

Memorandum of Understanding:

DUTY TO CO-OPERATE

**West Midlands
Multi-Agency Public
Protection Arrangements**

Policy & Procedures

April 2016

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INTRODUCTION

“The purpose of MAPPA is to help reduce the re-offending behaviour of violent and sexual offenders in order to protect the public, including previous victims, from serious harm. It aims to do this by ensuring that all relevant agencies work together effectively to:

- Identify all relevant offenders
- Complete comprehensive risk assessments that take advantage of co-ordinated information sharing across agencies
- Devise, implement and review robust Risk Management Plans and;
- Focus available resources in a way which best protects the public from serious harm”

The purpose of the duty to co-operate is to co-ordinate the involvement of different agencies in assessing and managing risk and to enable every agency, which has a legitimate interest to contribute as fully as its existing strategic role and functions requires in a way that compliments the work of the other agencies.

Section 325(3) of the Criminal Justice Act 2003 imposes a duty to cooperate on various agencies with the MAPPA Responsible Authority on various organisations providing public services. Section 325(5) of the Criminal Justice Act 2003 requires the three Responsible Authorities and Duty to Cooperate agencies to draw up a memorandum identifying the ways they will cooperate.

The purpose of this document is to identify and clarify the statutory and legislative obligations in relation to the Multi Agency Public Protection Arrangements for each of the 3 responsible authorities and the duty to cooperate agencies in the West Midlands area. It incorporates clear statements from each agency on their responsibilities to public protection; the protection of victims and the reduction of serious harm. The principles underpinning multi agency working and cooperation; and clarifies the systems and procedures which support agencies in meeting their obligations under the statutory requirements.

It seeks to offer guidance and clarity on roles and responsibilities based on the National MAPPA guidance which was updated in 2012 and has since been updated periodically; and has taken account of local West Midlands area profile. It identifies links to Safeguarding Children and Adults with reference to the Children Act 2004 and “No Secrets” including more recent Social Care Act 2014. Summarises good practise and identifies the added value of multi agency working which seeks to strengthen the MAPPA process.

MAPPA

Multi Agency Public Protection arrangements were introduced by the Criminal Justice and Courts Services Act 2000 and developed further by the Criminal Justice Act 2003.

Legislation was introduced in response to increasing public concern regarding the management of dangerous offenders. There are a number of high profile tragedies including the death of Victoria Climbié, the murder of Sarah Payne and the murders of Holly Wells and Jessica Chapman which have led to additional measures being introduced including the introduction of the Violent and Sex Offender Register and the Vetting and Barring Scheme. Lessons learnt from many inquiries identify the need to share information and combine and coordinate efforts in order to work together to protect the public. The Bichard Inquiry identified that if the offenders arrest history had been available and used this would have changed decisions about his employment. The priority for all agencies must be the protection of the public.

The three responsible Authorities – Police, Probation and Prison have a duty imposed by law to ensure that arrangements are established in their area for the assessment and management of risk of all identified MAPPA offenders. These 3 agencies and the duty to cooperate agencies have a duty imposed by law to have regard to the MAPPA guidance in order to coordinate their responsibilities in order to protect the public. Each agency retains their own statutory responsibilities and obligations but demonstrate a commitment to work together and cooperate with each other in order to identify risks to individuals and the public and work together to manage those who pose the most serious harm to the community.

MAPPA in West Midlands Area

Within the West Midlands Area all 7 local authority areas; health authorities and relevant agencies signed up to an agreement to cooperate and share information in 1997. A duty to cooperate memorandum was agreed and signed up to by all 7 local authority areas; health authorities and relevant agencies in 2006. This document was updated in 2012 and due to further national MAPPA guidance and legislation has been amended again in August 2015 subsequently agreed with the Strategic Management Board.

West Midlands have 10 Local Policing Units with Public Protection Units.

Each Police LPU has a Public Protection Unit who manage Sex Offenders and an Offender Management Unit (OMU) for violent offenders. This structure is currently under review (2016).

Probation in West Midlands includes 7 Local Delivery Units (LDUs): Wolverhampton; Walsall; Dudley; Sandwell; Birmingham; Solihull and Coventry. They manage offenders on Community Orders and licences working closely with the Police.

In July 2014 the Probation trusts were de commissioned and the Probation services were split between one National Probation Service with 6 divisions and several Community Rehabilitation Companies. All MAPPA offenders must be allocated to the NPS.

The Prison Service is represented on the MAPPA Strategic Management Board and will provide information to support MAPPA where required.

Where it is necessary to manage individuals through a multi agency meeting A MAPPA level 2 panel meeting will be held 10 weekly – chaired by an Inspector or SPO. Level 3's are held more frequently at 6 weekly intervals or when required and chaired by Probation Head/Deputy of LDU's for violent offenders and Superintendent in MAPPA unit for sex offenders.

This document refers to West Midlands Police force area only.

Duty to co-operate agencies

- Primary Care Trusts, other NHS trusts and Strategic Health authorities
- Local Authority Social Care (Children, Adults and including Education)
- Adult Social Care
- Youth Offending Teams
- Job Centre Plus
- Local Housing Authorities
- Registered Social Landlords
- Job Centre Plus
- Electronic Monitoring Providers
- Home Office & Immigration Enforcement

From time to time there will be other **non-duty to cooperate agencies** who are invited to attend and to be included as part of a MAPPA risk management plan for example:

- Private or independent hospitals or residential care homes
- Fire Service

These agencies will also be asked to sign up to this agreement in order to improve the assessment and management of offenders who pose the most risk of causing serious harm to the community.

Diversity

“All agencies are 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 be drawn to stereotypical assumptions about groups that will be discriminatory in outcome” and MAPPA will be sensitive and responsive to individual difference and need. (MAPPA Guidance 2012).

Purpose of the Duty to Co-operate

Section 325 (3) of the CJA 2003 imposes a “**duty to co-operate**” with the MAPPA responsible authorities.

The purpose of the duty to co-operate is one of **co-ordination** of different agencies to assess and manage risk and to enable those agencies to contribute in a way that **compliments** the work of other agencies.

Public Protection requires the contribution of a number of agencies in the assessment of and the importance of the resettlement and rehabilitation of offenders, for example in stable accommodation and employment is acknowledged. Co-operation rather than collision is the aim, whereby agencies compliment their work rather than conflict by unintentionally frustrating or compromising the work of another.

The legislation does not define the activities involved but it requires a meaning of ‘co-operation’ as defined in this area memorandum.

The duty is reciprocal and agencies are required to cooperate in so far as they can, consistent with their own strategic functions.

This document identifies how agencies will cooperate with one another and is endorsed by the Strategic Management Board.

In West Midlands the **SMB** is made up of:

- Senior Managers from the responsible authorities, Probation, Police and Prison and duty to co-operate agencies; including two lay advisors and the Victims unit manager.

The SMB is responsible for monitoring the MAPPA activity in this area; its quality and effectiveness and to direct any necessary improvements.

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This is currently chaired by the Head of Public Protection for NPS West Midlands.

The principles upon which co-operation is based include:

- Respect – of the different roles and boundaries; informing and influencing partners, not command and control;
- Co-ordination and conglomeration – as a set of administrative arrangements; authority rests with each agency; the consensus and actions remain the responsibility of each agency.

Specific activities for co-operation:

- Identification of MAPPAs offenders
- To provide single point of contact for the other agencies and attend MAPPAs panels;
- Providing general advice about an agency's role and its service;
- Providing specific advice about the assessment and management of risk of a MAPPAs offender and when any changes occur in their status/risk levels.
- In order to do so clear lines of communication need to be established in order to coordinate the activities which compliment rather than undermine agencies.

