclosure.

## **MAPPA N. Notification of MAPPA Serious Further Offence**

14.22 The MAPPA N, notification of a MAPPA Serious Further Offence, should be sent by the Offender Manager to the MAPPA Co-ordinator within 5 working days of the offender being charged.

## **MAPPA O. MAPPA Serious Case Review report**

14.23 The MAPPA O should be used as a template for completing the review of a serious further offence.

## **MAPPA P. Notification to Housing Benefit SPOC**

14.24 The lead agency should send MAPPA P to the Single Point of Contact for housing benefit in the area. This is in relation to MAPPA offenders at level 2 or 3 who are aged 25 to 34 and are therefore exempt from the shared accommodation rate.

## **Information required if MAPPA A and MAPPA B are not used**

14.25 When the SMB has decided that the MAPPA A (Referral) and MAPPA B (Minutes) are not going to be used in that area, the documents used instead must contain the following information.

### **Referral**

- The identification of one MAPPA category
- Offender information
  - Last name, First name
  - Date of birth
  - Aliases including nicknames
  - Prison and Prison number
  - Last known address before imprisonment
  - Proposed release address
  - Current address if in the community
  - Gender
  - Ethnicity
  - PNC ID
  - ViSOR reference (must be completed for all sexual offenders)
  - Lead agency's unique identifier

- Conviction / caution information
  - Index offence / relevant caution
  - Date of conviction / caution
  - Sentence
  - Brief details of offences
- Key dates
  - The earliest release date
  - The start and end date of a community order
- Lead Agency's Risk Assessment
  - Scores from tools used
  - Lead Agency's risk assessment
  - Summary of the Risk Management Plan
  - Reason for the referral, and the added value of MAPPA management at level 2 or 3
- Victim Concerns
  - Victim of the index offence and any other potential victims
  - MARAC involvement
- Safeguarding
  - Identify any child protection concerns
  - Identify any vulnerable adult concerns
- Referring Agency
  - Identification of the person referring
  - Management sign-off when required by that agency
- Additional invitees to the MAPP meeting

## Minutes

- The identification of one MAPPA category
- Offender information
  - Last name, First name
  - Date of birth
  - Aliases including nicknames
  - Prison and Prison number
  - Last known address before imprisonment
  - Proposed release address
  - Current address if in the community
  - Gender
  - Ethnicity
  - PNC ID
  - ViSOR reference (must be completed for all sexual offenders)
  - Lead agency's unique identifier
- Conviction / caution information
  - Index offence / relevant caution
  - Date of conviction / caution
  - Sentence
  - Brief details of offences
- Key dates
  - The earliest release date
  - The start and end date of a community order
- Lead Agency's Risk Assessment
  - Scores from tools used
  - Lead Agency's risk assessment
  - Summary of Lead Agency's risk management plan

- Victim Concerns
  - Victim of the index offence and any other potential victims
  - MARAC involvement
- Safeguarding
  - Identify any child protection concerns
  - Identify any vulnerable adult concerns
- Record of MAPP meeting actions (completed, if not completed then give reason)
- Information from agencies
- MAPP agreed risk assessment
- MAPP agreed Risk Management Plan
- MAPP revision of risk of serious harm posed
- Disclosure
  - Is a disclosure going to be made. Yes, give details / No, give details
  - How will this be done and the date
  - Press and Media Handling
- Press and media handling
  - Record details
- MAPP meeting actions
  - Agency and specific deadline
- Conclusion
  - What level of MAPP management is recommended in this case and why
- Human Rights Validation.

# 15. Custody

## Introduction

15.1 The Prison Service has a critical role to play in the management of MAPPA offenders. Prison Service staff will have recorded a wealth of information which will be used to inform the plans for the prisoner's release. These relate to the offender's behaviour in custody including his or her engagement in accredited programmes and other activities, and any contacts made with others either in custody or the community.

## Identification of MAPPA offenders

### Standard – MAPPA offenders should be identified on entering custody

15.2 MAPPA offenders should be identified during reception procedures using the index offence or previous sexual convictions to inform decision-making. The appropriate alerts should be placed on the Prison Service case management system, P-NOMIS, or E-Asset.

## Information-sharing

### Standard – The prison will confirm release dates for determinate sentence prisoners subject to MAPPA no later than 8 months before release

15.3 Prison staff should ensure that they provide early information to the Offender Manager about release dates. This will require staff involved in sentence calculation to anticipate, as far as is practicable, any last-minute changes which could affect release plans. This information will be entered on the relevant ViSOR record, where one exists, by prison staff and will be confirmed with the Offender Manager.

15.4 Where MAPPA level 2 and 3 offenders are to be released under emergency measures or following a judicial review, the Prison Service will confirm the release information as a matter of urgency.

15.5 Although sentence calculations are completed shortly after sentence, the initial release dates may be adjusted in certain circumstances such as:

- The Award or restoration of days added to a sentence by an Independent Adjudicator, Senior District Judge or deputy (refer to PSO 2000 Adjudications) as a disciplinary award.
- The deduction of days spent on remand by offenders before they were sentenced.
- The addition of the days an offender has spent unlawfully at large, after recall, to produce a notional Licence Expiry Date.
- The imposition of a further sentence.
- Variation of the sentence following appeal.

15.6 Prison Governors must ensure that the release dates are calculated according to the relevant legislation, and they have no discretion, but the change in release date by just one day can seriously undermine the release plans. To minimise the likelihood of last-minute changes in release dates, it is

essential that the Custody or Discipline Office or OMU within prison establishments ensure that all relevant factors have been taken into account at the point when the sentence is first calculated, and that this is checked and confirmed whenever a prisoner moves establishment. The Offender Manager must be informed at the earliest possible opportunity about any changes to the offender's release date.

15.7 For indeterminate sentence prisoners, the Offender Manager will already be informed in week 26 of the potential release date under the existing Generic Parole Process set out in PSO 6010.

**Standard – The level at which a MAPPA offender is being managed must be communicated to the prison at least 6 months before release**

15.8 Setting the MAPPA level of management is not the responsibility of the Prison Service. Once information about the level of management is received from the lead agency, the prison should record this on P-NOMIS.

15.9 The process of setting the MAPPA level should take place **at least 6 months before release**. For determinate sentences, this is 6 months before the release date. For those eligible for parole it will be set at least 6 months before the parole eligibility release date. There may be some cases where the process needs to start earlier due to the complexity and seriousness of the case or the shortness of the custodial part of the sentence left to serve before early release is considered.

15.10 When a MAPPA offender is recalled to prison, his or her MAPPA management level must be reviewed before release.

**MAPP meetings: attendance and reports**

**Standard – The role of the Interdepartmental Risk Management Team informs the management of high risk of harm offenders**

15.11 The Interdepartmental Risk Management Team ("IRMT") has the responsibility within the prison to monitor those offenders who present the highest level of risk of serious harm. Although the Team cannot assign MAPPA levels, its work will support MAPPA Level 2 and 3 meetings and make a valuable contribution to risk assessment, risk management plans and sentence planning.

15.12 It is important that the prison ensures that the work of the IRMT is directly linked to the Prison Service Offender Management Units and, therefore, also linked to the Offender Manager. The Offender Manager should be invited to the meeting and provided with minutes of the IRMT meeting whether or not he or she attends. The Offender Manager should be informed of any behaviours of concern, changes to the level of risk of serious harm, or a significant change in the offender's personal life, such as the end of a significant relationship.

**Standard – Timely MAPPA invitations should be sent to the functional mailbox of the prison**

15.13 As part of the Responsible Authority, the Prison Service should be invited at the earliest opportunity to all level 2 and 3 MAPP meetings for all relevant prisoners. Invitations should be sent in a timely manner, allowing sufficient time for the different departments within a prison to contribute effectively to the meeting.

15.14 The prison should receive an invitation no later than 14 days in advance of the MAPP meeting.

15.15 Most prisons operate secure functional mailbox addresses. MAPPA invitations and related correspondence should be sent to the functional mailbox and not to individual prison personnel. It is the responsibility of the prison to ensure that the inbox is checked daily. The Offender Management and Public Protection Group provides MAPPA Co-ordinators and SMB Chairs with a quarterly database of all functional mailbox addresses for prisons across England and Wales.

15.16 The IRMT should identify the most appropriate person from the prison to attend a MAPP meeting when invited. The representative must be a balance of someone with the right knowledge of the offender and someone who has the authority to make decisions. This should be considered for all MAPP meetings and a decision made on a case-by-case basis. Due to geographical and functional differences it may not always be possible for a prison representative to attend a MAPP meeting. Alternatives to attendance such as video link and telephone conferencing should be explored where possible.

**Standard – The Prison Service should provide a report (MAPPA F) to all relevant MAPPA level 2 and 3 meetings**

15.17 An intelligence report in the form of MAPPA F should be provided for consideration at all relevant level 2 and 3 meetings. The report should be completed in line with the attached guidance found with the report template. A contribution via MAPPA F should always be made at the MAPP meeting whether or not the prison representative attends.

15.18 The above contribution for level 2 and 3 meetings does not restrict the Prison Service in exchanging information for level 1 offenders.

15.19 If a prison representative is unable to attend a level 2 or 3 MAPP meeting, where an action has been set for his or her prison, then a designated person at the meeting will be identified to take forward the action with the Responsible Authority.

15.20 Where the actions are set regarding the interception of an offender's mail and pin phone account, or an action restricting social visits, then a designated person at the meeting will be identified to make this request in writing. The designated person should be of an appropriately senior grade and responsibility to make such a request. The request should explain clearly why the action required from the prison is proportionate and necessary to manage the risk of harm the offender poses.

15.21 The minutes should be accessible to the prison through ViSOR and can be used by the prison as an audit trail. The MAPPA administration should send an email to the secure functional mailbox of the prison indicating that the MAPPA minutes are now available on ViSOR. The MAPPA minutes should be available within 5 days for a level 3 meeting and within 10 days for a level 2 meeting.

## **Release on Temporary Licence / Move to open conditions / Unexpected release**

**Standard – Where the MAPPA management level has been set, the Offender Manager should be consulted whenever such offenders are assessed for ROTL or are assessed as suitable for open conditions**

15.22 The risk of serious harm assessment in OASys is one of the determining factors in operational decisions to grant Release on Temporary Licence (“ROTL”) or re-categorise an offender as suitable for open conditions. Such decisions should not depend on whether a MAPPA level has been set but, where it has been set, the assigned level should be a contributing factor in the decision-making process with appropriate consultation with the Offender Manager. The final decision for granting ROTL or re-categorisation lies with the Prison Service. A MAPP meeting should not be held just for the purpose of deciding whether or not ROTL should be granted. Following consultation with the Offender Manager, it is best practice for the Prison Service to enter details on ViSOR showing that an offender has been released on ROTL. Where this is on a regular basis for work, training or other such activity, the entry should show which days and the times that the offender is not within the prison establishment. Where the offender is a sexual offender, the local police should be notified.

15.23 If an offender has been assessed as requiring management at MAPPA level 2 or 3 when he or she is released into the community from prison, the Prison Service senior management in consultation with the Offender Manager must be satisfied in advance that there is not a risk of serious harm to the public. These discussions will also include temporary licence conditions. The final decision, however, will rest with the Prison Governor / Director.

**Standard – The Prison Service must ensure that the Offender Manager is aware of the unexpected release of an offender**

15.24 It is not often that high risk of serious harm offenders are unexpectedly released early. It does occasionally happen, often as a result of a decision by an appeal court.

15.25 Although it is not possible to predict the outcome of an appeal hearing, it is essential that the Offender Manager is made aware when the permission to appeal has been granted and when the appeal hearing will take place.

15.26 Where high risk of serious harm offenders have been released as a consequence of judicial review proceedings, the Offender Manager must be notified immediately in order to review the offender’s MAPPA status and put arrangements in place to manage his or her release.

# 16. Recall

## Introduction

16.1 The Public Protection Casework Section (“PPCS”) in the Offender Management and Public Protection Group deals with all pre- and post-release NOMS casework in respect of the release and recall of prisoners, including:

- Parole reviews of all indeterminate sentence prisoners (life sentence prisoners, and those subject to imprisonment for public protection – IPP).
- Parole reviews of determinate sentence prisoners with sentences of 15 years and over.
- Early release of prisoners on compassionate grounds.
- Recall of all determinate and indeterminate sentence prisoners.
- Recall of prisoners released on to Home Detention Curfew and End of Custody Licence.
- Representing the Secretary of State at Parole Board oral hearings.
- Operational policy and performance in respect of the release and recall of prisoners.

16.2 The pre-release teams prepare the skeleton dossiers for the review and release of lifer and IPP cases and make decisions on Parole Board recommendations for a transfer to open prison conditions. They also co-ordinate lifer/IPP release arrangements in conjunction with partner agencies.

16.3 The post-release teams process recommendations for recall from the Probation Trust and take an executive decision to revoke an offender’s licence on behalf of the Secretary of State. They also process appeals against recall to the Parole Board.

16.4 A dedicated Public Protection Advocacy team is responsible for representing the Secretary of State and the views of victims at Parole Board oral hearings.

16.5 The Policy, Performance and Training team provides operational policy advice, monitors the performance of internal and external agencies through the end-to-end recall target, and delivers to the Prison Service and the Probation Trust on the operation of the release, recall and review arrangements.

## Recall

16.6 Probation Circular 14/2008 sets out the provisions of the Criminal Justice and Immigration Act 2008 (“CJIA 2008”) in relation to recall. These apply to all recalls since 14 July 2008. The responsibility to request recall rests with the probation Offender Manager, who will make a request to PPCS on approval from their Senior Managers. PPCS will take the final decision to recall on behalf of the Secretary of State. As well as standard recall requests for determinate sentenced offenders, emergency recalls are available for offenders:

- Who are assessed under OASys as presenting a high or very high risk of serious harm to others, or
- Who are registered as a MAPPA level 3 or a Critical Public Protection Case, or
- Whose behaviour has deteriorated to such an extent that re-offending is assessed to be imminent.

16.7 Indeterminate sentence offenders must be recalled as an emergency recall where there is assessed to be a violent or sexual risk. Emergency recalls can also be requested by the Offender Manager outside office hours.

16.8 The CJIA 2008 also provides for some recalls to be considered as fixed-term recalls. This means that on return to custody, the offender will be automatically released by the prison after 28 days in custody. However, offenders who are sentenced for offences listed under Schedule 15 of the Criminal Justice Act 2003 are not eligible for these recalls. Other offenders who are ineligible for fixed-term recalls are those who have been recalled on a fixed-term recall previously; who have been previously recalled under section 254 of the Criminal Justice Act 2003 having been released early on Home Detention Curfew or on compassionate grounds; or who are serving an indeterminate or extended sentence.

16.9 On return to custody following recall, offenders will have their cases reviewed by PPCS on behalf of the Secretary of State or by the Parole Board for a decision on their future re-release. In considering the case, the Parole Board or PPCS will consider a Risk Management Plan ("RMP") provided by the Offender Manager along with a recommendation on whether, or when, the offender could be safely managed in the community. This plan should, where appropriate, take into consideration any actions decided at any recent MAPP meeting or should refer to any planned meeting. Where the decision is not to release, the case will be reviewed at least annually, and an updated RMP will be required at these reviews. In some circumstances, the review of the recall could be considered at an oral hearing where the Offender Manager is likely to attend as a witness to the recall.

## **Licence conditions**

16.10 Probation Instruction 07/2011 provides full guidance on all licence conditions. It is mirrored by the Prison Instruction 34/2011 – Licences and Licence Conditions.

16.11 In addition to the standard conditions, offender managers may recommend the deletion or variation of existing licence conditions and the inclusion of additional conditions. They should consider these according to the individual circumstances of a case, in the interest of the protection of the public, the prevention of re-offending and the successful re-integration of the offender into the community.

16.12 In cases where high risk of serious harm offenders are to be released on licence, PI 07/2011 lists the additional conditions which may be considered where appropriate. It should be noted that MAPP meetings do not have any powers to request licence conditions. Any conditions suggested in discussion can only be placed on the licence at the request of the Offender Manager.

16.13 An additional licence condition may be inserted only if it is lawful. To be lawful, the condition must be authorised by the Statutory Instrument and must be necessary and proportionate to manage the level of risk posed by the offender in the community. In this context, "necessary" means that the measure adopted must be the most appropriate way of managing a particular risk. "Proportionate" means that the restriction on the offender's liberty is the minimum required to manage that risk and that no other less intrusive means of addressing the risk is available or appropriate. It should be noted that the standard licence conditions already contain sufficient authority to manage most risks in the community.

16.14 All additional licence conditions must be taken from the menu of specified licence conditions in Annex A of PI 07/2011. For Terrorism and Counter-Terrorism-related offenders, additional conditions are listed in Annex B of PI 07/2011.

16.15 If a proposed condition is not in the list of standard or additional conditions, it is possible to propose it as a bespoke condition. In this case the Offender Manager must liaise with PPCS, so that legal advice can be sought, where necessary, in order to ensure that the condition meets the necessary and proportionate requirements.

16.16 The third version of the Joint National Protocol for the Recall of Offenders on Licence was released in April 2011 and is available online at <http://www.acpo.police.uk/ProfessionalPractice/CriminalJustice.aspx>. This includes details on the actions required by the cross-agency recall scheme, and targets for recalling an offender to custody. The cross-agency recall scheme involves police and probation with some involvement on occasion from the prison, the Parole Board and youth offending teams. Also included are the updated procedures for the extradition of offenders who are unlawfully at large and who have gone abroad.

# 17. Transfer of MAPPA Cases

## Introduction

### Standard – Transfer of MAPPA level 2 and 3 cases is properly managed

17.1 It is critical to ensure that all transfers of cases managed in MAPPA are properly planned and managed. The overriding consideration when transferring a MAPPA case is the protection of the public and where the overall risk can be best managed.

17.2 **Transfers should be agreed by the lead agency according to that agency's transfer policy.**

Probation: refer to Probation Instruction 17/2010.

17.3 Once transfer has been agreed, for level 2 and 3 managed cases the most recent available minutes should be sent to the receiving MAPPA Co-ordinator or they should confirm they have accessed them on ViSOR.

17.4 Once transfer has been agreed for level 1 managed cases, a MAPPA G should be completed and sent to the receiving MAPPA Co-ordinator. This form will identify the screening process as to the decision to manage at level 1.