Identification of MAPPA Offenders

MAPPA Categories

Category 1 : Registered Sex Offenders

All those subject to notification requirements as set out in Part 2 of the Sexual Offenders Act (2003). See Appendix 1 Thresholds to Registration. Includes those convicted or cautioned since 1997 for a sexual offence or who, at that point, were serving a like offence. Also if found not guilty by reason of insanity,

1. Remain subject to MAPPA for the length of registration.
2. Offenders must notify the police of their home address within 3 days and if roofless then to notify the police on a weekly basis every 7 days. Also to notify changes within 3 days and when away from home address for a period of 7 days either in one period or and accumulation of 7 days within and rolling 12 month period. To verify address every 12 months. In addition must now provide passport and bank account details and notify of any foreign travel.

Further changes to 2003 act include:

- Offenders must notify all foreign travel outside UK (previously only 3 days or more)
- Offenders must notify weekly where they have no sole or main residence in the UK
- Offenders must notify when residing or staying in a household with a child for a period of at least 12 hours
- Offenders must notify to the police information contained in or in relation to their passport, bank account, credit card or debit card at each notification.

3. Prisons and Youth custody notify the police but it is important that those leaving hospital are identified to the MAPPA co-ordinator on **Form I**

All statutory agencies should screen, identify and record on their own case management systems within 3 days of sentence and 6 months or 12 months in complex cases, prior to release/discharge.

It is the responsibility of the police to create a cat 1 nominal onto Visor within 3 days of sentence, creating Probation as partners and when in prison the prison service as a partner.

Category 2 : Violent and Other Sexual Offences

All those convicted of a relevant offence listed in Schedule 15 of 2003 CJA (Appendix 2), including murder, who receive the following sentence.

- **12 months or more in prison (including IPP's and suspended sentences where the custody element is specified more than 52 weeks** and if transferred to hospital under section 47/49 of MH Act.
- Detention in a YOI of 12 months plus.
- **Detention during Her Majesty's Pleasure.**
- Detention for Public Protection under S226 CJA(03).
- **Detention for a period of 12 months or more under Section 91 of PCC (sentencing) Act (2000).**
- Detention under S228 CJA (2003).
- **Detention and Training under 12 months plus (regardless of custody length).**
- A Hospital Order (with or without restrictions) section 37/41 or Guardianship Order.
- **Not guilty by reason of insanity or disability (unfit) to stand trial and received Hospital Order.**
- Those subject to Disqualification Order section 28-29A (sentenced since April 2001), Criminal Justice and Court Services Act (2000). Note these were repealed by the Safeguarding Vulnerable Groups Act 2006 as Vetting and Barring cover those disqualified from working with children but we still have a number of DO's currently in force but no new orders can be made.

All agencies are required to screen/identify and record on case management system within 3 days of sentence, and 6 months (or 12 months in complex cases) prior to release/discharge. Offender remains MAPPA eligible until the end of their licence; discharge from hospital or guardianship order or the disqualification order is revoked.

The Probation Service is responsible for entering and maintaining details onto Visor.

Category 3 : Other Dangerous Offenders

Those who are neither Category 1 or 2 offenders, but whom the responsible Authority considers poses a risk of serious harm to the public, which requires active inter-agency management. It could include those on Community Orders.

Criteria: Offender has committed an offence which indicates they are capable of causing serious harm (caution or reprimand/warning or offenders convicted abroad). This may not be a schedule 15 offence, and;

Reasonably consider that the offender may cause serious harm to the public which requires a multi-agency approach at level 2 or 3 to manage the risks.

(Those who expire from Category 1 and 2 can be considered for management under this category).

Note category 3 can only be managed at Level 2 or 3; once all actions are complete and panel are satisfied there is a robust Risk management plan in place they come out of MAPPA altogether.

The Probation Service will manage information on Visor in relation to Category 3 where the offender is supervised by them. All others will be recorded by the Police.

Levels of Management

Three levels are identified.

The levels of risk do not equate directly to the levels of MAPPA management. Not all high risk will be managed at levels 2 and 3; in exceptional circumstances a low or medium might need level 2 or 3, e.g. notoriety of the offender.

“What is the lowest level that a case can be managed at which provides a defensible RMP

All agencies, Probation, Police, YOS, Mental Health must screen within 3 days of sentence and 6 or 12 months prior to release/discharge. To be considered for level 2 or 3 Form A must be sent to MAPPA Co-ordinator, who will make the decision.

In West Midlands we have a screening process where level 2 are identified by the Senior Probation Officer/Offender Manager in conjunction with the Police SOM/VOM. All category 3 and all Level 3 applications are made to the MAPPA Co-ordinator who will advise if they meet the threshold of level 3 within 10 days.

What is it that the increased level of management will additionally provide to the effective management of this case?

Level 1 : Ordinary Agency Management

Only for Category 1 and 2 Offenders, low or medium harm and also include high risk of harm with a comprehensive and robust RMP.

Information sharing and good communication must take place between relevant agencies but management of this case can be safely managed without discussion at panel.

To be reviewed in accordance with agencies own policy and procedures and the outcome of assessments recorded on case management systems and Visor. Probation OM's to check Visor prior to each review.

Level 2 : Active Multi-Agency Management

Usually assess as significant ROSH - High/Very High on OASys

(although may be exceptional low/medium).

AND

Requires active involvement and co-ordination of interventions from other agencies to manage risks -

OR

Previously managed at level 3.

Mental Health and YOS must send identifications and referrals to the MAPPA Coordinator who will respond with a decision about whether they meet the level 2 criteria and if so a date for next panel within 10 days of receipt of the referral.

In West Midlands for level 2 cat 1 and cat 2 police/probation referrals the OM agrees with local Senior Probation Officer and local policing unit and copy of **Form A** is sent to MAPPA Co-ordinator for approval.

EXAMPLES of referrals to level 2 include:

- Sexual offending resistant to addressing offending
- Violent with mental health and substance misuse
- DV and substance misuse

Level 3 : Active Multi-Agency Management

More active conferencing **AND** senior representation from the RA and DTC agencies is required.

High or Very High of serious harm
(although may be exceptional low/med)

AND

Present risks can only be managed by close co-operation at senior level due to complexity or unusual resource committed.

OR

Media attention and/or public interest and need to ensure Public confidence is maintained.

Form A must be sent to MAPPA Co-ordinator for approval at this level.

Panel Membership

Standing Membership

- Police – for level 2 an Inspector; for level 3 a Chief Inspector or higher
- Probation – for level 2 an SPO; for level 3 a Head or deputy head
- Social Services – children's services representation
- Health Services
- Housing
- YOS – where under 18 years of age
- Prison – if MAPPA subject is in custody, either by attendance and/or preparation of Form F
- Adult Safeguarding

Where involved

- Offender Managers
- Approved Premises Staff
- Victim Liaison Officer
- IDVA team & a police Domestic Violence Officer
- Social Worker – if child is on Child Protection Register
- Home Office & Immigration Enforcement – will attend in exceptional circumstances however will provide a SPOC for information and liaison

The level and grade of panel member will be experienced and be able to make decisions on behalf of the agency they represent. If unable to attend then cover should be provided.

Responsible Authorities **(Police, Probation, Prison)**

Police Service

Has lead responsibility for managing Category 1 **(Registered Sex Offenders)**. West Midlands has 10 local policing units who all have a specialist public protection unit to manage those offenders.

The police are also responsible for the creation and management of Visor and for the registration requirements and breach of.

When jointly supervising sex offenders with the Police Service, the Probation Service takes the lead during statutory supervision.

Joint home visits are undertaken with good communication between the two when reviewing OASys, and when any significant changes occur.

An Inspector will chair level 2 MAPPAs and Police Public Protection Unit officers attend meeting with other relevant officers when actively involved in a case.

The Superintendent for central MAPPAs team now chairs all Level 3, Category 1 panels to ensure continuity and central oversight.

Probation Service

Responsible for management of Category 2 aged 18 years and over, sentenced to 12 months custody and over. Under 18 years are managed by YOS.

The Probation Service is responsible for creating and entering Category 2 level 2 and 3 offenders onto Visor. These are completed by the MAPPAs Support Unit via MAPPAs Coordinator.

All offenders are subject to supervision according to National Offender Management Service national standards.

Level 2 meetings are currently chaired either by an Inspector or SPO. The OM should attend panel meetings as should the Victim Liaison Officer and staff from Approved Premises where appropriate. Where the OM is not available their line manager should attend. OM's should

complete the MAPPA feedback form for presentation of relevant information to panel.

The Head/Deputy Head of Probation LDU chairs all level 3 meetings.

The Probation Service will screen within 3 days of sentence and 6 or 12 months prior to release all MAPPA offenders and notify the MAPPA Co-ordinator, Police and Prison where relevant. Case management system is flagged for level 1, 2 and 3. OM completes OASys and contributes to assessments for release on temporary licence and de-categorisation in prison.

West Midlands area has 7 Approved Premises which are used in the management of high risk offenders (one female, one specialist mentally disordered).

Prison Service

To identify MAPPA offenders following reception and record on case management system.

To request to be made a partner to Visor in order to make entries.

Monitor cases through local inter-departmental risk management teams. Share information with the OM to incorporate into sentence planning.

Share information in respect of sex offenders with police contact.

Release dates to be calculated following sentence sent to OM and entered on Visor – crucial to RMP's. The late return of days are to be avoided where possible.

Prison representative to attend MAPPA or via video/teleconferencing or as a minimum by providing a written report. Prison Service do not assign MAPPA levels, they work through offender management and sentence planning, participating in risk assessments and identify activities to reduce the risk whilst in custody.

West Midlands area has:

- HM Prison Birmingham
- HM YOI Brinsford, Wolverhampton,
- HM Prison Oakwood, Wolverhampton

and seconds' staff to HMP Hewell in Redditch. Each has a Public Protection Officer, who will interview all level 3's and assist in the management of levels 2's.

Also complete safeguarding procedures and notify of release of the offenders who pose a risk to children (PPRC).

Risk Assessment

Professor Hazel Kemshall (2003) clarified that public protection depends upon:

- Defensible decisions
- Rigorous risk assessments
- Delivery of RMP's which match the identified Public protection need;
- Evaluation of performance to improve delivery

When we talk about 'risk' from offenders, we are really talking about two things;

1. Likelihood of recidivism. To assess this we use assessment tools such as Risk Matrix 2000 (for sex offenders) or OGRS (for other offenders) that take a few known facts about an offender and group them according to how likely they are to recidivate. Risk Matrix for example, groups offenders into low, medium, high or very high groups, depending on likelihood of reconviction for a sexual offence. The limitations of such tools should be recognised. Whilst they give an indication as to the priority that should be accorded to offenders, it is important to recognise that risk is situational. So for example, the risk presented by an offender classified as low risk might increase dramatically if, for example they were to gain access to potential victims, perhaps by forming a relationship with a partner who has children. When making judgements about likelihood of re-offending therefore the offender's situation needs to be taken into account as well as their score on assessment tools.
2. Seriousness of recidivism – if an offender did re-offend, how bad would it be?

When assessing the risk of an individual offender, it is important that assessors are clear on whether they are talking about risk of recidivism, or the potential seriousness of future offending. For example on the whole murderers are unlikely to commit another murder, but if they did the consequences would be extremely serious indeed. A good risk assessment therefore takes both facets of risk into account, and is clear about what it is attempting to predict.

It is also important to note that some tools used by MAPPA agencies include:

OASys is the National Assessment Tool used by Prison and Probation Services. It is a comprehensive tool which identifies static (by way of **OGRs**), dynamic and acute factors, linked to offending and risk of serious harm and self-assessment questionnaires.

It also predicts:

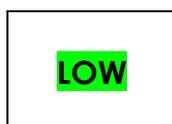
- The probability of further general offending and violent offending;
- Specifically summarises the risk of serious harm;
- Identifies who is at risk;
- The nature of that risk;
- When it is likely to be greatest;
- Circumstances likely to increase risk and factors likely to reduce risk.

Other specialist tools used include:

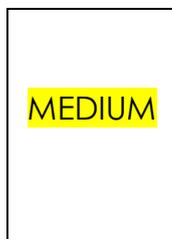
- Risk Matrix 2000 for adult male sexual offenders;
- SARA (Spousal Assault Risk Assessment) for domestic abuse
- SARNC – Structured Assessment of Risk and need for all sex offenders completing programmes.
- ASSET is used by YOS which includes assessing offending behaviour, health and development, family support and emotional well-being.

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. It is dynamic and kept under regular review.

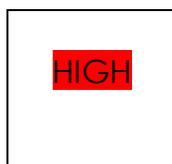
There are four levels:



Current evidence does not indicate likelihood of serious harm.



Identifiable indicators with potential to cause harm but unlikely to do so unless there is a change in circumstances, e.g. medication, substance misuse, relationship breakdown, loss of accommodation.



Are identifiable indicators of risk of serious harm, the potential could happen at any time and impact be serious



Imminent risk of serious harm event more likely than not to happen and impact serious

The following categories are assessed under each level:

- The public
- Prisoners
- Known adult
- Children
- Staff
- Self

The prison service are involved in monitoring and observing behaviour in prison and play a major part in the contribution of risk assessment and RMP's, particularly "**offence paralleling behaviour**" - any form of behaviour related to the behaviours that emerge at any point before or after an offence.

The above risk assessment tools have been validated.

Working in MAPPA means other forms of risk and needs assessments are available and can complement formal risk assessment - hence the need for information sharing across all agencies where appropriate.

Risk Management

The responsible authority has a duty to ensure risks are managed robustly at the necessary level of MAPPA management.

Risk management is the process of ensuring there is an effective RMP which addresses the identified risk of serious harm factors by putting appropriate plans into place. Risk Management is not an exact science as it is not possible to eliminate risk entirely. Critical, therefore, that decisions are defensible, the RMP is implemented and monitored through regular reviews and that adjustments are made as necessary.

Must include actions to proactively monitor behaviour and identify early warning signs and attitudes and include restrictive, rehabilitative and protective interventions.

This is a core function of MAPPA and requires all to share relevant information to ensure it can be achieved.

Every MAPPA offender must have an RMP completed by the lead agency and levels 2 and 3 will have a MAPPA RMP. The OM must ensure the two are linked and updated onto Visor. The MAPPA RMP must also have identified action owners and reviewed regularly and must include actions to protect victims and have contingency plan should the original plan breakdown.

Offenders should be made aware they are subject to MAPPA and can provide written contribution to panels.