17.5 **MAPPA does not give collective authority to require or refuse the transfer of a case.**

Accepting or refusing a case transfer is the responsibility of the lead agency in accordance with its own agency procedures. However, MAPPA agencies can have an important role to play in ensuring that transfers are managed in a way that ensures that the risk(s) posed by an offender are managed as effectively as possible.

17.6 **ViSOR protocols and standards:** these must be followed with cases being transferred promptly between areas and all contacts and partners being updated as required.

17.7 Before release, where the MAPPA management level is identified as level 2 or 3, a MAPP meeting arranged by the transferring area involving the two MAPPA areas must be held, to ensure that effective information-sharing takes place to address the transfer issues. The location of the meeting is for agreement between the transferring and receiving areas. The transfer should be expedited to allow the receiving lead agency and MAPPA area to take responsibility for the risk management plan.

17.8 Once the offender has moved into the new area the MAPPA management of the offender should correspondingly move to this MAPPA area.(this includes AP placements) This dovetails with the ViSOR ownership of the offender . As a general rule receiving MAPPA Areas should accept in good faith the existing level of management of the transferred in case. The lead agency in the receiving area should review and consider the level of management following the transfer.

17.9 In exceptional circumstances the transferring MAPPA area may retain MAPPA ownership, however there must be a defensible decision regarding this that is recorded in MAPPA minutes and ViSOR and is **agreed by both MAPPA areas**. If the receiving MAPPA area are not in agreement, the default position is as noted in 17.8.

17.10 In line with PI 17/2010, the key principles regarding case transfer should be applied. Trusts will need to ensure that the objectives of the sentence plan can still be delivered if the transfer is agreed.

17.11 Where the transfer is being arranged at short notice before release, or for MAPPA cases in the community, the timing and scheduling of MAPP meetings should not cause delay in the receiving area's management of the offender. However, it is important that communication and co-operation are achieved to ensure that a robust risk management plan is completed by the transferring area in preparation for transfer.

17.12 Where an offender is to be placed in Approved Premises outside the home area, refer to chapter 18 on Approved Premises, and Probation Circular 17/2010.

## **Cross-border transfers**

### **Standard – General principles of transfer are followed in cross-border transferred level 2 and level 3 cases**

17.13 Where the lead agency for an offender is Probation and the offender moves within England and Wales, the procedures described in Probation Circular 17/2010 must be followed.

17.14 However, when the transfer is between England / Wales and Scotland, Northern Ireland, the Isle of Man, and the Channel Islands, the legislation differs according to the countries involved.

17.15 For further Guidance refer to Scottish Executive Justice Department Circular 6/1999 and Probation Circular 17/2010.

17.16 Principles for the liaison and exchange of information between the Responsible Authority and MAPPA in England / Wales and Scotland for offenders who fall within the offender categories are defined by section 327 of the Criminal Justice Act 2003 and section 10 of the Management of Offenders etc.(Scotland) Act 2005.

17.17 MAPPA arrangements in Scotland commenced in April 2007 and relate only to registered sexual offenders. Therefore, the process described applies only to Category 1 offenders.

17.18 Where a MAPPA level 2 or level 3 offender is not under the management of a Probation Trust or the Criminal Justice Social Work department, and therefore not subject to the cross-border transfer legislation, it will be for the Responsible Authority in one area to make contact with the equivalent Responsible Authority in another area to provide the relevant information. Thereafter, it is for the receiving Responsible Authority to make the arrangements for referral to MAPPA in their area.

17.19 MAPPA category 1 offenders and MAPPA category 2 and 3 managed at level 2 and 3 have their details recorded on ViSOR and, once a transfer has been agreed, the necessary transfer of the ViSOR record must also take place.

# 18. Approved Premises

## Introduction

18.1 This section explains the role of Approved Premises in managing MAPPA offenders. Approved Premises provide supported and supervised accommodation for offenders on licence or community supervision who present a high or very high risk of serious harm to the public.

18.2 The following Probation Circulars and Instructions provide further guidance on the regime and referral process and other relevant issues:

- PI 04/2011 – Implementation of the Approved Premises Specification (incorporates a number of earlier PCs about Approved Premises – details are given in the Approved Premises Manual, available on Epic).
- PI 02/2011 – Approved Premises National Rules.
- PC 18/2010 – Critical Public Protection Cases (CPPCs).
- PC 17/2007 – Assessment and Management of Sex Offenders.
- PC 24/2007 – Prolific and other Priority Offenders (PPOs) Issues.
- PC 17/2010 – Case Transfers – Community Orders, Suspended Sentence Orders and Licences.
- PC 37/2005 – Role and Purpose of Approved Premises (Part 4).

18.3 It is essential that Level 2 and 3 MAPP meetings consider whether a period of residence in Approved Premises would enhance the Risk Management Plan (“RMP”). The public is better protected by some high risk of serious harm offenders being supervised in Approved Premises rather than those offenders being dispersed into the community. It reduces the very real potential of offenders living in unsuitable accommodation close to vulnerable families. Referral to Approved Premises should take place no later than 3 months (but preferably sooner) before the release date.

18.4 Approved Premises provide a structured environment to support offenders’ rehabilitation as well as restrictions, including a curfew, which place controls on their behaviour. Approved Premises staff play a significant role both in providing relevant risk information to the Offender Manager and in contributing to effective risk management.

18.5 It is also essential that Approved Premises staff understand a resident’s risks, and are involved in the delivery of the MAPPA Risk Management Plan, as the Approved Premises staff can assist in effectively managing the risks. In order to achieve this, it is important that Approved Premises are part of any MAPP meeting relating to a resident. It is an expectation, therefore, that an appropriate Approved Premises member of staff will attend the MAPP meetings.

## Out-of-area referrals

18.6 Probation Circular 17/2010 provides guidance on how to manage cases where an offender is resident in an Approved Premises for a short period out of his or her home area.

18.7 Where it has been agreed before release that a MAPPA offender managed at level 2 or level 3 is to be placed in Approved Premises away from the offender's home area, and the transfer policy in PC 17/2010 has been followed, that Approved Premises should be invited to the MAPP meeting arranged by the transferring area.

18.8 Where the offender will return to his or her home area after a specified period, usually 3 months, the Offender Manager in the offender's home area will retain responsibility. The home trust can arrange for the temporary supervision of the offender by the holding trust as outline in PI 17/2010.

18.9 It will be the responsibility of the Offender Manager to ensure that a MAPP meeting is convened in the home area within the required timescales, and at least one month before the return of the offender.

## **Absconders from Approved Premises**

18.10 Where victim(s) have asked for victim contact under the statutory scheme, they must be informed by the Victim Liaison Officer ("VLO") when an offender is subject to recall proceedings. There must be an assessment to indicate whether the notification can be managed by the VLO during normal office hours, or whether, given the nature of the risk, the victim(s) must be notified as soon as possible. This should be part of the victim assessment at the MAPP meeting and included in the MAPPA RMP.

18.11 Where the decision is that the victim(s) must be notified as a matter of urgency, how this is to be achieved, who is to be notified and by whom must be recorded in the Confidential section of the offender's file.

18.12 In some instances, there may be a delay between an offender absconding from an Approved Premises and being located and returned to custody. This includes those residents who abscond while on home leave from an Approved Premises, or while on any other form of authorised absence from the Premises. In these cases the victim(s) must be kept informed. For further information, see Guidance for Victim Contact Officers and the Approved Premises Handbook.

# 19. Critical Public Protection Cases

## Introduction

19.1 Probation Instruction 18/2010 clarifies the purposes and criteria for registering Critical Public Protection Cases (“CPPCs”) and sets out the process for referring a case to the Offender Management and Public Protection Group (“OMPPG”) for registration.

19.2 It defines the additional resources that may be available to assist with the management of the case. It describes the roles and responsibilities of the Responsible Authority and OMPPG following registration, including a process to de-register CPPCs who no longer warrant registration.

19.3 The Instruction confirms the purpose, criteria and process for national co-ordination in the management of a very small number of violent or sexual offenders (National CPPCs) who present extreme resettlement challenges.

## Standard – Referral for CPPC should be considered for all level 3 MAPPA offenders

19.4 In accordance with PI 18/2010, cases should be referred to OMPPG only when the following criteria are met:

- The case is being managed at MAPPA level 3 (including those not subject to statutory supervision by probation), and
- In almost all cases, the offender is assessed as presenting a very high risk of serious harm. There is a risk of imminent serious harm on release from prison, at the commencement of a community sentence or following a significant change in the levels of risk. The potential event is more likely than not to happen imminently and the impact would be serious, and/or
- The case attracts or is likely to attract significant national media interest.

19.5 Wherever possible the referral for registration should be made **6 months** before an offender’s release from custody. While most referrals will be offenders released from prison, others may include:

- A known very high or high profile offender returning from overseas (whether immediately following his or her release from custody or not).
- An offender discharged from detention under a restricted hospital order.

19.6 Advice regarding the suitability of a case for CPPC registration is available from the Head of Critical Public Protection on **03000 474528**. The date of referral will be the date by which all the required documentation has been received.

19.7 Full details for referring a level 3 MAPPA offender for CPPC registration can be found in PI 18/2010, together with a referral form.

## Standard – CPPC registration enhances the management of a level 3 MAPPA offender

19.8 The purpose of registration as a CPPC is:

- To ensure that those cases which pose the highest risk, and are the most complex or are of significant public interest, are afforded appropriate resource, expertise and management oversight. Registration enables the Head of Critical Public Protection within the Dangerous Offenders Section to advise Ministers and the Chief Executive Officer of NOMS of the robust risk management arrangements for these offenders. In addition where a Member of Parliament has signed up to a confidentiality agreement relating to CPPC, he or she will be notified of the release of a relevant offender into his or her constituency.
- To enable the Responsible Authority to apply to OMPPG for additional funding, in cases that are so difficult to manage that they may require extra resources in the form of:
  1. Temporary additional staff cover in Approved Premises.
  2. Escort duties.
  3. Upgrading facilities at an Approved Premises.
  4. Specific interventions that will contribute to public protection.
- To facilitate the co-ordination of arrangements for national CPPCs.

**Standard – The NOMS Head of Critical Public Protection provides co-ordination for national CPP cases, subject to the advice and oversight of the Head of the NOMS Offender Management and Public Protection Group**

19.9 The management of a very small number of registered CPPCs requires national oversight, which is provided by OMPPG. National CPPC arrangements are reserved for genuinely exceptional cases where areas require additional support to manage the ongoing risk, and where Ministers may have an interest in the case due to the national profile of the offence, the offenders and their victims. Support can be offered to areas when there are particular challenges where for instance elements of the resettlement process can represent a very high risk to individuals (public, victims, staff or offender) or where there is an organisational risk due to exceptional public interest and scrutiny. Areas should provide copies of relevant MAPPAs to assist this process.

19.10 National Critical Public Protection cases will be those where successful management requires national oversight because:

- The management of the offender requires national co-ordination, which is sponsored by OMPPG. National CPPC arrangements are reserved for genuinely exceptional cases where local and regional arrangements to agree a plan have been explored and exhausted in the first instance and where resettlement represents a very high risk to individuals (public, victims, staff or offender), there is organisational risk due to exceptional public interest and scrutiny, and management of the case requires the support of a National Cases Oversight Board. A high media profile or public interest could result in public disorder, undermine public confidence in the criminal justice system or agencies managing the case, or hinder the successful implementation of the risk management plan, and might threaten the life of the offender, or
- There is a need for exceptional resources outside those offered for other CPPCs.

**Standard: All CPPCs must be de-registered when level 3 management is no longer required**

19.11 Registered cases will automatically be de-registered if a MAPP meeting determines that they no longer need to be managed at level 3. A copy of the minutes recording this decision is all that is required to trigger de-registration. The Head of Critical Public Protection will confirm de-registration in writing to the Offender Manager. It is possible to de-register a CPPC even if the offender continues to be managed at level 3. The discussion and decision needs to be recorded at a MAPP level 3 meeting and communicated to the Head of Critical Public Protection who will confirm in writing that the case has been de-registered. Cases that have been registered because of potential or actual national media interest may be de-registered when the level of media scrutiny subsides.

**Appeals against a decision not to register**

19.12 Where the relevant senior manager disagrees with the decision not to register a case, he or she should write to the Head of Critical Public Protection, clearly outlining the grounds for appeal and providing any further information available to support further consideration of CPPC registration. The Head of Critical Public Protection Casework will respond in writing. If there is continued disagreement about the decision not to register a case, the final decision will be made by the Head of the Dangerous Offenders Section in OMPPG with responsibility for CPPCs.

## 20. MAPPA Serious Case Reviews

### Introduction

20.1 Although the risk of serious harm can be managed, it cannot be eliminated. The Responsible Authority and Duty to Co-operate (“DTC”) agencies are expected to do all they reasonably can to protect the public from serious harm, but there will be occasions when an offender subject to MAPPA commits a Serious Further Offence (“SFO”). This section explains the MAPPA Serious Case Review (“MAPPA SCR”) process following an SFO.

20.2 The purpose of the MAPPA SCR is to examine whether the MAPP arrangements were effectively applied and whether the agencies worked together to do all they reasonably could to manage effectively the risk of further offending in the community.

20.3 The aims of the MAPPA SCR will be to establish whether there are lessons to be learned, to identify them clearly, to decide how they will be acted upon, and, as a result, to inform the future development of MAPPA policies and procedures in order to protect the public better. It may also identify areas of good practice.

### Commissioning a MAPPA Serious Case Review

#### **Standard – It is a Strategic Management Board (“SMB”) responsibility to commission a MAPPA SCR when the mandatory criteria have been met**

20.4 The SMB must commission a MAPPA SCR **if both of the following conditions apply.**

- The MAPPA offender (in any category) was being managed at level 2 or 3 when the offence was committed or at any time in the 28 days before the offence was committed.
- The offence is murder, attempted murder, manslaughter, rape, or attempted rape.

#### **Standard – It is an SMB responsibility to decide whether to commission a discretionary MAPPA SCR**

20.5 There will be other SFOs which may trigger a MAPPA SCR. It is difficult to prescribe discretionary criteria, as much will depend on the circumstances of the particular case, and whether there has been a significant breach of the MAPPA Guidance, but MAPPA SCRs might be commissioned when:

- A level 1 offender is charged with murder, manslaughter, rape or an attempt to commit murder or rape.
- An offender being managed at any level is charged with a serious offence listed in PI 10/2011 – see the list at Appendix 6, or
- It would otherwise be in the public interest to undertake a review, e.g. following an offence which results in serious physical or psychological harm to a child or vulnerable adult but which is not an offence listed in PI 10/2011.

20.6 However, as a review of the lead agency's management of the case will be conducted under these circumstances, careful consideration should be given to whether any value would be gained by conducting a MAPPA SCR for level 1 cases. This is especially relevant if cases have never been managed at level 2 or 3.

## **Other responsibilities of the Strategic Management Board**

### **Standard – The SMB retains responsibility for the reports generated by the MAPPA SCR process**

20.7 The SMB Chair is responsible for commissioning the MAPPA SCR, and the SMB retains responsibility for the reports generated by the MAPPA SCR process. The SMB functions are:

- To implement an audit system for all mandatory MAPPA SCR cases.
- To have a system to audit cases which are rejected as not meeting the criteria for a mandatory MAPPA SCR.
- To ensure that all reviews are undertaken without discrimination on the ground of race, religion, gender, disability, sexual orientation, or age.
- To ensure that the Offender Management and Public Protection Group (“OMPPG”) is notified of a decision to undertake a MAPPA SCR.
- To appoint a review team.
- To agree the MAPPA SCR terms of reference.
- To monitor and review any recommendations arising from the issues raised.
- To monitor equality and diversity impact issues.
- To agree a media / communications strategy in consultation with OMPPG.

### **Standard – When a MAPPA SCR has been commissioned the SMB will appoint an appropriate SCR Lead**

20.8 When a MAPPA SCR has been commissioned the SMB will appoint a MAPPA SCR Lead. The designated lead can be either a member of the SMB or a senior manager from the Responsible Authority or DTC agencies. This person should have no connection with the case and should not be involved in the line management of the staff managing or supervising the offender.

20.9 If local funding will allow, and in accordance with best practice, the SMB should consider using an independent MAPPA SCR Lead, if this person has sufficient knowledge, experience and skills in relation to offender management or management reviews.

**Standard – The SMB Chair and MAPPA SCR lead will ensure that the victim and the victim’s family are kept informed of developments throughout the process**

20.10 The SMB Chair and MAPPA SCR Lead must identify a suitably-trained person (of sufficient seniority and experience) who will tell the victim and his or her family that a MAPPA SCR is being undertaken and liaise with them to keep them updated with developments in the review.

20.11 As the circumstances will mean that a police investigation or legal proceedings is under way, the timing of such contact with the victim or other material witnesses will have to be agreed with the Crown Prosecution Service or the Investigating Officer as appropriate.

20.12 This person will need to liaise with the police Family Liaison Officer (“FLO”) or Probation Victim Liaison Officer (“VLO”) where appointed. Where other reviews are taking place, contact with the family should form part of an agreed plan across the agencies to avoid duplication or providing conflicting information.

20.13 In cases where the SMB undertakes or commissions management reviews, for example where serious further offences have been committed, communication with victims must be considered as part of the overall communications and media strategy.

**MAPPA Serious Case Review target dates**

20.14 The table on the following page gives deadlines for the stages of the MAPPA SCR process. It is accepted that the process will be delayed on receiving advice from the Crown Prosecution Service or other prosecuting body. All documents must be marked RESTRICTED and kept securely.

<b>STAGE OF MAPPA SCR PROCESS</b>	<b>TARGET DATE</b>
MAPPA Co-ordinator to be notified of MAPPA offender being charged with SFO using MAPPA N (sections 1–4)	Within 5 days of charge
MAPPA Co-ordinator to notify the SMB Chair using MAPPA N	Within 5 days of being made aware of the charge
SMB Chair to decide whether the case requires a MAPPA SCR	Within 10 days of receiving the MAPPA N
If decision is to conduct a MAPPA SCR the SMB Chair to notify OMPPG by completing section 8 of MAPPA N	Within 5 days of decision being made
OMPPG to complete section 9 of MAPPA N and return to SMB Chair and MAPPA Co-ordinator	Within 5 days of receiving notification
SMB Chair to inform each of the agencies involved that a MAPPA SCR will take place	Within 5 days of decision being made to conduct MAPPA SCR
MAPPA SCR Panel to meet. The Panel should consist of the SCR Lead, a senior nominated person from each agency involved, and a Lay Adviser	Within 1 month of agencies being notified of the decision to conduct a MAPPA SCR
MAPPA SCR Lead to produce MAPPA SCR report. The other members of the SCR Panel will be given the opportunity to make representations on behalf of their agencies before the SCR report is forwarded to the MAPPA SMB for comment and approval. Also send to OMPPG for quality assurance and guidance	Within 4 months of the MAPPA SCR Panel's first meeting
MAPPA SCR Lead to produce an Overview Report which can be shared externally as approved by SMB and OMPPG	Within 1 month of completion of the MAPPA SCR report

## Conducting the MAPPA Serious Case Review

20.15 Each case will present different issues and the review will accordingly be conducted to suit the complexity of the case. To ensure that a consistent approach is adopted, the following methodology is suggested.

- Examine the recent MAPP meeting minutes for the case.
- Review the ViSOR record, where one exists.
- Decide what information, if any, is required from other agencies.
- Request that information from those agencies via a report.
- Identify potential interviewees.
- Conduct interviews, as required.
- Examine individual agency findings.
- Take account of such findings, where relevant.
- Examine other reports and reviews, as available.

20.16 It should be remembered that the purpose of the MAPPA SCR is to look objectively and critically at whether MAPP arrangements were effectively applied. It is also an opportunity to identify areas of good practice. The focus of any review is therefore likely to be upon whether the offender was:

- Identified as a MAPPA offender at the correct time. For Category 1 and 2 offenders, this is at the point of sentence and no later than the commencement of the offender's supervision in the community. For Category 3 offenders, this is as information came to light, a referral was made to the MAPPA Co-ordinator, and the MAPP meeting agreed that the offender should be registered as a Category 3 offender for level 2 or 3 MAPPA management.
- Referred for level 2 or 3 management, as appropriate.
- Managed effectively via MAPP meetings thereafter.

### Standard – MAPPA SCR Lead produces MAPPA SCR Report for the SMB

20.17 This is an internal report for the SMB and OMPPG. The report should include the following headings, as outlined in MAPPA O:

- Case background (to include details of the serious further offending).
- List of the relevant agencies, and their role.
- Chronology of events.
- Assessment of practice against MAPPA Guidance and relevant legislation.

- Conclusion.
- Learning points and Action Plan.

20.18 This document may include identifiable data about individuals and sensitive details about agency practices. It should therefore be given a RESTRICTED marking under the Government Protective Marking Scheme (“GPMS”).

20.19 The MAPPA SCR Lead should ensure that contributing agencies are satisfied that their information is fully and fairly represented in this report. This report should then be sent to the SMB for comment and approval and to OMPPG for quality assurance and guidance.

20.20 In the event that there is a dispute regarding the content of the MAPPA SCR report which cannot be resolved by discussion, the final decision will rest with the Chair of the relevant MAPPA SMB.

20.21 This report must not be widely distributed or published, and should only be shared with others on the authority of the SMB Chair. The timing of the report is crucial and its distribution may have to be delayed if it would have an adverse effect on any ongoing criminal proceedings. In cases of doubt, the SMB Chair should liaise with the Investigating Officer.

<p><b>Standard – MAPPA SCR Lead produces the Overview Report</b></p>
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20.22 This is a report which can be shared externally as approved by the SMB and OMPPG. The Overview Report should be produced within one month of completion of the MAPPA SCR Report. This should have a GPMS RESTRICTED marking. The content should be suitably anonymised to protect the identity of victims, family members and others.

The Overview Report should include the following headings:

- Case summary (not identifying the persons involved).
- Chronology of the MAPPA SCR.
- Conclusion.
- Learning points and Action Plan.

20.23 The Overview Report should clearly identify which agency is responsible for delivering the Action Plan. This report should then be sent to the SMB for comment and approval and to OMPPG for quality assurance and guidance.

20.24 The MAPPA SCR Lead should share the Overview Report with the victim and his or her family by personal arrangement. A meeting should be arranged at a suitable location. This may include the FLO / VLO or other agency / family representative as appropriate. A copy of the MAPPA SCR should **not** be provided.

20.25 Further circulation of the Overview Report (also requiring the authority of the SMB) should be on a limited basis. As with the SCR Report, the timing of this report is also crucial and its distribution may have to be delayed if it would have an adverse effect on any ongoing criminal proceedings. In cases of doubt, the MAPPA SCR Lead should liaise with the Investigating Officer.

## Consultation with the Crown Prosecution Service

20.26 The timing of any review will have to be agreed with the Crown Prosecution Service to ensure that the legal process is not undermined and the current police investigation is not compromised.

20.27 If it is decided that a MAPPA SCR should not be instigated until after criminal proceedings have concluded, individual agency reviews should be carried out to ascertain whether any urgent action is required.

20.28 If it is decided that a MAPPA SCR will be conducted at the same time as the criminal proceedings, the CPS must be consulted and their advice sought because of the potential impact on the case and ongoing disclosure requirements regarding the review findings.

### Standard – SMB agrees an appropriate Media Strategy

20.29 The SMB will be aware of the significant media interest that can arise out of serious further offending. It should consider the views of the victim and his or her family, and consult OMPPG about what information should be released to the media and when. It should be borne in mind during drafting that the Overview Report may find its way into the public domain, even though it is not intended for widespread publication.

### Standard – SMB to monitor progress of the Action Plan

20.30 The SMB should monitor the Action Plan and ensure that a system is in place for them to be notified of the interim developments within 3 to 6 months of the Action Plan being agreed. A brief report on the final completion of the Action Plan should be forwarded to OMPPG within 9 to 12 months of the Action Plan being agreed. The SMB is responsible for the progression of any learning across their area.

## The Role of the Lay Adviser in MAPPA Serious Case Reviews

20.31 The Lay Adviser role is a voluntary and unpaid one, and demands on their time should take this into account. They have a valuable part to play in the MAPPA SCR process and are included as part of the team:

- To provide an independent voice to the review.
- To ensure that any community issues are addressed.
- To act as a “critical friend” to the professionals.

## Offender Management and Public Protection Group Responsibilities

20.32 The national MAPPA Team in OMPPG will maintain a database of all MAPPA SCRs being undertaken. In addition they will:

- Provide advice to Areas on media and communication issues.
- Provide information to Ministers in appropriate cases.

- Receive MAPPA SCR and Overview Reports from SMBs.
- Provide formal written feedback on the quality of the report to the Chair of the SMB.
- Disseminate lessons learned to SMBs and MAPPA Leads.
- Develop MAPPA policy and guidance as a result of lessons learned.

## Additional Information

20.33 Other reviews may be triggered by the re-offending, for example:

- Serious Case Reviews for Children – set out in Chapter 8 of Working Together to Safeguard Children (2010)
- Domestic Homicide Reviews (Domestic Violence, Crime and Victims Act 2004).

20.34 These reviews do not specifically look at how agencies worked together under MAPPA but such a review may also be triggered by the offender's re-offending. To avoid duplication and any misunderstanding, the MAPPA SMB must have in place a system of identifying whether any other review is taking place and of notifying other agencies when a MAPPA SCR is taking place.

20.35 There may be occasions when the case against an offender is discontinued or the charges are reduced, taking the offender outside the MAPPA SCR eligibility. In these cases, the SMB should consider whether the case should continue to be subject to a full MAPPA SCR. This discretion would also apply where an offender dies before the outcome of the MAPPA SCR.

20.36 OMPPG should be informed when a MAPPA SCR is discontinued.

# 21. MAPPA and Foreign Travel

## Introduction

21.1 Travel outside the UK for MAPPA offenders can cause significant concern. This chapter provides advice on the approach to foreign travel for Category 1 and Category 2 MAPPA offenders. It also explains how Foreign Travel Orders (“FTOs”) and Notification Orders can be used to manage MAPPA offenders more effectively.

## Foreign travel for Category 1 offenders

21.2 All registered sex offenders who intend to leave the UK for 3 or more days must provide the police with the following information (if they hold the information):

- The date of departure from the UK.
- The destination country (or, if there is more than one, the first).
- The point of entry into that country.
- The point(s) of arrival in any other countries the offender will be visiting in addition to the initial destination.
- The carrier(s) that the offender intends to use to leave and return to the UK or any other point(s) of arrival while outside the UK (but not internal flights).
- Details of the offender’s accommodation arrangements for his or her first night outside the UK.
- The offender’s date of re-entry to the UK.
- The offender’s point of arrival on return to the UK.

21.3 The information, where held, must be provided at a prescribed police station at least 3 days before departure.

21.4 The purpose of requiring relevant offenders to notify police of their intention to travel abroad is twofold. First, it enables local police to know the whereabouts of serious sex offenders and, in doing so, avoids sex offenders claiming that they could not have complied with the notification requirements because they were overseas. Secondly, where appropriate, it enables the police to inform other jurisdictions that a sex offender is intending to visit their country.

## Temporary travel outside the UK and Islands while on licence – PC 04/2006

21.5 The period of post-release supervision on licence forms an integral part of the sentence imposed by the court. To ensure that offenders remain subject to such supervision, temporary travel outside the UK and Islands should be permitted **only in exceptional circumstances**.

21.6 It is a standard condition of a post-release licence that an offender shall “not travel outside the United Kingdom without obtaining the prior permission of their supervising officer, which will be given in exceptional circumstances only.” It is this licence condition which provides the legal authority for the general prohibition.

21.7 Temporary travel abroad may be permissible where exceptional compassionate circumstances exist, for example to visit a dying relative or to attend a family funeral.

21.8 Requests for temporary travel abroad for the purposes of business, recreation or holiday can be considered on their individual merits, but must not interfere with the sentence plan or increase any risk of re-offending or risk of serious harm, and should contribute positively to the rehabilitation or resettlement of the offender. As a general rule, unless an offender can demonstrate that his or her need to travel is so pressing that the Area must give this need priority over the other statutory aims of supervision, then the “**exceptional circumstances**” test will not have been satisfied.

21.9 Temporary travel outside the UK and Islands should be authorised in line with this guidance by an officer of at least Assistant Chief Officer (“ACO”) grade or equivalent. In cases where the ACO believes the criteria for temporary travel have been met, it is no longer necessary to refer the case to the Parole Board for approval.

## Foreign Travel Orders

21.10 Sections 114 to 122 of the Sexual Offences Act 2003 (“SOA 2003”) allow the chief officer of police to apply for an FTO against persons convicted of, or cautioned for, a qualifying offence under Schedule 3 to the SOA 2003, or found not guilty by reason of insanity, or found to be under a disability and to have done the act charged. An FTO may also be made against those with convictions or cautions received in respect of equivalent offences overseas. It must appear to the person applying for the order that “the defendant has, since the appropriate date, acted in such a way as to give reasonable cause to believe that it is necessary for such an order to be made.” The appropriate date means the date on which the offender was convicted or cautioned, found not guilty by reason of insanity, or found to be under a disability and to have done the act charged (section 115(5)).

21.11 There needs to be a reasonable belief that it is necessary to apply for an order to protect persons under the age of 18 years from serious sexual harm. This is defined as serious physical or psychological harm caused by the defendant doing anything, outside the UK, which would constitute an offence listed in Schedule 3 to the SOA 2003 if done in any part of the UK.

21.12 Section 24 of the Policing and Crime Act 2009 (“PCA 2009”) extends the valid period of an FTO from 6 months to 5 years. The order can prohibit the offender from travelling outside the UK to specified or non-specified countries, or from travelling outside the UK at all. Section 25 of the PCA 2009 requires the offender to surrender all passports or other travel documents only when a worldwide FTO is imposed. Unless the magistrate states otherwise, the order must specify that the offender must surrender these documents to a named police station on the day the order takes effect. In most circumstances, this will apply to both UK and non-UK passport-holders.

21.13 A person who breaches an FTO without reasonable excuse commits a criminal offence.

## **Notification Orders for UK citizens convicted abroad**

21.14 Under sections 97 to 103 of the SOA 2003, a Notification Order makes a sexual offender who has been convicted or cautioned abroad subject to the notification requirements of Part 2 of the Act. The chief officer of police may apply for a Notification Order if he or she believes that the offender is in, or is intending to come to, the relevant police force area. A Notification Order should, for example, be sought for a UK citizen who has been convicted of a sexual offence overseas and who is deported to the UK on release from prison abroad. The police should also apply for a Notification Order for a foreign citizen coming to the UK who they know has been convicted of a sexual offence in another country.

21.15 Where an offender is in the UK illegally, or where the previous offending history may be sufficient for the Secretary of State to request that the offender is deported or removed, the police should make contact with the UK Border Agency. The police, however, should continue to pursue a Notification Order in anticipation of a delay in removal or a decision that the offender can remain in the UK.

21.16 In cases where prohibitions on an individual are necessary to protect the public from serious harm, the police should instead consider applying for a Sexual Offences Prevention Order under section 104 of the SOA 2003.

21.17 When the police are made aware that a person convicted of a relevant sexual offence is returning to the UK, it will be the responsibility of the police at the port of entry to meet the offender and make the necessary arrangements for obtaining a Notification Order.

## 22. Victims

### Introduction

22.1 All MAPPA Chairs and Offender Managers should be familiar with the 2005 Code of Practice for Victims of Crime, which outlines the minimum standards victims can expect to receive from a number of criminal justice agencies.

22.2 Victim safety, preventing re-victimisation and avoiding the creation of new victims is fundamental to the MAPPA agencies' public protection role. It is essential for the MAPPA agencies' decision-making to be informed by effective engagement with previous and current victims, and, where practicable and appropriate, with potential victims as well. Only by doing this can the Responsible Authority be satisfied that the risk assessment and the Risk Management Plan ("RMP") reflect concerns about victims and provide appropriate measures to protect them.

22.3 Where the victim has been referred to a Multi-Agency Risk Assessment Conference ("MARAC") and the offender is being managed through MAPPA, information relating to the RMP in respect of the victim(s) should be shared in order to avoid duplication of effort.

### Identifying victims

#### Standard – The identity of the victims of MAPPA offenders must be established

22.4 It is important for the MAPPA agencies to establish:

- Who is in contact with the victim(s).
- Who can best act as a representative for the victim(s).
- Who will act as a conduit for information between the victim(s) and MAPPA.

22.5 The victim focus of MAPPA includes direct victim(s), and previous victims of the offender who may still be at serious risk of harm, and may also include those who have been seriously affected by the offence.

22.6 The management of risks posed by an offender to particularly vulnerable people, e.g. children, will require effective links between the Responsible Authority and other agencies including Local Authority Children's Services. This is especially important in relation to licence conditions which are directly relevant to children or vulnerable adults and their families.

22.7 The MAPPA processes must also include new or potential victims, or others who may be supporting the victim or potential victim, who may not be any named individual(s) but people who are vulnerable by virtue of their location in relation to the offender; their age (where this has been identified as a trigger for further offending); their gender, particularly where women have been targeted; and their race, religion, sexual orientation, disability or other distinguishing characteristic in relation to hate crime.

22.8 The identification and involvement of actual or potential victims will be particularly important in identifying those offenders who fall into Category 3, as offenders are not designated as either sexual or violent offenders but are:

“Other dangerous offenders: persons who have been cautioned for or convicted of an offence which indicates that they are capable of causing serious harm **and** which requires multi-agency management. This might not be for an offence under Sch.15 of the CJA 2003.”

**Standard – The Responsible Authority should ensure that MAPPA develops effective Risk Management Plans to protect the victim**

**Liaison with victims**

22.9 The challenge for the MAPPA agencies is how they can most actively involve the victim. However, victims may not attend MAPP meetings.

22.10 The victim’s involvement should not be limited to the passive receipt of information. However, it is important not to raise unrealistic expectations. Victims can make an important contribution to risk assessment and they may have a critical interest in the management of risk, but, while active and important, it is not an executive role. The victim is central to the offence and may understand the risk the offender presents, but he or she informs, rather than decides, the RMP because ultimately he or she is not responsible for delivering it.

22.11 The Criminal Justice and Court Services Act 2000, as amended by the Domestic Violence, Crime and Victims Act 2004, requires the Victim Liaison Officer (“VLO”) in each Probation Trust to contact all victims who meet the Victim Contact Scheme requirement to offer the Victim Contact Scheme service. See PC 29/2003.

22.12 The VLO’s duties are:

- To contact the victims of serious sexual or violent offences and offer the service, where the offender has been sentenced to 12 months or more in custody, or has been made the subject of certain mental health disposals.
- To maintain contact with the victim, where he or she accepts the service at any time during the offender’s sentence, and provide information about the month of release, and about licence conditions (including exclusion zones and non-contact requirements).
- To represent the victim’s views either in person or by way of a report at each appropriate MAPP meeting, where the offender is managed at MAPPA level 2 or 3.
- To provide the victim with information on how the risk of serious harm to the victim will be managed.

22.13 Where the victim lives in a different area from the one responsible for managing the offender, it is essential that there is effective communication between the probation VLO in the area where the victim lives and the probation Offender Manager. All level 2 or 3 MAPP meetings must ensure that this is addressed. For those cases managed at level 1, it is the responsibility of the probation Offender Manager to ensure that this consultation takes place.

22.14 In some cases, the victim of one offence may be the perpetrator of another, e.g. in gang-related offending. It is therefore possible that an offender will be subject to statutory supervision by NOMS at the same time as being eligible for contact under the probation Victim Contact Scheme. It is important that there is close liaison between the Offender Manager and the VLO in such cases to ensure the offender's rights as a victim are taken into account when planning how his or her order or licence will be managed.

22.15 The Probation Trust also have discretion to offer the Victim Contact Scheme to victims who do not meet the statutory criteria for the service. Examples include where the victim might be particularly vulnerable, such as in domestic violence cases where the offender has received a sentence of less than 12 months, or cases where the offence pre-dates the statutory introduction of the Scheme in 2001. MAPP meetings should not assume that there is no probation VLO involvement, just because the victim does not meet the statutory threshold for the Victim Contact Service.

## Managing victim information

### **Standard – The storing of confidential information must comply with the Government Protective Marking Scheme**

22.16 Where a probation VLO or Independent Domestic Violence Adviser (“IDVA”) team has been involved in a MAPP meeting and has received a copy of the MAPP meeting minutes, these must be stored securely, treated as confidential, not placed on the victim's file, and retained in line with the lead agency's policy.

22.17 Appropriate MAPP meeting information should be shared with the victim, but the minutes are **not to be shown** to the victim as they will contain information about the offender or other confidential information (see chapter 10 on Disclosure).