The Probation Service uses the following headings:

- **Current situation**
- **Areas contributing to ROH/ROSH**
- **Other agencies involved**
- **Existing support/control**
- **Added measures for specific risks**
- **Who will undertake the actions and by when**
- **Additional conditions/requirements to manage the specific risks**
- **Level of contact**
- **Contingency plans** (which must include actions if the plan breakdown)
- **Is the RMP manageable?**

Victims

It is vital that MAPPA not only focus on the risk and behaviour of the offender, but it is vital to ensure effective engagement with the victim and where appropriate potential victims.

The RA has a duty of care to existing victims and should take all reasonable steps to ensure they do not become re-victimised.

- Victims can make an important contribution to assessment and management of risk
- The Probation Service have statutory responsibilities **under Domestic Violence Crime and Victim Act 04 (PC 62/01 and 29/03) or certain Mental Health disposals (PC 42/05 and 23/08) and The Victims' Code and Guidance (PC 11/08)**, to contact victims of all sexual and violent offenders sentenced to 12 months or more in prison, to provide them with information and an opportunity to make certain representations.

West Midlands area has a Victim Liaison Unit based in Birmingham, Wolverhampton and Coventry staffed with Probation Liaison Officers. Women's Support Workers are employed to maintain contact with the partners of domestic abuse. The VLO West Midlands attends level 2 or provides a written contribution and attends all 3 MAPPA panels where they are involved.

It is the responsibility of the police to obtain victim personal statements prior to sentence.

Victim information is highly sensitive and should not be shared without prior agreement of the agencies who supply it. Victims must not be shown MAPPA minutes.

**Duty
to
Co-operate**

Health Bodies

Includes every NHS Trust, Clinical Commissioning Group and NHS England.

All trust and other bodies recognise their responsibilities with regard to public protection, including the protection of victims, and their role in reducing serious harm. As such the identified trust\body embraces implicitly its statutory duty to co-operate in respect of MAPPA and recognise its duty to co-operate in so far as this is compatible with their existing statutory responsibilities. This will include identification of MAPPA patients and appropriate information sharing in respect of risk assessment and any identification of risk factors/potential for harm to others.

The CJA 03 imposes on Trusts a duty to co-operate with other agencies in MAPPA by the identification of MAPPA patients and the sharing of relevant information which allows for or identifies others to be at risk of serious harm and to contribute to a multi-agency risk management plan. It does not override the common-law duty upon doctors to protect patient confidentiality or the duties to preserve confidentiality imposed by the Data Protection Act 1998 and HR Act 1998.

Benefit for the Trust and Health Bodies

- Secure exchange of information for informed risk assessment
- A framework of referral between agencies about high risk cases
- Insight into available criminal and clinical interventions

The main roles in the MAPPA process include:

Identification of relevant MAPPA cases

1. All MAPPA offenders to be identified on internal case management systems within 3 days of sentence or admission.
2. It is recommended that at the first care programme approach meeting where discharge or community treatment order is considered a designated member of the care plan team should send the MAPPA coordinator a Form I identification form. For

detained patients the Responsible Clinician has the discretion to communicate significant events to the MAPPA coordinator at each stage of the care which may involve leave outside the grounds.

The MAPPA coordinator requires the Form I in order to check visor and to consult with other MAPPA agencies where appropriate; advise on referral for level 2 or 3 and to contribute to statistical returns.

Categories for notification include:

- Those subject to conditional discharge from a restricted hospital order made under S37 by the Crown Court. Mental Health Act '83 or under Insanity legislation or criminal procedure (Insanity) Act (1964) as amended by Criminal Procedure (Insanity and Unfitness to Plead Act (199)or the DV Crime and Victims Act 2004.
- Relevant sexual and violent offenders who receive Hospital or Guardianship orders automatically qualify for MAPPA under categories 1 or 2 for as long as the hospital order or sexual offender notification requirement lasts.
- Those who meet the criteria are discharged by a responsible clinician under a Community Treatment Order made under section 17A of Mental Health Act 1983 or;
- Whose conditional discharge is planned within the next 6 or 12 months or;
- Who are required to register with police and whose discharge from any hospital order or guardianship order (including those transferred prisoners being treated as subject to notional S37) or from admission under part 2 of Mental Health Act 1983 is planned in next 6/12 months.

Under Section 117 of Mental Health Act 1983 – Health and Social Services are required to provide aftercare services to offenders subject to S37 Hospital Orders discharged from hospital for as long as they need them. This will be done via the Care Programme Approach.

Those who are conditionally discharged from Section 37/41 following a Mental Health Tribunal or direction from the Secretary of State are supervised by a clinical team and are subject to recall by the Secretary of State. The Responsible Clinician and social supervisor are required

to prepare quarterly reports for the Ministry of Justice on those subject to conditional discharge.

Probation Service Offender Managers remain responsible for the future planning of notional 37 transfer prisoners and must attend and co-operate with the Care Programme Approach.

A referral to level 2 and 3 MAPPA could be made for example when it is clear that the CPA is not equipped to deal with the risks identified. Referrals from Mental health must be sent to the MAPPA coordinator for approval via secure email. The coordinator will reply with a decision within 10 days.

Provides a designated health point of contact for other agencies:

- To act as gatekeeper to ensure appropriate referrals are made
- Liaison between MAPPA and healthcare clinicians
- Identify appropriate information to be shared
- Maintains confidential files/register
- Designated Worker to participate in level 2 and level 3 MAPPA panels by the provision of information, expertise and advice to the panel process to enhance risk assessment and management of relevant offenders.

Local Housing Authorities

Local Housing Authorities have two functions that relate to the resettlement of offenders:

1. The allocation of long term accommodation and;
2. The provision of housing assistance for people who are homeless

It is important to make clear that the duty to co-operate on local housing authorities does NOT create a new duty to accommodate offenders.

Under homelessness legislation, local housing authorities must ensure that advice and information about homelessness and preventing homelessness is available to everyone and free of charge. They must also ensure that suitable accommodation is available for people who apply to them for housing assistance and the authority are satisfied that they are:

- **eligible for assistance,**
- **have become homeless through no fault of their own,**
- **they fall within a priority need group**

Priority need groups are specified within legislation but can include some offenders if they have spent time in custody.

Note: Suitable accommodation can mean negotiating with a private landlord; not necessarily the provision of local authority accommodation.

Some districts operate a waiting list system and only use the homelessness criteria for those released from custody.

For MAPPA offenders – they will usually be subject to the offer of accommodation via a waiting list.

Every local authority has to have a way of distinguishing between different needs; to assess the application and in priority order; and a procedure for allocating in accordance with that priority.

Most authorities have a choice based lettings scheme – where anyone can apply from anywhere in the country. Whilst you do not have to have a local connection; each local authority determines their local priority and most include local connections as part of theirs.

Local authorities in the West Midlands area have a written commitment to multi-agency working and within the allocations policy build in some flexibility is prioritising those in need in order to protect the most vulnerable and address safeguarding issues.

MAIN ROLES IN MAPPA PROCESS OF LOCAL HOUSING REPRESENTATIVE

- Contribute to the assessment and management of risk on MAPPA offenders in terms of resettlement.
- Their advice about accommodation and the procedures by which it is allocated and the suitability of housing stock will provide a valuable contribution.
- Reciprocal sharing of information and early intervention is crucial to the management of offenders under MAPPA.

Good practise would include all MAPPA offenders applying for housing go via a central point of contact (Local Authority Housing MAPPA Representative). This would enable consistency in the process.

If known to the Probation Service, the OM should send a letter with the application to the SPOC. This allows the OM to identify and highlight any victim issues and risk to staff, and also covers those at level 1 who are not discussed at panel.