22.18 Victim information is highly sensitive and should not be shared without the prior agreement of the agencies who supplied it. Careful consideration must be given to the implications for the victim's safety and confidentiality. The MAPP meeting may include an action point regarding disclosure which describes what information should be provided to the victim, by whom, and by when.

## Multi-Agency Risk Assessment Conference

### **Standard – MAPPA and MARAC work together to manage the risk of serious harm posed by offenders convicted of domestic abuse**

22.19 This section describes the link between MAPPA and the Multi-Agency Risk Assessment Conference (“MARAC”) and highlights the need to avoid duplicating resources.

22.20 The focus of MARAC is the protection of those victims who are at a high risk of serious harm from domestic abuse. A meeting is convened to share information to enable an effective RMP to be developed.

22.21 The Home Office funds the charity Co-ordinated Action Against Domestic Abuse (“CAADA”) to provide support and quality assurance to all MARACs nationally and also collects performance data. For further information on CAADA, see <http://www.caada.org.uk/>

## The link between MAPPA and MARAC

22.22 To avoid duplicating effort and resources, the work of MARAC and MAPPA should be co-ordinated in such a way as to provide the most effective response to the victim. The MAPP meeting should take precedence over the MARAC. The reason for this is that MAPPA, unlike MARAC, is a statutory set of arrangements.

22.23 Where an offender is a MAPPA offender and meets the criteria for Level 2 or 3 MAPPA management, **and** the victim has been referred to the local MARAC, the Independent Domestic Violence Advisers must be invited to the MAPP meeting, together with any other professional who has relevant information about the victim. The MAPP meeting will ensure that the risk assessment and MAPPA Risk Management Plan effectively identify and put in place actions to protect the victim. The quality of the MAPPA RMP will be enhanced with the additional information that the IDVA and others can provide. This will support the effective management of the offender and reduce the potential risk of harm to the victim.

## Disclosure of MAPP meeting minutes to a MARAC

22.24 MAPP meeting minutes are only provided to those agencies who participated in the MAPP meeting and who have therefore agreed to the confidentiality statement and disclosure of information arrangements that applied to the meeting. Some of those agencies will also attend the MARAC. In those cases where an offender has previously been managed at MAPPA level 2 or 3 and there is a further incident of domestic abuse, the MARAC can request a MAPP meeting minutes executive summary. This should be provided within 10 working days, or earlier when this is agreed to be necessary.

22.25 However, it is essential that individual agencies share all the information to which they have access that is relevant, in order to protect an actual or potential victim. Moreover, appropriate aspects of the MAPPA RMP should be shared with the MARAC, as this will provide details of the agreed actions that the MAPP meeting is taking to protect the victim or children.

## 23. Children and Young People

### Introduction

23.1 The age of criminal responsibility in England and Wales is 10 years. This means that any person aged 10 or over, including children and young persons, may be convicted in the courts of any offence. The sentencing regime is different from that for adults, but, for serious offences, the child or young person may receive a sentence which attracts custody and may be required to notify the police of his or her details under the Sexual Offences Act 2003.

### Consideration of the needs of the child

23.2 A child or young person who is convicted of a serious sexual or violent offence (as set out in Schedule 15 to the Criminal Justice Act 2003) will be a MAPPA offender. The law also requires his or her needs as a child to be considered. It is important that all statutory agencies that have a responsibility for children and young persons take this into account.

23.3 In children and young persons legislation, and in Working Together to Safeguard Children 2010, a child is defined as anyone who has not yet reached his or her 18<sup>th</sup> birthday. In particular:

“The fact that a child has reached 16 years of age, is living independently or is in further education, is a member of the armed forces, is in hospital, in prison or in a Young Offenders’ Institution, does not change his or her status or entitlement to services or protection under the Children Act 1989.”

23.4 Under the Children Act 2004, the police, the Prison Service and Probation Trusts, as well as Youth Offending Teams (“YOTs”), have a statutory duty to make arrangements for ensuring that “their functions are discharged having regard to the need to safeguard and promote the welfare of children.”

23.5 Whenever a child or young person is being discussed at a MAPP meeting, the meeting must ensure that it considers its responsibilities to safeguard and promote the welfare of children as well as the risk of harm the young offender presents to others. Children’s Services should always be represented at these MAPP meetings.

23.6 When a child has been identified as a child in need, it is essential that the appropriate agency is properly represented at the MAPP meeting and is able to demonstrate that it is fully meeting its obligations to meet the needs of the child.

23.7 Given these duties, MAPPA needs to take a different approach when managing children and young persons. When identifying the risk of potential harm to others that the child or young person poses, any risks to the child or young person must also be taken into account.

## Identification and notification

### **Standard – Arrangements are in place for the identification and notification of MAPPA young offenders.**

23.8 The YOT is responsible for identifying which of its cases are MAPPA cases. This information should be recorded on the YOT case management system.

23.9 The identification should take place within 3 days of sentence.

23.10 **Notification:** The MAPPA Co-ordinator does not have routine access to the case records of MAPPA offenders held by the YOT. For those on community sentences, notification is required at the start of the order. For those on custodial sentences, the YOT must notify the relevant MAPPA Co-ordinator of brief details of all relevant MAPPA offenders using **MAPPA H**, 6 months before release. The relevant MAPPA Co-ordinator is the one for the area where the offender currently resides in the community or into which he or she will be released or discharged.

## Referral

23.11 The YOT will undertake an internal review of all its MAPPA Category 1 and 2 cases and identify which of its cases will be managed at level 1, ordinary agency management (this is likely to be the majority of cases). In these cases, the YOT will work with the young person following its relevant policy, procedures and standards.

23.12 A YOT cannot identify a case as requiring management at MAPPA level 2 or 3 and then decide that, because it is a multi-agency team, it does not have to make a referral to the MAPPA Co-ordinator.

### **Standard – All MAPPA young offenders requiring level 2 or level 3 management must be referred to the MAPPA Co-ordinator**

23.13 The YOT will assess the level of MAPPA management that is required for each individual case taking into account the needs of the child or young person as well as the potential risk of serious harm he or she presents to others.

## Attendance at MAPP meetings

23.14 Each case should be managed at the level necessary to provide an effective Risk Management Plan which balances public protection with the rights and needs of the child or young person.

23.15 Where the YOT case worker believes that this is a case which requires active multi-agency management at MAPPA level 2 or 3, he or she will complete the MAPP meeting referral document (MAPPA A). This will be endorsed by his or her manager and sent to the MAPPA Co-ordinator. The referral must include information about why the case would benefit from active multi-agency management beyond what the YOT can offer. The nature of the case might suggest that it will attract local or national media attention, or that there is a need for additional multi-agency resources to manage the potential risks of harm.

23.16 This referral will be reviewed using local procedures and, where the case meets the agreed threshold (taking into account the needs of the young person as well as the risk of harm he or she presents), a level 2 or 3 MAPP meeting will be arranged. If the young person is in custody, this referral should take place at least 6 months before his or her release date to allow effective Risk Management Plans to be put in place.

23.17 The YOT case manager will update the case management record to indicate that a MAPPA referral for level 2 or 3 management has been made and the outcome of that referral.

23.18 Whenever a referral relating to a child or young person is made by any agency other than the YOT, the YOT must attend the meeting as it may well have information relating to the case.

### **Standard – ViSOR is accurate in relation to young offenders in the community**

23.19 See chapter 8 on ViSOR.

### **Standard – The YOT and Children’s Services must be suitably represented at all level 2 and level 3 meetings for young offenders**

23.20 The purpose of any level 2 or 3 MAPP meeting is to identify the presenting risks and to devise an effective MAPPA Risk Management Plan (“MAPPA RMP”) to mitigate those risks.

23.21 A YOT manager who is senior enough to act as consultant to the MAPP meeting Chair should be present at all meetings where a child or young person is being discussed, to ensure that the additional factors are properly and fully addressed. This should help to identify potential additional resources that may be required. If, as part of the MAPPA RMP, licence conditions are discussed, it is essential that any additional licence conditions proposed are proportionate to the level of risk identified.

23.22 The YOT manager is not there to represent the local authority – this task should be undertaken by someone else. Whenever a child or young person is being discussed at a MAPP meeting, a representative of Children’s Services must also be present to ensure that decisions take into account the needs of the child or young person.

## **Other considerations**

### **Disclosure**

23.23 All the factors relating to the disclosure of information discussed in chapter 9 on Information-Sharing and chapter 10 on Disclosure apply also to children and young persons. There is, however, an additional factor: harm to the child or young person, which could occur because disclosure has taken place.

23.24 For example, when a young person who has committed a sexual offence is still of school age, the consideration of whether and how to disclose information must take into account the need of the child or young person to continue with his or her education while ensuring that others are protected. This type of issue will always need careful consideration. After any initial disclosure to the education services or the relevant Head Teacher, a discussion should take place about who additionally needs to know and how the risks can be effectively managed.

23.25 In order to ensure that the proper considerations have been taken into account, no decision about disclosure can be made unless a senior representative of both the YOT and Children's Services are present at the MAPP meeting.

### **Local Safeguarding Children Boards and recording**

23.26 The YOT worker should consider informing the LSCB when disclosure is made. As in all cases, decisions on disclosure should be recorded on the MAPP minutes or, in a level 1 case, on the agency's own recording system.

## 24. Terrorists and domestic extremists

### Introduction

24.1 This section explains how to identify extremist offenders, including those convicted of terrorism, terrorist-related offending, and offending related to domestic extremism, and how these offenders should be managed through MAPPA.

#### **Those convicted of a Terrorist Act offence or terrorist-related offence**

24.2 For the purposes of this Guidance, terrorist offenders are ones who:

- Have been convicted of any terrorist legislation offence, i.e. an offence under the Terrorism Act 2000, the Anti-terrorism, Crime and Security Act 2001, the Prevention of Terrorism Act 2005, the Terrorism Act 2006 or the Counter Terrorism Act 2008 (“CTA 2008”), or
- Have been convicted of an offence of conspiring, attempting, aiding, abetting, counselling, procuring or inciting a terrorist legislation offence or any other offence that is considered related to terrorism either committed as part of an act of terrorism or in support of a terrorist group or cause.

#### **Domestic Extremism**

24.3 The model developed by the Police National Co-ordinator for Domestic Extremism identifies five main themes for domestic extremists. NOMS has accepted these themes for identification purposes. They are:

- Animal Rights extremism.
- Environmentalist extremism.
- Far Right Political extremism.
- Far Left Political extremism.
- Emerging Trends – or any activities that unduly and illegally influence or threaten the economic and community cohesion of the country.

Areas should confirm with the Head of Critical Public Protection in the Offender Management and Public Protection Group (“OMPPG”) that the offender meets the domestic extremism criteria.

### Identification and management

#### **Standard – Arrangements must be in place for the identification and management of all terrorist and domestic extremist offenders**

24.4 Some extremist offenders will be identified by the nature of their conviction. However, for others the court will determine the nature of the link to terrorism or domestic extremism e.g. those convicted of terrorist-related offences or those convicted of offences committed in the name of a cause. If uncertain please check with the local Counter terrorism Unit or the SPO for Extremism within OMPPG.

24.5 Offenders convicted of one or more of the terrorist legislation offences listed in Schedule 15 to the Criminal Justice Act 2003 (“CJA 2003”) will be subject to management under MAPPA, as long as they meet the criteria in sections 325 and 327 of the Act.

24.6 The CTA 2008 requires the court to determine whether those offences that are not directly terrorist offences have a terrorist connection, and, where the court decides that they do, to treat this as an aggravating factor.

24.7 Other offenders may also be considered to be terrorist offenders, particularly where the circumstances of the offence demonstrate a terrorist motive. If the offence is a violent offence listed in Schedule 15 to the CJA 2003, the offender will be subject to the MAPP arrangements as a Category 2 offender as long as the sentence imposed is a sentence listed in section 327 of the Act. Where an offence is identified as having a terrorist motive which might cause serious harm to the public, but is not normally considered a violent offence, then the offender could be made subject to MAPP arrangements as a Category 3 offender.

24.8 Given the nature of their offending, these offenders should be considered for active multi-agency management at MAPPA level 2 or 3. This is even though some offenders may have committed what on the face of it appears to be a low-level offence. The very fact of their involvement in such an activity, or in a group committed to terrorist or extremist acts, significantly raises the potential level of risk of serious harm which they present.

24.9 The Electronic Monitoring (“EM”) companies provide electronic monitoring for the Office for Security and Counter Terrorism (“OSCT”) for those on Terrorism Prevention and Investigation Measures. (TPIMs), and for the UKBA Special Cases Unit for Special Immigration and Appeals Commission Cases who are subject to bail. Staff are vetted to do this work and share information only with the police, OSCT and UK Border Agency (“UKBA”). All such cases are flagged with the suppliers of EM and treated as special cases using special cases protocols.

24.10 Many domestic extremist offenders will not automatically be included in MAPPA under either Category 1 or 2 due to the nature of the offences they committed and of which they were convicted. However, involvement in MAPPA as a Category 3 offender needs to be considered seriously in each case where there are domestic extremism motives.

24.11 Given that many domestic extremism offences are likely to be Public Order Act cases, or criminal damage, threats and intimidation and fraud-type offences which have acquired some notoriety because of the association with domestic extremism, referral to MAPPA will have to be under Category 3 (see chapter 6 on Identification and Notification), and the referrer must be clear that this case requires active multi-agency management at MAPPA level 2 or 3.

24.12 Further information can be found in Probation Instruction 18/2010 (The Management of Critical Public Protection Cases and Terrorist or Terrorist Related Offenders).

**Multi-agency meeting to consider management at MAPPA level 2 or 3**

**Standard – Multi-agency meetings will be held to consider the most appropriate level of management for terrorist and domestic extremist offenders**

24.13 Given the nature and sensitivity of cases involving terrorist and extremist offenders, decisions on how this risk is best managed will always benefit from a multi-agency response. This is irrespective of their MAPPA Category.

24.14 At least 6 months before release, there should be a meeting to share information, and to identify all the risk factors and areas for concern. All relevant agencies should be invited to this meeting. To facilitate the sharing of information, NOMS and ACPO agreed a Memorandum of Understanding in 2009.

24.15 Where a terrorist or domestic extremist offender is subject to statutory supervision, the local YOT or Probation Trust will be the lead agency and they are responsible for convening the meeting. To enable the Offender Manager or Case Manager to provide a comprehensive report, it is essential that the police share all relevant information. It is crucial that there is good communication between the different police teams including Counter-Terrorism Units, Special Branch, Basic Command Units and Public Protection Units.

24.16 The meeting should then decide whether the offender's case meets the threshold for management at MAPPA level 2 or 3 and requires active multi-agency management in the community. If it does, the meeting should devise a MAPPA Risk Management Plan ("RMP"). If it does not, the meeting should assist the lead agency in devising an agency RMP.

## Information-sharing

24.17 Given the potential risks associated with this group of offenders, OMPPG maintains an interest in their management and has a specialist Senior Probation Officer who can provide advice and support. The SPO, who works closely with police colleagues, can be contacted on **03000 474463**.

### **Standard – Relevant information must be shared by all agencies involved in the management of the case**

24.18 Where the offender is sentenced to custody or a community sentence, the police must liaise and share relevant information with the Offender Manager or Case Manager in the YOT or relevant Probation Trust. This could be at a meeting with all relevant agencies including the prison Offender Supervisor and the police (this could also include the investigating officer) to share information on the offender to assist with initial and ongoing sentence planning while in custody.

24.19 In certain cases, because of Part 4 Terrorism Notification Requirements, offenders will be required to notify the police of their address on release and of any subsequent changes of address or travel plans. In these cases, the police must ensure that they provide this information to the Offender Manager. Such cases should be recorded on ViSOR. The Police are responsible for the management of the record during sentence, licence and beyond, regardless of MAPPA Category status.

24.20 When such cases are allocated, the Chief Executive of the relevant Probation Trust must ensure that the Offender Manager is experienced and suitably-equipped to manage the case.

### **Standard – All terrorist and domestic extremist offenders will be risk-assessed using relevant risk assessment guidance and approaches**

24.21 There are relatively few terrorist and domestic extremist offenders in the criminal justice system. However, the threats that they pose to the community are significant and serious.

24.22 The processes which Offender Managers should follow to assess and manage this type of case do not differ significantly from other MAPPA cases, as the risk of serious harm to others and the likely imminence of re-offending must be assessed. As with other cases, it is crucial that relevant information from all the partner agencies is shared.

24.23 The Probation Trust will complete an OASys assessment on all offenders. Further guidance on the completion of OASys is available on EPIC under Service Delivery, Public Protection, Extremism. There are prompts within the OASys manual (chapter 8) which encourage Offender Managers to consider the offender's individual motivators. These prompts assist in refining the identification of intent. They should stimulate thought about whether an individual's involvement with others who hold what could be identified as extreme religious and or political views could be associated with offending behaviour, the potential future likelihood of re-offending, and causing serious harm to others.

24.24 However, Offender Managers need to be aware that, as with other high risk or very high risk of serious harm offenders with few previous convictions, the Offender Group Reconviction Scale ("OGRS") within OASys is likely to be low. Work within the Operational Services and Interventions Group has developed specialist guidance (Extremism Risk Guidance) to assist staff understand and intervene with the risks this group of offenders present.

24.25 Where the offender is a young person, the YOT will complete an Asset assessment taking into account the issues outlined above and any additional vulnerability factors.

## **MAPP meetings for terrorist and extremist offenders**

24.26 Information-sharing between agencies and managing security are likely to be significant issues. MAPP meetings will probably need a different composition of attendees from usual. When considering who should be invited, the MAPPA Co-ordinator should consult police colleagues. This is a case where the invitations should be agreed on a case-by-case basis.

24.27 Only those agencies that are required to effectively manage the case should be invited to the MAPP meetings. Agencies must prioritise attendance, whether at level 2 or 3. Representation from all agencies, including the Prison Service (see chapter 15 on Custody) is essential to ensure the optimum exchange of information. Specialist advice can be obtained from OMPPG.

24.28 Before the MAPP meeting, the Chair and the MAPPA Co-ordinator should meet to discuss any specific issues that relate to the management of the offender, the disclosure of information, and any other issues that may need to be agreed before the main meeting. This pre-meeting may also include members of Counter Terrorist Policing and, where appropriate, the SPO in the Extremist and Critical Public Protection Casework Section (either in person or through video or telephone conference), as well as other special branches of the police including the National Domestic Extremism Unit. The purpose of the pre-meeting is to ensure that the Chair is fully briefed and is aware of all significant issues, and that levels of intelligence or information-sharing can be agreed.

## **MAPPA Risk Management Plan**

24.29 Having shared relevant information and assessed the risks that the individual presents, the MAPP meeting will put in place a MAPPA RMP that addresses all the risk factors, including any safeguarding children issues. When putting the MAPPA RMP in place, it is essential that the meeting is sure that all actions can be effectively managed.

24.30 Where additional licence conditions are being considered, it must be demonstrated that all conditions are necessary, proportionate and reasonable to manage the level of risks identified. Advice on licence conditions can be found in Probation Instruction 07/2011. Further advice on the suitability of bespoke licence conditions can be obtained from the Senior Caseworker (Licence Variations), Public Protection Casework Section (“PPCS”) in OMPPG on **03000 474475**, or the SPO in the Extremist and Critical Public Protection Casework Section.

24.31 Where the meeting decides that an offender should be managed at MAPPA level 3, the meeting should decide whether the case should additionally be registered as a Critical Public Protection Case (“CPPC”). For further guidance, see Probation Instruction 18/2010 (The Management of Public Protection Cases and Terrorist or Terrorist-related Offences), and chapter 19 of this Guidance, and consult OMPPG.

24.32 Any RMP needs to reflect the impact that offending would have on the community, and how this will be effectively addressed. Early consultation must take place with the local police to ensure that all known factors have been taken into account. In these cases, there is likely to be a strong emphasis upon restrictive conditions and monitoring the behaviour of the offender.

24.33 The MAPP meeting should also consider, where there are issues of notoriety, what additional measures are needed. Such a plan should also identify any known risks to the agencies engaged in working with the offender.

24.34 Given the level of public interest in terrorism and domestic extremism, there is potential media interest in all cases. Contingency plans should include a reactive media plan in the event of such interest becoming active. Where there is significant media interest in the case, the meeting will ensure that there is a robust media handling plan in place. The meeting should share this with the SPO Extremism lead in OMPPG, **03000 474463**, who will provide advice and support where needed.

## **Offenders with extremist views or who are vulnerable to radicalisation**

24.35 The government’s PREVENT Strategy, published in 2011, highlights the emerging evidence that some institutional environments such as universities and prisons are places where a range of individuals may be vulnerable to radicalisation towards active support for violent extremism. Within NOMS, while extremist views are not, in themselves, indicators that an offender is likely to commit terrorist offences, they may be warning signs that staff need to be aware of. It is, therefore, important that staff are alert to the views of all offenders, irrespective of the offence they have committed.

24.36 This is an area of work where there are rapid developments taking place. One of those is in the area of risk assessment. Developing from work on risk assessment with convicted terrorists, guidance is now being provided to assist partner agencies identify those where there are vulnerabilities or concerns about engagement in extremist activity. Across England and Wales, colleagues from police, prisons and probation are providing information on an individual where there is some indication of engagement. Agencies then decide if and how they might take the work forward. This process helps police and prisons make sense of the intelligence they may be gathering, but also informs the local Probation Trust of any new and emerging risks an individual might present, and they can then plan accordingly how to manage those risks including going through the MAPPA process if necessary.

24.37 When offenders are being managed on community orders, offender managers must be alert to the views of offenders and seek further information from the police if they have concerns about extremist views. Offender managers should also refer to advice from OMPPG, and from the Operational Services and Interventions Group on 0300 047 5876.

## 25. Foreign National Offenders

### Introduction

25.1 MAPPA processes for Foreign National Offenders (“FNOs”) who are living in the community are the same as for UK citizens. Foreign national sexual offenders will be subject to notification requirements, and offenders subject to probation supervision will have to abide by their licence conditions.

### Identification of Foreign National Offenders and liaison with the Offender Manager

#### Standard – All Foreign National Offenders who are MAPPA offenders should be identified at time of sentence

25.2 Definition of a foreign national:

“Anyone who is not a British citizen is defined as a foreign national. However, nationality is self-declared and so prison staff will normally establish nationality on the basis of information provided to them by the individual prisoner concerned. Annex J of PSO 4360 contains a sample of questions that can be used by prison staff to help them correctly establish nationality. However, where any doubts persist about a prisoner’s nationality establishments are asked to refer the case to the UK Border Agency to make further enquiries.”

Prisons are required to notify the UK Border Agency Criminal Casework Directorate (“UKBA CCD”) of certain categories of foreign nationals once convicted and sentenced, using form CCD/LIT. This form includes a question about whether a foreign national offender is a MAPPA nominal case and will be the first indication to UKBA of this status.

25.3 Not all FNOs will be subject to deportation proceedings. UKBA CCD determine whether a foreign national is in scope of deportation or removal. UKBA Regional Local Immigration Teams will consider and process for deportation or removal FNOs not managed by UKBA CCD. It is important to remember that MAPPA Category 1 FNOs are subject to the same notification requirements as UK nationals. This is particularly relevant for foreign travel.

25.4 The probation Offender Manager must be informed at the earliest opportunity that an offender is a foreign national and should therefore be managed in line with PC 32/2007. The Offender Manager will liaise with UKBA about release arrangements and licence conditions.

#### Standard – Information about Foreign National Offenders must be shared with the UK Border Agency

25.5 It will not always be immediately apparent that an offender is a foreign national. When it is clear that the offender is a foreign national, and in cases of doubt, UKBA should be contacted at the earliest opportunity, as they have the responsibility for dealing with foreign nationals who are in the country illegally and deporting FNOs who fit the necessary criteria.

25.6 For all MAPPA offenders who are FNOs, the lead agency will ensure that UKBA is notified and provide them with contact details for the relevant Offender Manager.

25.7 UKBA will also be notified of any MAPP meetings to discuss level 2 or level 3 MAPPA offenders so that a UKBA representative is able to provide a written report or attend the meeting via tele-conferencing, video conferencing or in person where resources allow.

25.8 UKBA will identify a MAPPA Single Point Of Contact to ensure the effective exchange of information between UKBA and other MAPPA agencies. They will ensure that the lead agency is kept informed of immigration and deportation procedures where relevant.

25.9 For more information see chapter 3 on DTC Agencies, and the Memorandum of Understanding between UKBA and the Responsible Authority.

**Standard – At the end of sentence, an assessment should take place to agree an effective Risk Management Plan**

25.10 The decision whether or not to deport an FNO should be made by UKBA during a custodial sentence. Where deportation is being pursued, wherever possible, deportation will be immediate on completion of the custodial element of the sentence. However, an FNO who is not deported during the currency of the custodial sentence may continue to be detained under immigration powers either in prison or in an Immigration Removal Centre (“IRC”), while his or her deportation is being progressed.

25.11 While an FNO may remain in immigration detention up until he or she is deported, there remains the potential, either following an executive decision of UKBA or a decision of an Asylum & Immigration Chambers, to release the FNO from an IRC into the community following an immigration bail hearing. It is essential therefore for effective public protection that, at the end of sentence, an effective Risk Management Plan is available on an FNO in case of a release into the community.

25.12 Prisons are required to generate licences on all prisoners, including FNOs, and will require Offender Managers to provide reporting instructions and to recommend appropriate licence conditions. Offender Managers will advise UKBA regarding risk of serious harm, to enable consideration of whether the FNO should be detained further in either a prison or an IRC. In some cases this will require referral to a level 2 or level 3 MAPP meeting in line with MAPPA referral procedures. For more information see PC 32/2007.

**Allocation to a Prison or Immigration Removal Centre when detained solely under immigration powers**

25.13 UKBA are responsible for risk assessing all immigration detainees held in prison for their suitability for transfer to an IRC. Offender Managers may be required by UKBA to provide risk information in an agreed format, to assist with the UKBA assessment process. IRCs are used for temporary detention, under immigration powers, of a range of people who have no legal right to be in the UK but who have refused to leave voluntarily, and this includes FNOs. Those detained in any of the centres can leave at any time to return to their home country.

25.14 Some immigration detainees are FNOs who have completed prison terms for serious crimes, but who then refuse to comply with the law by leaving the UK. In some cases it is deemed too high a risk to accommodate an FNO in an IRC. In this circumstance the FNO will be detained in prison pending deportation, or release into the community should deportation not ultimately take place.

25.15 Where an FNO continues to be detained post-sentence in an IRC, or in prison under immigration powers, the allocated Offender Manager in the community should continue to actively manage the case, through liaison with the UKBA CCD case owner. Immigration detention is a risk period for the Offender Manager to manage as there is the potential for the sudden and immediate release into the community of an FNO following the decision of an Asylum & Immigration Chambers, when licence supervision will be activated.

25.16 The UKBA CCD should request risk information from the Offender Manager before deciding whether to release from immigration detention through their executive decision or when a bail hearing is due at an Asylum & Immigration Chambers. The UKBA CCD is responsible for informing the Offender Manager when an FNO is released from immigration detention. Where the FNO is released into the community from immigration detention, that offender will be subject to licence conditions, and, where the MAPPA criteria are met, managed through MAPPA. UKBA should notify the Offender Manager when the offender is deported from either an IRC, prison or the community.

## **Deportation procedures**

25.17 The Criminal Casework Directorate within UKBA is responsible for the deportation of foreign criminals who meet certain criteria. Prisons are instructed to notify UKBA of sentenced foreign national prisoners within five days of sentencing.

25.18 Provisions within the Immigration Act 1971 and the UK Borders Act 2007 provide for the deportation of foreign criminals. European Economic Area nationals who are foreign criminals are considered for deportation under the Immigration (European Economic Area) Regulations 2006.

# 26. Mentally Disordered Offenders and MAPPA

## Introduction

26.1 The term "mentally disordered offender" (MDO) is used to describe a person who has a disability or disorder of the mind and who has committed or is suspected of committing a criminal offence. The term covers a range of offences, disorders and disabilities and may be relevant to the decision to prosecute or divert, fitness to plead, and sentencing / disposal.

26.2 The relevant legislation uses the term "offender", so this chapter refers to "offender" and "patient" interchangeably.

## Available orders

26.3 Under the provisions of the Mental Health Act (MHA) 1983 there are a number of ways in which an offender or suspected offender may be detained in hospital. These can be summarised as follows.

### Unrestricted hospital orders (s.37)

26.4 Unrestricted hospital orders are made under s.37 of the MHA 1983. They can be made either by the Crown Court or a magistrates' court where a person is convicted of an imprisonable offence but where the court considers, having regard to all the circumstances, that the most suitable way of dealing with the offender is to order his admission to hospital. These patients can be granted community leave under s.17 or transferred to other hospitals by their Responsible Clinician. A hospital order cannot be made where the person is convicted of murder.

26.5 Section 37 patients may also be discharged into the community at any time by their Responsible Clinician, hospital managers or the appropriate tribunal (the First-tier Tribunal (Mental Health) in England, or the Mental Health Review Tribunal in Wales) ("the Tribunal"). They cannot apply to the tribunal for discharge within the first 6 months of detention, beginning on the date of the hospital order. In some cases, a discharged patient may be placed on a s.17A community treatment order (CTO), which makes them subject to certain conditions. Patients subject to a CTO are liable to recall to hospital under s.17E if they breach their conditions or they require medical treatment and there would be a risk of harm to their own or others' health and safety if they are not recalled for treatment.

### Restricted hospital orders (ss.37 and 41)

26.6 Where a s.37 hospital order is made in respect of an offender in the Crown Court, under s.41 of the MHA 1983 the court may also impose a restriction order if, having regard to the nature of the offence, the previous convictions of the offender and the risk of committing further offences, it appears necessary for the protection of the public from serious harm. Restricted hospital orders under ss.37 and 41 can only be made by the Crown Court. However, where a magistrates' court convicts an offender, it may commit the offender to the Crown Court under s.43, so that the Crown Court can consider whether to make a hospital and restriction order.

26.7 Patients subject to ss.37/41 cannot be granted community leave under s.17 or be transferred to another hospital by their Responsible Clinician unless the Secretary of State for Justice consents.

26.8 Restricted patients cannot apply to the Tribunal for discharge within the first 6 months of detention, beginning on the date of the hospital order.

26.9 Restricted patients can only be discharged by: the Tribunal under section 73; the Secretary of State for Justice under section 42; or the Responsible Clinician with the Secretary of State's consent under section 23 (read with section 41(c)(iii)). The Tribunal may defer a direction for the conditional discharge of an MDO pending the implementation of arrangements to support, accommodate and supervise the patient (s.73(7)). This means that the patient's actual conditional discharge from hospital is deferred; it does not mean that the decision to discharge, or otherwise, is deferred. The Secretary of State does not have the power to defer a discharge.

26.10 A restricted patient will rarely be granted an absolute discharge direct from hospital. In most cases they will first be granted a conditional discharge, which means they remain liable to recall to hospital (s.42(3) and s.73(4)(a)). The patient will have two supervisors, one clinical and one social, to support them in the community. The supervisors will be required to provide quarterly reports to the Ministry of Justice. After adequate testing in the community, the clinical team may feel that it is appropriate to recommend the patient's progression to an absolute discharge. If a patient is absolutely discharged, there will be no conditions on them. Both the Tribunal and the Secretary of State can grant an absolute discharge (s.42(2) and s.73(1)).

### **Guardianship orders (s.37)**

26.11 A s.37 guardianship order places the person under the guardianship of the local authority social services or other such person as they may approve, who must agree to accept the duty. Guardianship orders are for patients' welfare and protection, rather than medical treatment, and are rarely used. They can authorise the detention of the patient in hospital, although the patient will more commonly be placed in residential accommodation. Patients under guardianship orders do have the right to apply to the Tribunal for discharge within the first six months beginning with the date of the order. Alternatively, a patient's nearest relative can apply within the first 12 months, beginning on the date of the order, and in any subsequent period of 12 months.

### **Hospital and limitation directions (s.45A)**

26.12 Hospital and limitation directions (s.45A) can only be made in the Crown Court. These orders are commonly known as hybrid orders as they combine hospital admission with a custodial sentence. In these cases, the offender is sentenced to imprisonment and then immediately transferred to hospital (note that s.45A cannot be used where the person is convicted of murder). The Secretary of State has the power to remit the patient to prison if they are deemed to no longer require treatment in hospital for a mental disorder or if no effective treatment for the disorder can be given in the hospital in which the offender is detained (s.50(1)). Limitation directions have the same effect as s.41 restriction orders, so the Secretary of State's permission will be required for all s.17 community leave, and for transfers. Patients have the same right to apply to the Tribunal as restricted patients (that is, they may make an application after the first six months of the direction). If the Tribunal decides that the patient no longer meets the criteria for detention under the Act, they will generally be returned to prison.

### **Transfer to hospital from prison during a determinate or indeterminate prison sentence (ss.47 - 49)**

26.13 s.47 of the MHA 1983 provides that convicted prisoners can be transferred into hospital from prison if they meet the criteria set out in the section<sup>4</sup>. Under s.49 the Secretary of State, if he or she thinks fit, can also direct that that person will be subject to the restrictions set out in s.41 of the Act as outlined above. This is known as a "restriction direction".

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<sup>4</sup> The same can be done in respect of remand prisoners, civil prisoners and immigration detainees, provided that they meet the same criteria (s.48), but these are not automatically MAPPA-eligible unless they are already a MAPPA case or have a previous conviction and are referred into MAPPA under Category 3.

26.14 Where the Secretary of State is notified that the person no longer requires treatment in hospital for a mental disorder, or that no effective treatment can be given in that hospital, the Secretary of State may direct the patient to be transferred back to prison under section 50(1).

26.15 Where a restriction direction has been made under s.49, the patient cannot be granted leave, transferred or discharged into the community during the period of the sentence without the Secretary of State's agreement.

26.16 Restriction directions in respect of patients with determinate sentences will lift on the prisoner's automatic release date (s.50(2)) and the offender will be treated as though they had been admitted to hospital without restrictions on that day. Restriction directions in respect of patients with indeterminate sentences will lift when their release is directed by the Parole Board. Time spent in hospital counts towards the sentence for tariff purposes. In the event that a prisoner is transferred to hospital during any part of the parole review process, that review will be suspended until the individual is remitted to prison. Restrictions on patients on remand will cease or be replaced when their case is disposed of by the court.

26.17 If a patient continues to require hospital treatment after their restrictions have ceased, they can remain in hospital as a 'notional s.37' patient managed by clinicians and hospital managers. The Secretary of State will have no further involvement in the management of these patients. From this point, all decisions, including discharge, will be made by the Responsible Clinician or the Tribunal. A notional s.37 patient can be made subject to a s.17A community treatment order. The NPS offender manager retains responsibility for the Risk Management Plan and patients will still be subject to licence conditions if they are discharged before their sentence has expired (in the same way they would be released on licence from prison). This means that the Responsible Clinician must contact the NPS when discharge is considered. A breach of licence conditions may result in recall, which will be to prison.

### **Transfers late in sentence**

26.18 The Court of Appeal has observed that, when considering an application for a s.47 transfer right at the end of sentence, the Secretary of State must apply a "heightened level of scrutiny" to the evidence on which his decision is to be based<sup>5</sup>. Accordingly, the Secretary of State will consider late-in-sentence applications only if the case can be made that admission is urgently necessary for the prisoner's own health or safety, and it is not safe to wait until after the release date for admission to hospital. If a s.47 transfer does not take place, an alternative may be admission under civil powers in the MHA.

### **Remand to hospital (s.35)**

26.19 Under s.35 of the MHA 1983 an accused person can be remanded to a hospital specified by the Crown Court or a magistrates' court for a report assessing their medical condition. Under s.35 an offender can also be detained in hospital if a magistrates' court has convicted them of an offence punishable with imprisonment, or where the court is satisfied that a person charged with the offence did the act or made the omission but has not convicted them. This will not automatically make a patient subject to MAPPAs unless they are already a MAPPAs case, for example they are an RSO.

## **Criminal Procedure (Insanity) Act 1964 (as amended by the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 and the Domestic Violence, Crime and Victims Act 2004)**

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<sup>5</sup> *R (on the application of TF) v Secretary of State for Justice* [2008] EWCA Civ 1457.

26.20 This legislation deals with those mentally disordered people who, when they appear before the Crown Court, are not convicted either because their mental disorder is such that they are considered unfit to plead (s.4) or because the offence was committed when they were in such a state of mental disorder as to negate criminal responsibility ("not guilty by reason of insanity" - s.1).

26.21 Where an individual is found unfit to plead, the jury must then determine, on the evidence, whether they are satisfied that the individual did the act or made the omission charged against him as the offence (s.4A). If the Secretary of State is later advised by the patient's Responsible Clinician that the patient is, at any point, fit to be tried, the Secretary of State may direct his or her remission to Court in order for the prosecution to resume.