Finally, providing accommodation is not just about putting a roof over someone's head and many authorities have tenancy support, or floating support schemes, e.g. Heantun, Fry Housing Trust and NACRO who provide a valuable support system to MAPPA and vulnerable offenders in the community.

EXEMPTION FROM THE NEW SHARED ACCOMODATION RATE FOR MAPPA OFFENDERS

Local housing allowance rules on housing benefit currently restrict the level of help for single people under 25 years who live alone to the shared accommodation rate. This age was increased to 35 years from 01.01.12. Two exemptions include:

1. Those who have spent at least 3 months in a hostel or hostels for the rehabilitation or resettlement of homeless people. (Does not include Approved Premises)
2. Ex offenders managed under MAPPA at level 2 or 3 aged 25 to 35 years in self contained property.

In those cases a Form P must be completed by the OM and sent to the identified SPOC. Other MAPPA offenders need to make an application for a discretionary payment which will be considered on a case by case basis depending on need and risk of serious harm.

Registered Provider

Registered Provider is the statutory name for social landlords who are registered with the national regulating body: the Homes and Community Agency.

The definition of an RP is a **not for profit, private sector organisation that provides affordable housing to people in the United Kingdom.**

Most RP's are housing associations but there are also trusts, co-operatives and companies and also private registered providers. Housing associations are the main providers of new social housing. There are over 2000 housing associations in England, currently managing over 2.2 million homes and housing at least twice as many people.

Not all RP's provide accommodation for MAPPA offenders but those that do are required to cooperate with MAPPA.

All RP's have a duty to cooperate with the local authority housing department within the discharge of its housing functions and will meet, for example, on a quarterly basis.

Where a local authority transfers its stock to an RP, it is the responsibility of the strategic housing authority whether the nominated person to attend MAPPA should be within the local authority or in another organisation.

Information sharing is crucial and as RP's are part of the duty to cooperate agencies; the lawful authority lies within the CJ Act 2003 section 325(3) and (4).

Each local authority will need to have in place a formal protocol/ agreement about the purpose of the information shared and that it must remain confidential, kept and shared safely and securely and retained for as long as necessary.

Youth Offending Service

Local authority in England and Wales have a statutory duty to establish Youth Offending Teams, which are in themselves a multi-agency partnership in which Police and Probation play an important role.

YOT's differ from other duty to cooperate agencies in that they have a statutory responsibility for offenders. YOT's are responsible for the supervision of all young people on :

- Community Orders,
- During the community element of a Detention and Training Order,
- During the licence period of Section 90/91 and Section 226/228 sentences.

The Youth Justice Board requires the YOT to agree a process for appropriate referrals into the MAPPA process. In the West Midlands YOT managers have agreed a detailed policy endorsed by the SMB for Youth Panels at level 2. The Youth Panel would need to, where required, refer into the level 3 panel via the MAPPA coordinator.

YOT's undertake a comprehensive risk assessment using a national tool ASSET, which identifies risk of harm factors as well as any risks to the young person and vulnerability of those.

The age of criminal responsibility in England and Wales is 10 years. Where a child is convicted of a serious sexual or violent offence as described in Schedule 15 or CJA 2003 they will be a MAPPA eligible offender (Section 325 CJA 2003). Whilst these are serious offences the law also requires their needs as a child to be considered.

Under the Children's Act 2004 the Police, Probation, Prison and YOS has a statutory duty to make arrangements to ensure that **“their functions are discharged having regard to the need and to safeguard and promote the welfare of children”**.

These principles must be discussed and taken account of during any MAPPA panel decision, as well as the risk of serious harm posed by that child or young person.

Children's Services must be present at level 2 and 3 panels.

Any RM must balance public protection with rights and needs of the child.

IDENTIFICATION

The YOT is responsible for identifying appropriate MAPPA cases. All appropriate cases should be screened within 3 days of sentence and within 6/12 months of planned release from custody. **Form H** should be completed and sent to the MAPPA coordinator. This should also be recorded on the case management system.

In the case of a YOT worker identifying the need for level 2 or 3 panel discussion, they should complete **Form A**, endorsed by the manager and sent to the MAPPA coordinator who will make a decision within 10 days. The YOT worker will identify why panel will add value, what are the benefits of active multi-agency management beyond that YOT already provide, e.g., media attention or additional resources requested.

An Inspector or SPO will chair Level 2 panels.

Chief Inspector/Supt or Head/Deputy Head of Probation will chair level 3 panels.

MAIN ROLES

The YOT manager should attend any panel discussion, along with a YOT manager who can act as consultant to the chair and to ensure additional factors are properly and fully assessed. A representative from Children's Services must also be present at panel to ensure decisions taken take account of the needs of the child or young person. The YOT worker must record when they share any information, what that information was, with whom, and the purpose.

It is acknowledged that the YOT are by nature a multi-agency team and hold coordinated meetings. However, these meetings do not have the legal authority for MAPPA eligible cases and must not be substituted for those eligible MAPPA cases being identified and referred to panel.

The YOT **cannot** identify a case as requiring a level 2 or 3 input and then decide because it is a multi-agency team they do not have to make a referral to the MAPPA Coordinator.

The YOT worker must also advise the Police, Public Protection Unit and MAPPA Coordinator of their details and any risk assessment and significant changes in order to log on Visor of all those eligible under Category 1, 2 and 3.

In relation to disclosure particular care must be taken to consider the harm to the child/young person. In order to ensure proper

consideration is given no decision about disclosure can be made unless a senior representative of both YOS and Children's services are present at the MAPPA meeting.

Finally, where a child/young person has also been referred to a Local Safeguarding Children's Board, as well as MAPPA panel, it is the responsibility of the YOT case worker to ensure no duplication or conflict in terms of activities from each.

Local Authority Children's Services Department

As a result of the Children's Act 2004, Children's Services Department now cover responsibilities for local authority social services in relation to children and local education authorities.

The links between the responsibilities of these departments and MAPPA is likely to be in the area of child protection and safeguarding. MAPPA authorities are members of the Local Safeguarding Children's Board (LSCB) and individual workers in each agency, police, probation and children's services will be working together to manage the risks posed to children by dangerous offenders.

LSCB's were introduced in the Children's Act 2004 with an objective to coordinate and ensure the effectiveness of the work of its members in safeguarding and promoting the safety and welfare of children. They must ensure policies and procedures are in place for its members to follow and these must link to this duty to cooperate memorandum (Working together to safeguard children - chapter 3).

Under the Children Act 2004 LSCB's also have a broader safeguarding remit, including the management of adults identified who do or whom potentially pose a risk to children. (PPRC)

Criminal Justice agencies will identify those with a conviction or whose behaviour identifies a specific risk to children and they will inform the local safeguarding unit of their assessment. The local authority will then make suitable arrangements to refer to the children's services for assessment and in terms of managing that information.

In order to enable LSCB's to fully discharge their responsibilities under the Act, there is a duty to share and cooperate information in relation to those who pose a risk to children and those individuals whose convictions or behaviour are likely to constitute serious harm to a child or children. Within the West Midlands there is PPRC regional guidance, revised in 2009, which clearly states each agencies roles and responsibilities and introduces a consistent set of forms.

In addition the Bichard report, following the murders of Holly Wells and Jessica Chapman in 2004, made 31 recommendations which included the introduction of an Independent Safeguarding Agency and there followed the Vulnerable Groups Act 2006 which implemented the vetting and barring scheme.