26.22 Where an individual is found not guilty by reason of insanity, or was unfit to plead but it was determined that the individual did the act or made the omission, then the court may make a hospital order with or without restrictions (s.5(2))

26.23 Under section 37(3) of the MHA, where a magistrates' court is satisfied that the individual did the act they are accused of, they may choose not to convict them but instead make a hospital order. A restriction order, however, cannot be made.

## **The Secretary of State's responsibilities under the MHA 1983**

26.24 The Secretary of State for Justice is responsible only for MDOs subject to restriction orders (s.41), restriction directions (s.49), and limitation directions (s.45A) under the MHA 1983<sup>6</sup>. Such offenders are collectively known as "restricted patients". In relation to all restricted patients, the Secretary of State's consent is required for:

- Leave into the community.
- Transfer between hospitals.

26.25 The Secretary of State may also:

- Discharge patients into the community (either conditionally or absolutely).
- Direct the remission to prison of a transferred prisoner or a patient subject to a hospital or limitation direction.
- Recall a conditionally discharged patient and add, vary or remove conditions of discharge including those set by the Tribunal.

26.26 Further details of the Secretary of State's powers and responsibilities in relation to hospital orders are provided in the Available Orders section of this chapter (paragraphs 26.3 - 26.23).

26.27 The Mental Health Casework Section (MHCS) in the National Offender Management Services (NOMS) takes decisions on behalf of the Secretary of State in respect of restricted patients. Queries about restricted patients or the transfer of prisoners to hospital should be addressed to the relevant casework team in MHCS. A contact list is available at <http://www.justice.gov.uk/contacts/noms/mental-health-unit>.

26.28 Clinical and social supervisors are required to submit regular reports to MHCS on conditionally discharged patients. These reports must include information on the involvement of other agencies and MAPPA status.

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<sup>6</sup> The Secretary of State has no involvement with a patient who is subject only to an order made under s.37 and the patient's clinical team has responsibility for risk management.

## **Role of the First-tier Tribunal (Mental Health) - in Wales, the Mental Health Review Tribunal (“the Tribunal”)**

26.29 The Tribunal has a statutory duty to review the case of a patient detained under the Act and order discharge if it is not satisfied that the criteria for detention are met.

26.30 Detained restricted patients have the right to apply to the Tribunal once a year (s.70). The Tribunal is generally required to discharge the patient from hospital under s.73 of the MHA 1983 if it is not satisfied that:

- the patient is suffering from a mental disorder of a nature or degree that makes it appropriate for the patient to be liable to be detained in hospital for medical treatment; or
- the medical treatment is necessary for the patient’s health and safety or for the protection of other persons, or
- appropriate medical treatment is available for the patient.

26.31 The Tribunal can impose conditions on the discharge if it is satisfied that the patient needs to be liable to recall for further treatment.

26.32 A restricted patient subject to conditional discharge in the community has the right to apply to the Tribunal for an absolute discharge once every two years (s.75(2)).

26.33 The Secretary of State is a party to proceedings before the Tribunal and can be represented at Tribunal hearings. Generally, however, MHCS submits a written statement on behalf of the Secretary of State.

26.34 Where the Tribunal directs that a patient be conditionally discharged, it may defer that direction until it is satisfied that adequate arrangements have been made for the discharge to take place (s.73(7)).

Conditions of discharge should be proportionate and reasonable in all the circumstances. After the Tribunal has directed a patient’s conditional discharge, the Secretary of State may vary those conditions (s.73(5)). Current case law in *Secretary of State for Justice v RB* (2011) EWCA Civ 1608, and in *Secretary of State for Justice v KC* [2015] UKUT 0376, relates to conditions amounting to a deprivation of liberty. This is an area of ongoing litigation so current case law should be consulted for guidance.

26.35 The duty to discharge does not apply to restricted patients who have been transferred to hospital under ss.47 or 48 of the Act together with a s.49 restriction or who are subject to a hospital and limitation direction under s.45A. In these cases, under s.74 of the Act, the Tribunal may only recommend discharge to the Secretary of State. If the Secretary of State does not agree to the discharge, the patient must be returned to prison, unless the Tribunal recommends that in the event of the patient not being discharged, they should continue to be detained in hospital.

26.36 If a conditionally discharged patient has been recalled to hospital, the Secretary of State must refer the case to the Tribunal within one month of recall.

### **Mentally Disordered Offenders who are MAPPA offenders**

26.37 MAPPA is not a statutory body in itself but a mechanism through which agencies can better discharge their statutory responsibilities and protect the public in a co-ordinated manner.

26.38 MAPPA eligibility:

- Patients subject to notification requirements of Part 2 of the Sexual Offences Act (SOA) 2003 (Category 1); or
- Patients convicted of murder or an offence specified in Schedule 15 or 4A of the Criminal Justice Act 2003 and sentenced to twelve months or more imprisonment or detained in hospital subject to provisions of the MHA 1983, including those found not guilty by reason of insanity or unfit to plead (having done the act) (Category 2).
- Other dangerous offenders (Category 3), please see paragraph 26.40.

26.39 MAPPA eligible MDOs who are subject to MAPPA may be detained in hospital under the MHA 1983 either:

- having been sent there directly by the court making a hospital or guardianship order (s.37), with or without a restriction order (s.41); or
- if detention in hospital was directed by the court combined with a custodial sentence ('hybrid' orders) (s.45A), with a limitation direction; or
- detention was directed by the Secretary of State for a convicted prisoner serving over 12 months, to be transferred into hospital from prison (s.47), with or without a restriction direction (s.49).

26.40 A patient who does not qualify under Categories 1 or 2 may, however, be subject to MAPPA under Category 3 if the responsible authority considers, by reason of their offences (wherever committed), that they currently pose a risk of serious harm to the public that requires active multi-agency management. This group may include patients who are considered to be "notional 37s" at the end of a prison sentence, or those who have a past conviction or caution for an offence that indicates that they are capable of causing serious harm to the public. Further information on Category 3 can be found in Chapter 6 – Identification and Notification of MAPPA offenders of the MAPPA guidance at paragraph 6.10.

26.41 MDOs subject to MAPPA in the community and to the MHA 1983 are:

- offenders who have been conditionally discharged from hospital; or
- offenders under a community treatment order made under s. 17A

26.42 Other offenders who are subject to MAPPA Category 1 or Category 2 may be simultaneously subject to Mental Health Act powers applied through a non-criminal justice route.

26.43 Mental health practitioners have a duty to co-operate with MAPPA and share information about patients that is relevant to the statutory purposes of assessing and managing risk, even where the patient does not consent. However, patients may be asked to consent to the sharing of other relevant information within MAPPA to assist with their risk management (if they have the capacity to understand what they are consenting to). Further details on information sharing can be found in Chapter 9 – Information-sharing.

26.44 Disclosure of information about the patient to third parties, such as a victim or employer, is possible, but it must be necessary for public protection, proportionate and in compliance with the law. Professional guidance issued to medical practitioners supports necessary and proportionate disclosure and sharing of information. Issues of disclosure will be discussed at each MAPPA meeting. Further details on disclosure, including disclosure taking place without consent, are covered in Chapter 10 - Disclosure.

26.45 What happens when an offender is no longer subject to MAPPA supervision are contained in paragraphs 26.71 and 26.72.

26.46 Further information on MAPPA can be found at [www.mappa.justice.gov.uk](http://www.mappa.justice.gov.uk). MAPPA professionals, including health practitioners, can join a password-protected community that contains relevant information. Professionals can join these communities by clicking “register” in the top right-hand corner of the website.

## **MAPPA management**

26.47 Agencies at all times retain their full statutory responsibilities and obligations and, although the case is discussed in the MAPPA meeting, responsibility for decisions and for the management of the offender lies with the lead agency. Further details can be found in Chapter 12 - Risk Management Plans. The purpose of level 2 and level 3 MAPPA meetings is to share information to support multi-agency risk assessments, and to formulate effective MAPPA risk management plans (MAPPA RMPs), in order to ensure action is taken to manage the risk of serious harm posed.

26.48 Patients should know that they are being managed through MAPPA, what MAPPA is, and what this means for them. However, there may be very exceptional cases where information about MAPPA should be withheld from the patient on the grounds that it may increase his or her risk. This is a decision for the lead agency and must be discussed at a MAPPA meeting. The reason(s) for withholding information about MAPPA management should be clearly recorded in the MAPPA meeting minutes and the case record(s). Neither the patient nor their representatives are allowed to attend MAPPA meetings, as their presence could significantly hinder the core business of sharing and analysing information objectively and making decisions accordingly. But the lead agency should seek their views on their risk management and feed them into the meeting. The MAPPA meeting should also agree what information from that meeting will be fed back to the offender..

26.49 If the patient is dissatisfied with a decision about their management agreed at a MAPPA meeting, all attempts should be made to resolve this informally. This is covered further in Chapter 13a – MAPPA Meetings. If this is not possible, any complaint should be pursued in the first instance through the lead agency’s complaints procedure (see Chapter 29 – Complaints).

### **Lead agency**

26.50 The definition of a MAPPA lead agency is set out in paragraph 1.38 of the MAPPA Guidance.

26.51 If a patient has received a hospital order or guardianship order (s.37 with or without a s.41 restriction), mental health services are the lead agency for their management and the NPS has no supervisory responsibilities. If the patient is also a registered sex offender the police need to be consulted throughout the patient’s detention.

### **Transferred prisoners**

26.52 Patients transferred from custody to hospital will have an allocated Probation or YOS offender manager. The patient will have an NPS offender manager who is responsible for co-ordinating the risk management plan for release, including completing the Victim Liaison Unit referral and ensuring regular updates to the allocated victim liaison officer. Victim contact is covered further in paragraphs 26.74-26.80. Hospital staff need to consider the effect of their decisions and possible First-tier (Mental Health) Tribunal decisions on the external agencies, and must ensure that the offender manager is kept informed of decision-making processes and their outcomes. Since the date the Tribunal makes a decision cannot be predicted, it is essential that the relevant Mental Health Trust and the NPS have developed contingency plans in the event of release, and that the lead agency makes a MAPPA referral if necessary.

## MAPPA and Tribunals

26.53 The lead agency is responsible for ensuring that all relevant information about a patient's risk is presented in its evidence to the First-tier Tribunal. The practice directions for the Tribunal in England regarding statements and reports in mental health cases require that the social circumstances report includes information from MAPPA agencies or meetings. Specifically, the following information is required: whether the patient is subject to MAPPA supervision or known to the police, probation or youth offending team (and if so, which area); for what reason; and at what MAPPA level; together with the name of the Chair of any MAPPA meeting concerned with the patient, and the name of the lead agency's representative .

26.54 Reports must not quote a MAPPA meeting as a source of information. Where a specific piece of information that has been shared at a level 2 or 3 MAPPA meeting is necessary, the report writer must first consult the agency that provided it to seek approval to use the information in a report. The information must be attributed to the agency and the content agreed with the agency representative who attended the MAPPA meeting. Requests for MAPPA minutes by Tribunals are covered in Chapter 13B – MAPPA Meeting Minutes.

26.55 A MAPPA agency may have information about a patient's current risk that would be of assistance to the Tribunal. If a MAPPA meeting or agency wishes to put forward evidence of its views to the Tribunal, the information should be offered directly to the Tribunal, or to MHCS, who can incorporate it into the Secretary of State's statement. Any contribution should take the form of a summary of the relevant views and, where relevant, the police should include a copy of the Police National Computer record of previous convictions..

## Identification of MAPPA offenders

**Standard - All MAPPA offenders should be identified by mental health services, including private and independent section providers, within 3 days of sentence, admission or transfer to hospital through a criminal justice route**

26.56 Mental health services should establish procedures to ensure identification within 3 days of admission or a change in status. As a fail-safe procedure, a designated member of the care team at the first care programme approach (CPA) meeting or equivalent should be nominated as responsible for ensuring that the offender has been marked as a MAPPA offender on the internal management / record-keeping system.

### Notification

26.57 Once a patient is hospitalised through a criminal justice route, they should be identified as a MAPPA case by mental health services including private and independent sector providers. A formal notification to the relevant MAPPA coordinator for the local area of the patient's home address should be made, using the MAPPA I, which can be found in the MAPPA document set. A full referral is not required at this stage. Early notification serves to support mental health service providers' awareness of MAPPA, the identification of MAPPA offenders as required by legislation, and the tracking of MAPPA patients. Notification is necessary because the MAPPA Co-ordination unit does not have routine access to case records of MAPPA offenders detained by mental health services. For more details about the role of MAPPA Co-ordination see Chapter 28 – MAPPA Co-ordination.

26.58 Offenders subject to MAPPA as a result of offending that has not led to their hospitalisation may be admitted into a mental health facilities through a civil route. These offenders will be known to another agency, who may or may not know they are in hospital. If the hospital is aware that a patient admitted through a civil route is a MAPPA-managed offender, they should contact the lead agency if known, or otherwise the local MAPPA Co-ordination unit. If a patient admitted through a civil route is displaying

worrying behaviour and the clinician is concerned about a possible risk to the public, they should contact the police to check whether the patient is a MAPPAs offender or has any previous convictions that suggest they may need MAPPAs management under Category 3. Active and proportionate information exchange will support the effective management of risk posed by existing and potential MAPPAs offenders.

### **Leave and community discharge**

26.59 For all patients for whom a MAPPAs I has been submitted, first unescorted leave and community discharge are appropriate occasions for completing and submitting Part 2 of the MAPPAs I. It may also be appropriate to complete the MAPPAs I for first escorted leave if there is an identified risk of absconding. This starts the process of communication and supports MAPPAs being factored in to discharge planning.

26.60 Routine notifications to MAPPAs about every single leave trip or variation in leave arrangements are unworkable. Information regarding notifying victims of patient's leave is covered in paragraphs 26.74-26.80.

26.61 As forensic patients may be in regional units away from their home areas and initial leave may be in a different MAPPAs locality from the final discharge area, multiple MAPPAs areas may be involved and communication between areas is expected, together with the local police. For example, a London patient convicted of manslaughter on a s.37/41 order taking first community leave from a private sector hospital in the Cambridge area would need to be notified to the relevant London borough and to Cambridge MAPPAs.

26.62 MHCS makes leave decisions for restricted cases on behalf of the Secretary of State<sup>7</sup>, but MAPPAs notification is the responsibility of the mental health team. MAPPAs cannot approve or decline leave for restricted patients and leave should not be withheld pending MAPPAs notification or reply. However, it is good practice to seek the views of the MAPPAs area when making a decision, to ensure robust information sharing and multi-agency collaboration.

### **Making a referral to MAPPAs at level 2 or 3**

26.63 The lead agency is responsible for making a referral to MAPPAs at level 2 or 3 where appropriate. First unescorted leave, or when discharge plans are being made, may be an appropriate time to consider a referral to level 2 or 3. This will enable the discharge area to be informed of the change in circumstances, and to plan and contribute to risk management as necessary.

26.64 When planning discharge arrangements for an offender subject to MAPPAs, the CPA meeting should consider the appropriate level of MAPPAs management. All cases must be screened to determine whether level 2 or 3 management is required. The screening of level 2 and 3 cases is covered in Chapter 7 - Levels of Management. If MAPPAs management at level 2 or 3 is believed to be required, a formal referral must be made. The Responsible Clinician or other multi-disciplinary team members can contact the MAPPAs co-ordinator for advice before making a referral.

26.65 In imposing a restricted hospital order the court has decided that, having regard to the nature of the offence, a restriction is necessary for the protection of the public from serious harm. An assessment of the current risks and complexities will inform a decision on whether level 2 or 3 management is required. For non-restricted patients, the risk of serious harm has not been established by the court and the Ministry of Justice may not have been involved with the patient or may no longer be involved. However, some unrestricted cases may be former sentenced prisoners or others with substantial risk histories. In these

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<sup>7</sup> As a matter of course, MHCS will inform the police force for the area where a restricted patient is detained when: they are exceptionally given one-off leave from hospital; their Responsible Clinician is given discretion to give escorted or unescorted leave; they transfer to a different hospital; or they are discharged into the community.

cases, if there is no current assessment of the risk of serious harm the patient presents, a suitable mental health practitioner will need to assess the risk to consider whether inter-agency discussions and active multi-agency management would benefit the patient's risk management and if so, a referral to MAPPA level 2 or 3 should be made.

### **Level 1 management**

26.66 If the lead agency considers management at level 1 to be enough, only a notification needs to be submitted, through an update to the MAPPA I. A professionals meeting should be considered to develop a risk management plan in level 1 cases. Further information on level 1 management is provided in Chapter 7 - levels of management.

### **Liaison and attendance at MAPPA meetings**

26.67 Mental Health Trusts or University Health Boards (Wales) should prioritise attendance at MAPPA meetings where they are the lead agency and in cases involving transferred prisoners.

26.68 It is good practice for each MAPPA area to have a mental health representative, who is a 'core' MAPPA meeting member to meet the general duty to co-operate. This person should have the authority to commit resources on behalf of the Mental Health Trust or University Health Board and should possess relevant experience of risk / needs assessment, as well as analytical and team-working skills. There should be continuity of personnel in order to sustain good working relationships.

26.69 This core member, however, may not have direct knowledge of the MAPPA case under discussion. So a representative of the patient's clinical team should also be invited to attend to contribute to the MAPPA discussion on individual cases. Attendance in person is the normal expectation, particularly when mental health services are the lead agency; but if that is not possible, video / telephone conferencing should be considered.

26.70 A MAPPA J should be completed in line with the guidance in Chapter 3 – Duty to co-operate agencies for patients applying for work or benefits, identifying restrictions on employment or training. Whether or not there are restrictions that require a MAPPA J, in all cases where there is an identified risk to staff, the risk should be identified in the patient's risk management plan and actions to manage the risk should be discussed with the DWP.

## **Exit from MAPPA**

26.71 It is important to identify when an offender is no longer subject to MAPPA supervision. The criteria for an offender being discharged from MAPPA are different for each of the three categories :

- Category 1 offenders: when their period of registration expires. In the most serious cases registration is for life. However, following a ruling of the Supreme Court in 2010, RSOs can seek a review of registration 15 years from the date of their first notification.
- Category 2 offenders: where a s.45A or s.47 patient no longer requires treatment in hospital, and they are not remitted back to prison, they may be released on licence. MAPPA ceases to apply when the licence expires (unless referred into category 3).
- Category 3 offenders: where the case no longer requires active multi-agency management at level 2 or 3.

26.72 Part 4 of the MAPPA I should be completed by the Responsible Clinician for patients for whom they are the lead agency and forwarded to the relevant MAPPA co-ordinator when the patient is no longer subject to MAPPA supervision.

## **Absconds and escapes**

26.73 Hospital managers are responsible for informing the police whenever a restricted patient escapes from the hospital where they are detained, absconds while on escorted community leave, or fails to return from permitted leave. This information must be passed immediately to the local police force in accordance with local protocols, including information regarding any known victims who may be at risk. The hospital, as the lead agency, should have a contingency plan that covers out of hours absconds and sets out who will be responsible for contacting the victim liaison officer. It is good practice for local MAPPA areas to have a copy of an absconson plan for high risk MDOs that is accessible seven days a week.

## **Victims of mentally disordered offenders**

26.74 The rights of victims of Mentally Disordered Offenders are set out in the Domestic Violence, Crime and Victims Act 2004 (DVCA 2004). Statutory rights apply only where the sentence was passed on or after 1<sup>st</sup> July 2005. These rights were extended by the Mental Health Act 2007 to include victims of unrestricted patients for sentences passed on or after 3 November 2008. Guidance is provided in the Mental Health Act 1983 Code of Practice published in 2015 and available at:

<https://www.gov.uk/government/publications/code-of-practice-mental-health-act-1983>

26.75 Under the DVCA, a qualifying victim is entitled to know whenever discharge is being considered either by the Secretary of State, the Tribunal (restricted patients), the Responsible Clinician, or hospital managers (unrestricted patients).

26.76 The victim has the right to make representations to the decision-maker about any conditions to be added to any discharge (restricted patients) or CTO (unrestricted patients) for their protection. The victim is not entitled to make representations about whether discharge is appropriate.

26.77 The victim is further entitled to know:

- whether discharge took place (restricted patients) or a CTO was made (unrestricted patients) and, if so
- what conditions are in place for the protection of the victim or the victim's family, including any subsequent changes, and
- when those arrangements end

The victim will not be informed of specific details of where the patient is to be located after discharge.

26.78 For restricted patients there is also a presumption that the VLO will tell victims about community leave unless there are exceptional circumstances, e.g. if the victim is considered to pose a risk to the patient. Victims will be told via their VLO when the Mental Health Casework Section (MHCS) agrees to either escorted or unescorted leave, but not of each individual period of leave, which usually remains at the discretion of the Responsible Clinician.

26.79 Where the offender is subject to an unrestricted hospital order, victims have the same statutory entitlement to information as when a restricted hospital order is made, provided the conviction is for a qualifying offence. The decision-makers are the hospital managers, the Responsible Clinician and the

Tribunal. The National Probation Service (NPS) Victim Liaison Unit is responsible for passing the victim's details to the hospital, should the victim want this. There will be no further involvement from the NPS. The hospital managers have the legal responsibility for passing information to the victim, and the victim will not be allocated a NPS VLO.

26.80 Where the sentence was passed before the relevant Act, the victim has no statutory rights. However, common practice in cases involving restricted patients is to give victims who request contact under the NPS Victim Contact Service the information to which they would be entitled had the DVCA 2004 been in force.

## 27. Specialist Police Forces

### Introduction

27.1 There are currently 43 territorial police forces in England and Wales. These, together with Probation Trusts and the Prison Service, make up the MAPPA Responsible Authority in each Area. This section explains the role of other specialist police forces and their connection to MAPPA.

### British Transport Police

27.2 The British Transport Police (“BTP”) is a national police force and has the task of policing the UK rail network, London Underground, Docklands Light Railway and some tram and metro systems.

27.3 The role of the BTP is to serve the community through actively managing offending and anti-social behaviour on our railway network. Its mission is to maintain a safe railway that is free from disruption and fear of crime. It works in 7 regional areas and has the ability to work across boundaries. It is part of the ViSOR community, working closely with police forces across England, Wales and Scotland, and it should be involved in the risk management of MAPPA offenders where this is appropriate and necessary.

27.4 Where an offender is to be managed at MAPPA level 2 or 3 in the community, the MAPP meeting should consider whether it would be beneficial to invite the BTP to the MAPP meeting that takes place before release. The invitation should go to the BTP Force Intelligence Bureau (email: [fib@btp.pnn.police.uk](mailto:fib@btp.pnn.police.uk) / telephone: 020 7023 6944 or 020 78308969 / fax: 020 7830 8980).

27.5 If able to attend, the BTP can outline its contributions to the MAPPA Risk Management Plan. If unable to attend in person, the BTP should liaise with the owning police area and agree any tactical options for the management of the offender’s travel which the local police can put forward on its behalf.

### Royal Military Police

27.6 The Royal Military Police (“RMP”) is the military specialist for all three of the Armed Forces in investigation and policing, and is responsible for policing the military community worldwide. The RMP will act as a Single Point of Contact for all three services.

27.7 While other agencies can and do investigate crime committed by or against members of the Defence Department, it is the Service Police alone who have the capability to deliver the full range of policing functions, throughout the spectrum of conflict at home and abroad. The policing capability required by the Armed Forces in the UK, Germany and other overseas stations is provided by the RMP.

27.8 Where members of the Armed Forces, both military and civilian personnel, have committed sexual offences, are subject to notification requirements under the Sexual Offences Act 2003 (“SOA 2003”), and are deployed abroad, the RMP takes on the duties of the police service. When offenders who are ‘soldiering on’ (i.e. they have been properly dealt with by a court for the offence(s) committed, have not been discharged or dismissed, and therefore are able to remain within the Armed Forces) are deployed on UK soil, the RMP works closely with colleagues in the local police force to ensure that the requirements of the SOA 2003 and any other supervision requirements are fully met. Where the offender is a civilian member of staff, the normal UK procedures will apply to them.

27.9 In respect of MAPPA management, for those offenders resident in the UK it would be usual for the local police force to be the conduit of any relevant information from the RMP into the MAPP meeting. Where the offender may be deployed abroad, the RMP will undertake an assessment of the potential risks the individual presents and ensure that all the necessary arrangements are in place to meet these. The RMP is part of the ViSOR community and will ensure that the ViSOR record is kept up to date.

## **Civil Nuclear Constabulary**

27.10 The Civil Nuclear Constabulary (“CNC”) provides protection for civil nuclear licensed sites and safeguards nuclear materials, nuclear site operators, policing and nuclear regulators, as well as interlinking with Home Office forces.

27.11 There may be occasions when it will be necessary to share information with CNC. Again it would be usual for the local police force to be the conduit of any relevant information from the CNC to the MAPP meeting.

## 28. MAPPA Co-ordination

*This is a summary of the MAPPA Co-ordination function. Please see the relevant chapters for details.*

**Standard – MAPPA Co-ordination should be accountable to the Strategic Management Board.**

### Introduction

28.1 MAPPA Co-ordination is a dedicated function carried out on behalf of the Responsible Authority, and accountable to the Strategic Management Board (“SMB”). MAPPA Co-ordination aims to ensure that multi-agency risk management is focussed on the right people in a timely and efficient manner. It helps ensure the delivery of robust and defensible plans, which address known indicators of serious harm to others.

28.2 In small areas, it may be possible for the role of co-ordination to be undertaken by an individual. In larger areas, co-ordination might be undertaken by several people within the Responsible Authority, either as a role or on a geographical basis.

### Single point of contact

**Standard – There should be a single point of contact for the management of all MAPPA offenders**

28.3 The systematic co-ordination of MAPPA activity is critical in ensuring that the functions of the MAPPA framework are coherent and that they contribute meaningfully to public protection. Even if several people are involved in the co-ordination task, it is recommended that a single individual is allocated overall responsibility for the oversight of the arrangements in any one area – the “**MAPPA Co-ordinator**”.

28.4 The specific point of contact for MAPPA ensures that the statutory responsibilities in sections 325–327B of the Criminal Justice Act 2003, and MAPPA national policies and procedures, are implemented in their local area as agreed by the SMB.

### Desired outcomes from co-ordination

**Standard – MAPPA Co-ordinators will work on behalf of the SMB to implement the MAPPA process as outlined in the MAPPA guidance**

28.5 The actions below are areas within the Guidance that require MAPPA Co-ordination.

- All MAPPA offenders are identified at sentence by the responsible agency.
- The MAPPA Co-ordinator is notified of all MAPPA offenders being managed in the community by the Youth Offending Team and mental health services.

- The MAPPA Co-ordinator has access to police and probation case management systems for the identification of MAPPA offenders.
- Referral is made to the MAPPA Co-ordinator for all MAPPA offenders for whom a MAPPA Risk Management Plan at MAPPA level 2 or 3 is necessary to manage that risk.
- All referrals for level 2 and 3 MAPP meetings are screened and assessed to ensure the required level of MAPPA management, and the referring agency is informed of the decision within 10 days of receipt of the referral.
- The MAPPA documents are used as required in the MAPPA guidance by Responsible Authorities and Duty to Co-operate agencies ("DTCs").
- All relevant partner agencies are identified and invited to the MAPPA level 2 and 3 meetings in order to plan an effective Risk Management Plan and to ensure that it is implemented.
- Comprehensive and accurate victim information is available at every MAPP meeting.
- All MAPP meetings consider whether a disclosure to a third party is required as part of the Risk Management Plan.
- Relevant reports and other information are available at every level 2 and 3 MAPP meeting.
- All agencies at MAPP meetings are aware of the restrictions and duties in relation to information being shared and are asked to confirm that they are willing and able to abide by them.
- MAPPA level 2 and 3 offenders are reviewed within required timescales, and monitored by MAPPA Key Performance Indicators ("KPIs").
- There is suitable representation at the appropriate grade at MAPP meetings from the agencies required to attend, and a record is kept of their attendance by the minute taker, which is monitored by MAPPA KPIs.
- All agencies attending MAPP meetings are aware of their duty to store minutes confidentially, in accordance with their own agency procedures.
- Responsible Authorities and DTC agencies are provided with up-to-date information on local arrangements regarding any core groups and standing membership.
- All MAPP meetings are effectively managed and are in accordance with the MAPPA Guidance.
- There is effective communication with NOMS Extremism Critical Public Protection Cases Team so that pre-meeting arrangements can be made as required.
- MAPPA Risk Management Plans and minutes from all relevant level 2 and level 3 MAPP meetings are prepared showing clearly the status of each offender, the agencies delivering components of the plan and the timescale, and the point at which the offender exits the multi-agency risk management process.
- MAPPA minutes for all level 2 and 3 MAPP meetings are entered on ViSOR.
- Following agreement to transfer a MAPPA offender by the lead agency, the necessary transfer information is sent via the local Co-ordinator to the receiving MAPPA area.

## Information collection and sharing

### Standard – the MAPPA Co-ordinator will ensure effective and appropriate information-sharing

28.6 Outlined below are the relevant requirements:

- Relevant information is shared with other agencies within MAPPA for the management of the risk of serious harm to the public.
- Information-sharing is on the basis that the information will be stored and handled using the Government Protective Marking Scheme, shared safely and securely, and used by the appropriate personnel within those agencies for public protection purposes only.
- There is a Memorandum of Understanding in place with every DTC agency to ensure effective and appropriate information-sharing.
- All requests for minutes are considered by the MAPP meeting Chair, and an Executive Summary is provided by the MAPPA Co-ordinator if deemed appropriate.

### Standard – the MAPPA Co-ordinator will ensure that statistical data is collated and reported upon as required in the MAPPA guidance

28.7 Outlined below are the relevant requirements:

- Disclosure information for level 2 and 3 cases is collected and reported to the SMB on a quarterly basis.
- A statistical report is provided to the SMB on all MAPPA offenders in the community by category and level. These figures are statistical only and will not provide information on individual offenders.
- Information is collected and provided for the MAPPA annual report.
- Information on performance against the national MAPPA KPIs is collected and reported to the SMB and uploaded to the national Probation Performance Hub.

## Strategic issues

### Standard – The MAPPA Co-ordinator will work on behalf of the SMB to implement the SMB Business Plan

28.8 Outlined below are the relevant requirements:

- Develop the SMB business plan on behalf of the Responsible Authority and monitor its delivery on behalf of the SMB.
- Collate and analyse quantitative and qualitative data, and provide reports on the area's compliance with the MAPPA KPIs to the SMB.

- Drive the implementation of the SMB training and communication plans.
- Establish and manage the process to identify all relevant cases where a MAPPA Serious Case Review is required and ensure that colleagues are notified.
- Communicate with all agencies involved with MAPPA to improve effective practice and ensure resources are used appropriately to manage risk.
- On behalf of the SMB, ensure that all complaints received by the SMB are dealt with properly and in a timely manner.

**Standard – the MAPPA Co-ordinator will provide necessary training and quality assurance for the management of MAPPA offenders**

28.9 MAPPA co-ordinators will:

- Provide briefings and training regarding the management of MAPPA offenders in accordance with the SMB plan.
- Undertake performance monitoring and improvement as set out in chapter 31.

## 29. Complaints

### Introduction

#### **Standard – SMBs must ensure there is a complaints procedure for MAPPA in their area**

29.1 From time to time there may be complaints about MAPPA. These may be from offenders who have been managed under MAPPA or from their friends, relatives or legal advisers. It is also possible that there will be complaints from external organisations or professionals. Complaints may cover a range of issues including decisions regarding disclosure or the denial of access to meetings or minutes.

29.2 As MAPPA is not a body in its own right and has no legal personality, it is important to determine whether any complaint received by MAPPA is legitimately a complaint about MAPPA or is about how one of the agencies is managing a case. For example, if an offender is raising a complaint about a licence condition, this should be directed to the relevant Probation Trust. Similarly, complaints about police operations should be directed to the police.

29.3 The Responsible Authority and Duty to Co-operate (“DTC”) agencies will have their own complaints procedures, and these will apply if there is a complaint about how an agency is carrying out its work. It is important that complaints are managed promptly.

### Practice suggestions

29.4 The fundamental principle in dealing with complaints is that they should be resolved at the lowest possible level. A complaint about MAPPA should usually be directed to the MAPPA Co-ordinator. The following process is suggested, although other arrangements are permissible.

- On receipt of a complaint, the MAPPA Co-ordinator consults the Chair of the Strategic Management Board (“SMB”) and they agree how to proceed.
- Where the complaint relates to how one particular agency has operated, the complaint should be passed to the SMB representative for that agency for the complaint to be dealt with through the agency’s complaint procedure. The MAPPA Co-ordinator will write to the complainant to advise him or her of this.
- Where the complaint is levelled against the MAPPA process, or a decision taken by a MAPP meeting, the SMB Chair will consult the MAPP meeting Chair and will, in straightforward cases, respond to the complainant.
- If the complainant is dissatisfied with the response, or the Chair believes that the case is one which requires further consideration, the SMB Chair will organise an investigation.
- A lead investigator should be identified, ideally a member of the Responsible Authority.
- The investigation can be undertaken in a variety of ways including the creation of a sub-group. This might typically consist of three members: a member of the Responsible Authority, a Lay Adviser and a DTC member, none of whom should be involved in the case.

- If the complainant is dissatisfied with the outcome of an investigation and wishes to take the matter further, he or she may apply to the Chief Constable, Chief Executive of the relevant Probation Trust, or Prison MAPPA representative and ask for a review of the process.

29.5 Complaints should be dealt with as quickly as possible, and the complainant should be informed of any delays in the process. The SMB Chair should ensure that the complainant and the MAPPA Co-ordinator are kept advised of the progress of the complaint and its outcome.

<b>Standard – The MAPPA Co-ordinator will report all complaints to the SMB</b>
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29.6 The MAPPA Co-ordinator should report all complaints received, and the findings from them, to the SMB. The SMB should ensure that any agreed actions are taken to avoid a repetition of such a situation in the future. This could form part of MAPPA quality audits. See chapter 31 on Performance Monitoring and Improvement.

## 30. Governance of MAPPA

### Introduction

30.1 This chapter summarises some of the structures that are in place to support the effective operation of MAPPA. The structures, functions and membership of groups listed below may change over time to reflect agency reorganisations or changes in strategic policy.

### Groups other than ViSOR Groups

#### Responsible Authority National Steering Group (“RANSNG”)

30.2 This is the national co-ordinating body tasked with exercising oversight of MAPPA and ensuring its continued development. It is chaired by the Head of the Offender Management and Public Protection Group (“OMPPG”) in NOMS. The RANSNG will produce a national MAPPA business plan annually, which the Responsible Authority will be required to mirror in the Strategic Management Board (“SMB”) business plan.

#### National MAPPA team in the NOMS Offender Management and Public Protection Group

30.3 This is a multi-disciplinary team consisting of civil servants and seconded staff from police and from across NOMS. Its functions include:

- Managing the appointment / termination of appointment of Lay Advisers on behalf of the Secretary of State.
- Producing the national MAPPA Annual Statistics and giving guidance relating to local MAPPA Annual Reports on behalf of the Secretary of State.
- Issuing MAPPA Guidance on behalf of the Secretary of State.
- Maintaining the Prison Public Protection Manual.
- Working with other government departments and agencies to consider the implications of related policy on MAPPA and public protection.
- Collecting and disseminating good MAPPA and public protection practice.
- Advising and supporting Responsible Authorities, SMBs and prisons on MAPPA and public protection issues.
- Supporting local areas with training.
- Advising and supporting areas and regions through attendance at meetings, as well as through occasional visits or telephone/video conferencing, on the management of complex cases.
- Engaging with public protection leads in prisons and probation to inform policy and practice developments.
- Providing advice, support and quality assurance for MAPPA Serious Case Reviews.

## **National MAPPA Best Practice Workgroup**

30.4 This is chaired by the Head of the national MAPPA Team in OMPPG and consists of two representatives from the Responsible Authority from each region. Its tasks are to:

- Identify areas of best practice.
- Work in sub-groups to develop best practice initiatives.
- Disseminate training materials.
- Identify national training needs.
- Devise a means of meeting national training needs.

## **ViSOR Groups**

### **ViSOR National User Group**

30.5 The aim of the ViSOR National User Group (“NUG”) is to support the development and use of the ViSOR service at a national level across the various UK jurisdictions in order to ensure that it continues to effectively support the varied MAPPA requirements.

30.6 The NUG meets three times a year. Membership comprises Regional User Group chairs plus senior customer representatives. The chair of this group should be the ViSOR senior responsible officer (ACPO lead for the management of sexual and violent offenders).