Local Authorities have a duty to investigate under Section 47 of the Children Act (1989) that where they have reasonable cause to suspect that a child who lives, or is found in their area, is suffering or likely to suffer significant harm, they should make, or cause to be made such inquiries 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.

A child is defined as “**anyone who has not yet reached their 18th birthday.....**” from working together to safeguard children (2006) and the Children's' Act 1989 and 2004.

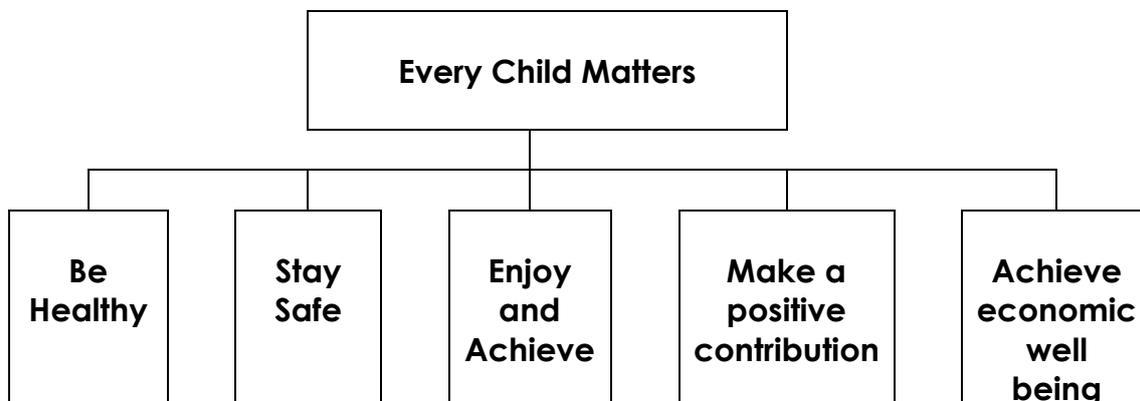
The Children's Act 2004 provides the statutory duty for MAPPA agencies to ensure their functions are discharged having regard to the need and to safeguard and promote the welfare of children. At MAPPA panel there must be a balance between public protection and the rights and needs of the child.

Where a child has been identified as a child in need and/or is being looked after by the local authority (Section 17 of the Children's' Act 1989), it is essential the LA are represented at the MAPPA meeting and it is able to demonstrate it is fully meeting its obligations to meet the needs of the child.

Safeguarding children is everyone's responsibility (Section 10 and 11, Children's Act 2004). If concerned you must do something; Impose a duty for all agencies to cooperate and promote the welfare and safeguarding of children.

A summary of the child protection process and what information can be shared can be found in practise guidance “**what to do if you're worried a child is being abused**” (revised HM Government March 2015). Full statutory guidance is included in working together to safeguard children (HM Government March 2015).

Children's Act 2004 has 5 main outcomes:



Social Services Department use a national tool; Framework for Assessment, to assess health and development, parenting capacity, developmental needs, family support, networks and systems, offending behaviour with the child at the centre.

Education

Children's Services Department also look to support and improve local education provision, including work on school improvement, special education provision, access to education and strategic management of schools and the local education service.

Whilst education are not directly involved in the assessment and management of MAPPA offenders, the department for children's schools and families agreed that they are most likely involved in cases which involve either under 18 yr olds referred by YOT at level 2 or 3 or a MAPPA offender presenting a risk to young people for whom education services has responsibility.

In both cases it is likely children's services will become involved either through YOT or under child protection arrangements.

MAIN ROLES FOR MAPPA

- Schools are able to provide pupils with programmes of child protection awareness training, i.e., '**stranger danger**'. This can be reinforced when there is a particular local risk.

- School staff are well placed to be alert and aware regarding activities within the locality that could provide a threat to pupils.
- In particular situations and with authorisation of police, schools are in a position to warn individuals or groups of pupils, or staff regarding possible danger.
- Schools are able to provide a safe environment during the daytime for children and young people.

Schools should have a registered member of senior management team to take lead responsibility for safeguarding issues.

A representative for Children's Services should attend MAPPAs. In some districts the education lead for child protection also attend.

Section 175 of **Education Act 2002**, puts a duty on local education authorities, maintained (state) schools and further education institutions, including 6th form colleges to exercise its functions with a view to safeguarding and promoting the welfare of children who are pupils and students under 18 years in the care of schools and colleges.

Section 157 puts the same duty on independent schools, including academies.

When considering disclosure in relation to children or young people, MAPPAs need to consider not only is it **lawful, necessary, proportionate** and **accurate**, but also they need to consider the harm to the children or young person which could occur due to disclosure taking place.

Section 140 of **Criminal Justice Act and Immigration Act (2008)** introduces a presumption that disclosure will take place if a child sex offender is being managed by a responsible authority with relevant previous convictions, presents a risk of serious harm to any identified person(s), particularly children when there is a defensible reason for not doing so.

Adult Social Care

Each Adult Social Care Department has a Safeguarding Adults Board. The Boards were established following the publication of Department of Health good practise guidance “**No Secrets**” In 2000.

Adult Safeguarding Units with lead officers are now established with agreed adult policy and protection procedures in place locally to:

- **prevent**
- **investigate and;**
- **take action** – where a vulnerable adult is being abused.

Each authority has developed in its own way so there will be local variations. Some identifying tracking systems for all alerts for the recognition and reporting of abuse, others still developing those.

Definition of vulnerability again varies but :

- Definition from ‘No Secrets’ – **A vulnerable adult is any person aged 18 years or above, who is or may be in need of community care services by reason of mental or other disability, age or illness and is or may be unable to take care of him or herself, or unable to protect him or herself from significant harm or exploitation”.**

The Social Care Act 2014 came into force on 01 04 2015 and has changed the definition and requirements to include:

LA must make safeguarding personal i.e. person led and outcome focused. Engage the person in a conversation about how best to respond to their safeguarding situation in a way that enhances involvement choice and control as well as improving quality of life wellbeing and safety. Safeguarding duty applies to 18 years plus who has:

- 1) needs for care and support
- 2) is experiencing or at risk of abuse or neglect and
- 3) as a result of those care and support needs is unable to protect themselves from either the risk of or experience of abuse or neglect

List of abuse and neglect as follows:

Physical
Domestic

Sexual
Psychological
Financial or material abuse
Modern Slavery
Discriminatory abuse
Organisational abuse
Neglect and acts of omission
Self neglect
Inquiry action to be taken in response to any concern
Introduces statutory Adult Safeguarding reviews

Abuse may be physical, sexual, financial, emotional or psychological, neglect and discriminatory. The perpetrator can be anyone but they are often known to the person, either family, friend, or a worker.

Anyone can make a referral to the relevant team and in relation to care homes and domiciliary care agencies to relevant adult social care team, CQC and Directorate of Adult Community and Housing Services Commissioning Team. It is the responsible manager of the receiving team who will decide whether or not the referral should be investigated within Adult Protection procedures. This may lead to no further action – further information required, immediate intervention, or a strategy meeting.

ROLE IN MAPPA

In relation to MAPPA there will be vulnerable adult perpetrators and vulnerable victims. It is important to share all relevant information about both to ensure the protection of victims, past, current and future and linking MAPPA action plans with adult protection plans.

Statutory teams include learning disabilities, physical disability and older persons teams all working to safeguard and protect.

A list is available in all districts. A lead officer will be identified as a MAPPA representative and has an important role in advising the panel and if necessary referring on.