### **ViSOR Regional User Group**

30.7 There are currently 10 Regional User Groups (“RUGs”). They aim to share good practice, and discuss implementation issues and other issues at regional level. The RUGs also propose change requests on behalf of members to the Change Management Group (“CMG”).

30.8 Membership comprises representatives from user agencies (one police and one probation representative per area and prison area (regional) representatives). RUGs meet three times a year and they report to the NUG. Chairs of RUGs sit on the NUG.

30.9 Probation areas and Prisons should ensure they are represented on this group alongside colleagues from the third Responsible Authority agency (police). Meetings can be chaired by representatives from any of the three Responsible Authority agencies. The Chair should be a senior agency representative to ensure sufficient strategic ownership of ViSOR.

### **ViSOR Change Management Group**

30.10 The remit of the CMG is to approve or reject proposals for change received from RUGs, OMPPG and the National Policing Improvement Agency (“NPIA”), and to prioritise the implementation of approved proposals.

30.11 The CMG is obliged to consult other relevant change management groups where proposed changes may impact on other interfaced systems of customer infra-structures. Similarly, other groups are obliged to consult the CMG in cases where their proposed changes may impact on the ViSOR service.

30.12 Although likely to be reviewed, the current arrangements for CMG membership are two elected representatives from each RUG, one from the RANSG, and one representative of each interfaced system.

The CMG meets quarterly (or more often if required). The CMG reports to the NUG and will be chaired by a person identified by the NUG Chair.

30.13 All proposed ViSOR changes should come through the CMG, who will escalate only unresolved issues and proposals to the NUG.

### **NOMS ViSOR Business Board**

30.14 The NOMS ViSOR Business Board supports the operation of ViSOR in NOMS. It oversees NOMS benefits realisation, and links with the Offender Information System and NPIA. The NOMS ViSOR Business Board is chaired by the Head of the NOMS OMPPG.

30.15 The NOMS ViSOR Business Board is one of a number of special interest groups in the NPIA governance structures for ViSOR.

# 31. Performance Monitoring and Improvement

## Introduction

**Standard: SMBs should have arrangements in place to monitor and improve the operation of MAPPA and to demonstrate compliance with the MAPPA Key Performance Indicators (“KPIs”)**

31.1 For MAPPA to work effectively, each agency needs to fulfil its legal obligations and to work with other agencies to achieve the robust and defensible risk management of MAPPA offenders. The Responsible Authority, through the Strategic Management Board (“SMB”), needs to be able to demonstrate this empirically through its monitoring and evaluation of its performance.

31.2 Monitoring and analysis of MAPPA operations therefore has the following objectives:

1. To provide evidence that the statutory duties regarding the organisation and delivery of MAPPA are being delivered, including the provision of data for the Annual MAPPA Report and National Statistics.
2. To provide evidence that the defensibility test is being met, i.e. was everything done that could reasonably have been done to prevent offenders from re-offending?

31.3 In order to meet these objectives, it will be necessary to collect and analyse a range of quantitative and qualitative data. This will include compliance with the MAPPA KPIs (see paragraph 21 below).

31.4 It is for local MAPPA SMBs to determine how they will achieve these objectives. Areas may choose to establish a Performance and Review sub-group, but other arrangements are permissible. This section provides guidance on what areas of performance should be measured as part of local MAPPA performance processes. It is particularly relevant to SMBs, Responsible Authority Leads and MAPPA Co-ordinators.

31.5 The SMB will respond to HM Inspectorate of Probation inspections which link to MAPPA, and will make appropriate adjustments.

## Analysis of quantitative data

**Standard: SMBs should ensure that quantitative data is used to improve performance**

31.6 Data that is required for the MAPPA Annual report can be reviewed on a regular basis to support the SMB in monitoring and improving the performance of MAPPA. The data, and changes in data over time, will indicate whether further questions need to be asked to identify and address a performance issue. For example, if the numbers of cases managed at level 2 drops dramatically, individual agencies may want to check that they are screening out cases appropriately. Similarly, a marked increase in level 2 cases might suggest that one or more agencies is referring cases into MAPPA through lack of confidence in their ability to manage a case, rather than through a genuine need for active inter-agency management.

31.7 ViSOR was created as a case management system, but it is a rich source of data regarding the operation of MAPPA. All users can run advanced searches that allow them to gather both numerical and case-related information regarding relevant MAPPA offender cases.

31.8 For those people holding the Statistics Token (normally Central Points of Contact – CPCs or delegated others), it can also report via pre-set functionality on a range of relevant measures including:

- The total number of active nominals reconvicted during a given period.
- The total number of active nominals who are MAPPA cases.
- The total number of new, archived and unarchived ViSOR nominals in a given period.
- The number of active nominals who commit a Serious Further Offence in a given period.
- The number of category 1 and 2 recalls to custody.
- The number of Category 1 nominals subject to joint management.
- The number and type of civil and criminal Restrictive Orders applied for, granted and rejected.
- The numbers of breaches of Orders.
- Wanted / missing nominals by the owning agency.

31.9 Each pre-set ViSOR statistical report has a number of variables that users can select including age, gender, ethnicity, occupation, MAPPA category, management level, and risk level.

31.10 There is also a generic nominal record which allows the user to create further reports regarding the number of MAPPA offenders by category and level and other demographic information such as age, gender and ethnicity (except for Category 2, level 1 cases).

31.11 If the data on ViSOR is accurate, it can provide a fast and efficient way of providing much of the data that is required for the MAPPA Annual Report.

31.12 The reports are intended to support local performance management and are not intended for the public domain, with the exception of the data that is used within the MAPPA annual reports. Freedom of Information (“FOI”) requests for data should be dealt with by the owning agencies’ internal processes for managing FOI requests. However, it would be good practice to liaise with relevant partner Responsible Authority agencies and the central MAPPA team or relevant ACPO lead before responding to a local request that might have national implications.

## **Analysis of qualitative data**

**Standard: SMBs should ensure that qualitative data is used to improve performance**

31.13 Analysis of qualitative data gives a more detailed analysis of how inputs contribute to outcomes. It enables a judgement to be made about the quality of actions undertaken individually or collectively and an assessment of how this contributed to an outcome. Learning points and plans for improvement can then be identified.

31.14 Qualitative information sources include audits of cases managed at MAPPA level 2 and 3, observations of Chairs to ensure that meetings are effectively managed, and considering the learning from MAPPA Serious Case Reviews (“SCRs”).

### **Case Audits**

31.15 An audit of randomly-selected level 2 and level 3 cases can assist in monitoring and improving MAPPA operations. The purpose of the audit should be to consider how the MAPPA operated rather than to inspect the work of individual agencies. The document **MAPPA K** can assist with case audits.

### **Audit of level 2 and 3 MAPP meetings**

31.16 To ensure that MAPP meetings are effectively managed, the SMB could put in place a process to support MAPP meeting Chairs through feedback of their performance and the effective conduct of the MAPP meetings. This can be done at an agreed frequency, e.g. quarterly. The document **MAPPA L** can assist with audits of MAPP meetings.

### **MAPPA Serious Case Review**

31.17 Where a MAPPA offender commits an offence which triggers a MAPPA SCR, the SMB will be required to instigate a review using the MAPPA SCR process. Once the review has been completed, the SMB must meet to discuss it and to ensure that the findings and Action Plan are implemented and completed. Lessons learned from other MAPPA areas could also be considered in identifying areas for improvement.

### **Review of Complaints**

31.18 The MAPPA Co-ordinator will report to the SMB on all complaints received and the findings from them, particularly where they affect the operational working of MAPPA. The SMB should monitor complaints received and ensure that any agreed actions are taken to avoid a repetition of such a situation in the future.

## **MAPPA Key Performance Indicators**

**Standard: SMBs must collect data to demonstrate their compliance with the MAPPA KPIs**

**Standard: SMBs should ensure the regular analysis of KPIs**

31.19 Although the MAPPA KPIs measure inputs rather than outputs, they have been designed to ensure that the critical pre-conditions are in place for effective MAPPA operations (e.g. the right people, from the right agencies, meet at the right frequency). If these things are not in place, MAPPA operations are unlikely to be effective.

31.20 Compliance with the KPIs is measured electronically via an existing NOMS procedure (the Probation Hub). Local areas can draw off a summary of the extent to which they comply with each of the KPIs and can also view the performance of other areas. An analysis of areas where compliance is below target will indicate what further information is required in order to undertake remedial action. For example, non-compliance with the KPI regarding 90% attendance at level 2 and 3 MAPP meetings by duty to co-operate (“DTC”) agencies could prompt analysis to identify which agency or agencies are not attending. The reasons for this can then be considered, e.g. are they being invited on time? Are meetings being run to make best use of agency time or have there been changes of staff? Appropriate action to address the problem can then be considered, e.g. sending out invitations earlier, following them up with a phone call or re-ordering the cases to be considered at a MAPP meeting.

31.21 The KPIs are:

1. 90% of MAPPA level 3 cases reviewed no less than once every 8 weeks.
2. 90 % of MAPPA level 2 cases reviewed no less than once every 16 weeks.
3. Disclosure to be considered and the decision to be recorded in the minutes at 100% of level 2 and 3 MAPP meetings.
4. 100% attendance by Youth Offending Teams and Children's Services at level 2 and 3 MAPP meetings where the offender is aged under 18.
5. 75% attendance by each SMB member at SMB meetings.
6. 90% attendance by each invited DTC agency at an appropriate level of seniority at each level 2 and 3 MAPP meetings (if unable to attend, video or telephone conferencing may be acceptable).
7. 90% attendance by each invited Prison Service representative at an appropriate level of seniority at each level 2 and 3 MAPP meeting (if unable to attend, video or telephone conferencing or the provision of MAPPA F to the meeting will be acceptable).
8. 90% attendance by the appropriate grade from the police at each level 2 and 3 MAPP meeting. This is Inspector at level 2 and Superintendent (or equivalent) at level 3.
9. 90% attendance by the appropriate grade from the Probation Trust at each level 2 and 3 MAPP meeting. This is a middle manager from the Probation Trust (Senior Probation Officer or equivalent) at level 2 and ACO (or equivalent senior manager) at level 3.

## 32. MAPPA Annual Reports and National Statistics

### Introduction

32.1 Section 326(5) of the Criminal Justice Act 2003 requires the Responsible Authority in each MAPPA Area in England and Wales to publish an annual MAPPA report as soon as practicable after the 12-month period ending 31 March. Section 326(6) requires the reports to include details of the arrangements established by the Responsible Authority and to contain such information as may be prescribed by the Secretary of State.

**Standard: The Strategic Management Board (“SMB”) must collect and supply the required data for the MAPPA Annual Report and National Official Statistics and comply with directions regarding their publication**

### Data collection

32.2 The Offender Management and Public Protection Group (“OMPPG”) will write to MAPPA areas to specify exactly what data should be supplied to them, in what format and at what time. The details may change from year to year but, as a minimum, it is important that SMBs have arrangements in place to collect and report on the items listed at 1 to 9 below.

32.3 Much of the data required for the MAPPA Annual reports and National Statistics can be collected from ViSOR. This is indicated by (V) next to the data item. Where data is not available from ViSOR, the data item is marked with the word “no” and where relevant an explanation is given. Details of MAPPA statistical standards have become more refined, so a Change Request will need to go into ViSOR to address these standards fully. In the longer term, if data on ViSOR is reliable, it could be drawn off centrally at OMPPG, rather than requiring areas to submit all data on manual returns. To expedite this less time-consuming way of working, SMBs may wish to regularly request a comparison of manual returns against ViSOR and put in place measures to improve the match between the manual and ViSOR systems.

1. Number of MAPPA offenders, in each Category (1–3) and each level (1–3), who were living in your Area on 31 March. (Partial coverage. For numbers on 31 March each year, ViSOR lists by Category not by level.)
2. Number of MAPPA offenders who were managed at either level 2 or level 3 at any point during the period 1 April to 31 March. (V – ViSOR lists by both Category and level for any such cases managed during the period.)
3. Number of registered sexual offenders who were either cautioned or convicted during the period 1 April to 31 March for breaches of the notification standard. (V)
4. Number of the following Restriction Orders which were imposed by the courts in your Area in all proceedings in the period 1 April to 31 March: Foreign Travel Order, Notification Order, Sexual Offences Prevention Order (V).
5. Number of level 2 and level 3 offenders who were managed during the period 1 April to 31 March, broken down by Category, who have been returned to custody for a breach of licence. (No – ViSOR just lists by level not by Category.)

6. Number of level 2 and level 3 offenders who were managed during the period 1 April to 31 March and who have been sent to custody for a breach of a Sexual Offences Prevention Order. (No – ViSOR only lists cautions and convictions not results in stats.)
7. Number of MAPPA offenders under probation supervision, broken down by Category and level, who were charged with a Serious Further Offence (“SFO”) during the period 1 April to 31 March. (No – ViSOR just lists convictions.)
8. Number of Serious Case Reviews resulting from level 2 and level 3 offenders under probation supervision who were charged with an SFO during the period 1 April to 31 March. (No)
9. Number of MAPPA offenders under probation supervision, broken down by Category and level, who were on an outstanding charge for an SFO at 31 March 2010 (level 2 and level 3 only), or who were charged with an SFO during the period 1 April to 31 March, who were:
  - a. convicted of an SFO during the period 1 April to 31 March (V), or
  - b. on an outstanding charge for an SFO at 31 March (No), or
  - c. dealt with in any other way (e.g. acquitted, charge dropped, case not proceeded with, convicted of a non-SFO offence). (No)

32.4 This means that each agency with statutory supervision or care responsibilities must ensure that the MAPPA Co-ordinator has access to, or is supplied with, the number of MAPPA offenders in Categories 1 and 2 who are managed at level 1. Where an offender is currently subject to MAPP meetings at level 2 or 3, the MAPPA Co-ordinator can calculate the number in each category from ViSOR. He or she can also calculate the number of Category 3 offenders.

32.5 These figures do not require identifiable data to be supplied: it is a statistical return only.

32.6 Many offenders will be supervised by more than one agency. To avoid double counting, agencies should supply data as follows:

- Police – Category 1 offenders managed at level 1.
- Probation – Category 2 offenders subject to probation supervision at level 1.
- YOTs – Category 2 offenders subject to supervision by Youth Offending Teams at level 1, and
- Mental health service – Category 2 offenders who are restricted patients and who are conditionally discharged and managed at level 1.

## Publication and Restrictions

**Standard: Any premature release of the official statistics must be reported to OMPPG immediately**

32.7 OMPPG will prepare a set of national Official Statistics based on the information supplied by areas.

32.8 The MAPPA figures constitute official statistics, which means that neither the figures, nor any briefing which indicates the figures or trends behind them, may be shared before the official publication date, other than with those on a previously-agreed 24-hour pre-access list.

32.9 This restriction is explained in the code of practice for official statistics, which can be found at: <http://www.statisticsauthority.gov.uk/assessment/code-of-practice/index.html>.

32.10 In short, it requires agencies to report to the National Statistician immediately any accidental or wrongful release, and investigate the circumstances (paragraph 8, protocol 2). Any premature or erroneous release of the MAPPA official statistics must be reported to OMPPG immediately. OMPPG will inform the National Statistician.

## Media

### **Standard: SMBs must have an agreed communication strategy for managing the publication of the annual reports**

32.11 Local statistics for the relevant year can be issued to any media from 9:30am on the day of publication. This is when all 42 MAPPA annual reports will be made available on the Ministry of Justice website alongside the National Statistical Bulletin.

32.12 The MoJ press office and OMPPG will supply Q&A briefing on national figures and wider issues to assist with media and other enquiries. These can be adapted to local circumstances. A template press release will also be made available for each MAPPA area. If areas require any media handling advice then they should contact MOJ press office on 020 3334 3536.

# Glossary

ACO	Assistant Chief Officer (of Probation)
BTP	British Transport Police
CAADA	Co-ordinated Action Against Domestic Abuse
CCD	Criminal Casework Directorate
CJA 2003	Criminal Justice Act 2003
CJIA 2008	Criminal Justice and Immigration Act 2008
CJCSA 2000	Criminal Justice and Court Services Act 2000
CMG	Change Management Group
CNC	Civil Nuclear Constabulary
COP	Contracted-Out Prison
CPA	Care Programme Approach
CPPC	Critical Public Protection Cases
CSP	Community Safety Partnership
CTA 2008	Counter Terrorism Act 2008
CTO	Community Treatment Order
DTC	Duty To Co-operate
EM	Electronic Monitoring
EPIC	Electronic Probation Information Centre
FLO	(Police) Family Liaison Officer
FNO	Foreign National Offender
FTO	Foreign Travel Order
GPMS	Government Protective Marking Scheme
HDC	Home Detention Curfew
ICO	Information Commissioner's Office

IDVA	Independent Domestic Violence Adviser
IPP	Indeterminate Sentence of Imprisonment for Public Protection
IRC	Immigration Removal Centre
IRMT	Interdepartmental Risk Management Team
KPI	Key Performance Indicator
MAPPA	Multi-Agency Public Protection Arrangements
MARAC	Multi-Agency Risk Assessment Conference
MDO	Mentally Disordered Offender
MHA 1983	Mental Health Act 1983
MHCS	Mental Health Casework Section
NOMS	National Offender Management Service
NPIA	National Policing Improvement Agency
NUG	National User Group
OASys	Offender Assessment System
OGRS	Offender Group Reconviction Scale
OIS	Offender Information System
OMPPG	Offender Management and Public Protection Group
OSCT	Office for Security and Counter Terrorism
PCA 2009	Policing and Crime Act 2009
PNC	Police National Computer
PPCS	Public Protection Casework Section
PPO	Prolific (and other) Priority Offenders
PSO	Prison Service Order
RANSG	Responsible Authority National Steering Group
RC	Responsible Clinician
RM2000	Risk Matrix 2000

RMP	Risk Management Plan / Royal Military Police
ROTL	Release On Temporary Licence
RSO	Registered Sexual Offender
RUG	Regional User Group
SARA	Spousal Assault Risk Assessment
SARN	Structured Assessment of Risk and Need
SCR	Serious Case Review
SFO	Serious Further Offence
SMB	Strategic Management Board
SOA 2003	Sexual Offences Act 2003
SOPO	Sexual Offences Prevention Order
SPO	Senior Probation Officer
SPOC	Single Point Of Contact
UKBA	UK Border Agency
VLO	Victim Liaison Officer
VOO	Violent Offender Order
YOI	Young Offender Institution
YOT	Youth Offending Team