There are a number of private hospitals who may well have MAPPA offenders as residents. These will come under the non-duty to cooperate agencies but where a bed is commissioned by the PCT it is stated in contractual obligations that the private hospitals should be aware of and support and work to local safeguarding procedures within which are identified a commitment to cooperate with MAPPA. In these instances, the commissioning agencies, as with mental health, should identify and refer to the MAPPA Co-ordinator using **Form I**

Job Centre Plus

Job Centre Plus is an executive agency of the Department for Work and Pensions. In relation to MAPPA Job Centre Plus has two functions:

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

The duty to cooperate in MAPPA was based on the agreement established in Probation Circular 48/1999 “**Disclosure to the Employment Service of Restrictions, that should be placed on the employment of potentially dangerous offenders**”. This requires the Probation Service to notify Job Centre Plus of any restrictions that should be placed on the employment or training of others.

An up-dated version of this circular is imminent due to several changes since its implementation in 1999. These include:

- The evolution of MAPPA,
- The introduction of Sexual Offences Prevention Orders (which allow for employment restrictions),
- The introduction of Disqualification Orders which prevent certain offenders working with children. These have now be repealed.

In addition, following the introduction of the Vulnerable Groups Act 2006, and Vulnerable Groups Order (Northern Ireland) (2007), the Vetting and Barring Scheme was introduced in October 2009 which supersedes the Disqualification Order arrangements.

This will require all those working either paid or voluntarily with vulnerable children and adults to register with ISA and to bar unsuitable people.

The Probation Circular 48/99 must continue to be used in conjunction with the up-dated MAPPA guidance 2012, pending the up-date.

To prevent MAPPA eligible offenders from seeking or obtaining employment or training which may increase or trigger the risk they present, the relevant agency should notify the Job Centre Plus Office of :

What type of employment or training is inappropriate

Whether the offender presents a risk of harm to Job Centre Staff

The only information that might be disclosed to Job Centre Plus is the:

- **Identity of the offender**
- **The type of employment\type he\she is ineligible and the date of expiry of the restrictions**
- **If staff are assessed as being at risk from the offender**

**No other information is to be disclosed as this may
NOT BE LAWFUL**

Such a notification should have been identified as part of a RMP and therefore, justified as necessary and proportionate means of managing an identified and properly assessed risk.

Panel chairs should identify as part of the risk management plan that notification has taken place.

ROLES

- Probation will notify all those subject to supervision on all those of working age who have restrictions which will impact of employment or training 6 weeks prior to release on **Form J**.
- The police will notify all those subject to restrictions within SOPO or new ROSH orders – or stand alone Disqualification Order on **Form J**.
- Job Centre Plus should return the notification received slip to the officer sending the original form.
- Probation/Police should notify the offender of all restrictions. In the very exceptional circumstances where to tell an offender will increase the risk, a discussion should be had with the Job Centre Plus Manager prior to sending **Form J**.
- Where the risk changes and allows for a relaxation of the restrictions, prompt notification must be made to the Job Centre Plus Manager.

- Single notifications will be sent by email and include email addresses for our contacts.
- Where Job Centre Plus staff are informed by an offender about their history of sexual and violent offending, Job Centre Plus staff will inform the MAPPA Coordinator who will make those responsible for public protection aware and will advise Job Centre Plus about whether restrictions apply.

Contact MAPPA Coordinator for the SPOC's.

Electronic Monitoring (EM) Providers

EM Providers play an important role in the Service they provide as part of a RMP of high risk offenders. Their duty to cooperate is synonymous with their contractual responsibilities.

They provide:

- A point of contact for advice on available technology
- Attend MAPPA meetings (usually level 3 only) in exceptional circumstances
- Attend SMB's when required for advice on policy and practice.

Most of the work of EM Providers concerns “**tagging**” for those on the Home Detention Curfew scheme. This would not usually involve MAPPA offenders as the criteria for release under this scheme includes stable, suitable accommodation and managed at level 1.

However, where someone released becomes a higher risk, the EM Provider may helpfully contribute to the assessment and further management of the risk. It is important that agencies notify Serco of any change in level immediately.

Electronic Monitoring can also be part of a level 3 release RMP which must be approved by the Offender Manager. Plans to extend this are in place when funds allow.

Probation, Police and Prison staff must inform the EM Provider of the MAPPA status. Once the provider records the MAPPA status on the database, they are empowered by the Ministry of Justice to release information upon request of the MAPPA agency.

Capita categorise each offender according to protocols agreed with the Ministry of Justice. There are 3 levels of violations which will be notified to Police/Probation.

Notification of violations depends upon the level of category. For example MAPPA 3 will notify at 15 minutes or an accumulation of 15 minutes in one curfew period.

Levels 1 and 2 MAPPA and HDC will be notified upon an accumulation of 2 hours.

Capita are the providers for the West Midlands area.

Home Office and Immigration Enforcement

HOIE is responsible for the operation of UK Immigration controls including asylum, management of applications for further stay and enforcement. It aims to protect the public by deporting foreign nationals who commit serious offences (where legislation permits) and by actively monitoring foreign national prisoners who are released into the community.

HOIE became a duty to cooperate agency on 20.07.11 and the following was agreed:

Criminal Justice agencies to:

- Notify of a foreign national prisoners entry into MAPPA
- Notify HOIE of MAPPA dates
- Notify when MAPPA status changes or comes to an end
- Provide up to date risk assessments

HOIE to:

- Provide SPOC
- Notify OM of an application for immigration bail
- If offender is released from immigration detention
- If offender is granted permission to work
- If offender is granted leave to remain in the UK or other immigration permission
- The offender is removed from the UK

Contact MAPPA coordinator for an up to date list of SPOC's

**Non-Duty
to
Co-operate**

Non-Duty to Co-operate Agencies

Where a non duty to co-operate agency is working with someone who fits the criteria for MAPPA they should be given a copy of this document and be asked to co-operate with and sign a copy of the memorandum.

For mental health and children's and adult social care; where vulnerable adults and children are placed in private hospitals/ supportive accommodation or privately run children's' homes; the commissioning bodies should identify at an early stage whether someone fits the criteria and if so send An Identification form H or I and where necessary a referral on **Form A** to the MAPPA Co-coordinator.

When commissioning private services; all are required to sign up to safeguarding requirements which include co-operation with MAPPA.

Examples of non duty to co-operate agencies that have been included in RMP's within West Midlands include:

- Fire Service
- Private care homes (adult and child)
- Voluntary agencies, e.g., Black Country Project (working with young sex offenders)
- Sure start
- Home start
- NCH
- NSPCC
- Lucy Faithful
- Leisure services
- OFSTED
- British Transport Police
- MOD

Operational Issues

Information Sharing

Timely information sharing is essential to the quality of risk assessments and risk management plans and, therefore, effective public protection.

Principles

- | | |
|--|---|
| <ul style="list-style-type: none">• Have lawful authority | Must not breach Data Protection Act/ HR Act or common law or statutory duties. There must be a statutory basis for sharing and be up to date; stored securely and not retained longer than necessary. |
| <ul style="list-style-type: none">• Be necessary | To identify accurately those who pose serious risk of harm and identify and implement a RMP. Aim to prevent disorder or crime or administer justice. |
| <ul style="list-style-type: none">• Be proportionate | RMP cannot be achieved unless information is shared; must not be excessive and relevant to risk. |
| <ul style="list-style-type: none">• Ensure the safety and security of information shared and marked restricted or confidential | All agencies must sign the confidentiality statement, must not take notes during meeting. Minutes can be e mailed to secure e mail addresses but must not be removed from the secure environment. |
| <ul style="list-style-type: none">• Be accountable | Include accurate, clear, timely record keeping |

The sharing of personal information must be:

- obtained and processed fairly and lawfully
- only disclosed/shared in appropriate circumstances
- accurate, adequate and kept up-to-date
- kept and shared safely and securely and;

- not kept longer than is necessary

Lawful Authority for DTC agencies

Section 325(3) CJA 03 provides for DTC agencies to co-operate with the Responsible Authority and Section 385(4) includes the exchange of information.

Section 115 Crime and Disorder Act 1998 allows for some information to be passed to relevant authorities if necessary to reduce crime and disorder (note: this does NOT include non-DTC agencies).

NOTE:

- the person must know why they have been given the information (in their role as representative of DTC agency or disclosure is justified due to exceptional risk posed.
- Must remain confidential, kept secure and only as long as is necessary
- What they are expected to do with it

Local protocols are in place in the West Midlands for Probation which includes the sharing of sentence plans to partner agencies involved in the supervision and is done through OASys. Probation Instruction 21/10 includes an information sharing agreement between Police and Probation.

Offender Consent should be sought and the Probation Service always asks offenders to sign a confidentiality waiver and should advise the offender they are subject to MAPPAs. The MAPPAs leaflet for Offenders should be given to all offenders subject to MAPPAs.

Offenders can provide written information to the MAPPAs meeting through their OM but are not allowed to attend MAPPAs meetings in person.

In some circumstances there may be a need to share information without consent. Case law has established that the duty can be breached in the interests of national security; prevention of crime and disorder and the protection of information; disclosure of which may endanger the safety or physical or health or welfare of anyone.

Where information is shared there must be a written and auditable record.

Freedom of Information (FOI) Act (2000) Request

Any request for information on **MAPPA** offenders must go to:

Police	To the ACPO Central Referral Unit, who will advise best practice and consistency.
Prisons	To the Data Access and Compliance Unit.
National Service Probation	To MAPPA Coordinator

Information sharing with non-DTC

There must be local information sharing protocols in place with these agencies. If there are no protocols in place information cannot be exchanged.

Section 325 of CJA 03 does NOT provide the necessary lawful authority to disclose to non-DTC agencies.

Crime and Disorder Act (98) section 115 may authorise some one way information, for example to Police or Probation.

Offender Management Act 2007, section 14, may provide some lawful authority but only when it is about offender supervision and only when a contract is agreed, e.g., through a supervision plan.

Common law ram doctrine may provide some guidance, but non-DTC agencies will need to seek legal advice.

Disclosure

Information sharing is the sharing of information between all the agencies involved in MAPP, disclosure is the sharing of specific information about an offender with a third party (not involved in MAPP).

Disclosure can be considered to individuals/agencies regarding a specific offender under MAPP as part of a RMP for the purpose of protecting the public and to safeguard children.

Disclosure must be considered in every case at all levels as part of the RMP process, i.e. whether disclosure should take place to protect victims, potential victims, staff or others in the community – to facilitate the RMP, protect the public as effectively as possible and reduce risk of serious harm. The overriding factor is to protect the public and safeguard children.

Any disclosure must be:

- Lawful
- Proportionate
- Accurate
- Necessary

Disclosure to third parties will be exception to the rule, e.g. to employers, voluntary organisations, other staff. Particular sensitivity is required in relation to Young people and children.

Any decision to disclose should be taken on a multi-agency basis and reasons for this recorded in the minutes and case management records.

Area of law relevant to disclosure decisions

- The common law power for police to share information for policing purposes (for the protection and detection of crime)
- Data Protection Act 1998
- HR Act 1998
- Children's Act 1989 and 2004
- Criminal Justice and Immigration Act 2008

- Section 140 of Criminal Justice and Immigration Act 2008 introduced a presumption that disclosure will take place on a child sex offender where there is a risk of serious harm to identified person, particularly children, unless there is a defensible reason for not doing so.

Criteria to be met before disclosing

- Consideration of potential risk to the offender, although this must not outweigh the risks to others
- Correct identification of the individual to be disclosed to
- Alternatives to disclosure considered and rejected
- Involvement of the offender

Offenders and disclosure

“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."

On occasions offenders will disclose themselves in the presence of an OM or Police Officer. Where disclosure is likely to increase the risk, offenders will **NOT** be told – if this is the case, the person receiving the information must be told.

Offenders are not allowed to attend MAPPA meetings and all the information is official sensitive. Offenders can make written representation to the MAPPA via their Offender Manager.

Specific Information to be disclosed, e.g., details of key triggers for types of behaviour, will be agreed within the meeting. Anything beyond that must have the permission of the chair. The person receiving the information must be prepared and understand why they are being told, and who to contact in the event something goes wrong.

Good practice includes typing out on a word document the specific details to be disclosed; the name of the person receiving the information and why and a point of contact in the event risks increase or they have further questions. Both parties sign the document which is retained by the RA and no copy to be left with the recipient although the recipient should be given a copy of the disclosure leaflet.

Media

It is not the policy of RA's to discuss individual cases with the media. Where a case warrants media attention, this will be an opportunity to outline the role of MAPPA and reassure the public that public protection and their safety is paramount. All media/public inquiries are to be referred to West Midlands Police and Probation who will coordinate a response which will include the MOJ.

Where there is a need to disclose a photograph to the media, this discussion can only be taken by the Assistant Chief Constable (ACPO 2010 Guidance on Protecting the Public; Managing Sexual and Violent Offenders).

All disclosures must be reported to the MAPPA Co-ordinator.

Requests for Disclosure of MAPPA Minutes

In working with offenders, victims and other members of the public, all agencies have agreed boundaries of confidentiality. The information contained within the MAPPA minutes respects those boundaries of confidentiality and 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.

No individual agency has the authority to release confidential information and the minutes may be exempt from the Freedom of Information Act

Any requests for minutes should be passed to the MAPPA coordinator who will clarify exactly what information is being sought or prepare a MAPPA minutes executive summary.

Other relevant Multi-Agency Panels

MARAC

MARAC is a Multi-Agency Risk Assessment Conference introduced to improve agencies response to domestic abuse. Evidence shows this reduces repeat victimisation. Each district has specialist Domestic Violence Courts with a MARAC and Independent Domestic Violence Advisor who works closely with victims.

The aims of MARAC are to share information to increase the safety, health and well-being of victims, adults and their children, to identify the level of risk and construct a joint RMP for which all are accountable.

In West Midlands area daily sifting meetings are held called DART where Police, Social Care, Education, Mental Health, complete the Barnados risk assessment checklist and categorise risk.

High Risk cases are referred to the MARAC. The focus on the meeting is the victim to ensure a plan is in place to protect them. Many cases do not result in a court appearance.

Where a case does fit the MAPPA criteria MAPPA will take priority over MARAC, but must invite the IDVA and relevant others.

Priority and Prolific Offenders (PPOs) and Integrated Offender Management (IOM)

The Priority and Prolific Offenders Scheme was introduced in 2004 to focus on those who cause most harm to the community. Each local authority area sets its own criteria, e.g., acquisitive crime, Class A drug misuse.

Again, a multi-agency forum is established to discuss, monitor and complete action plans on each identified PPO.

Where a PPO becomes a MAPPA offender, if discussed at both panels then there must be effective communication between the two in order to ensure a consistent RMP.

IOM is a similar scheme created in order to prioritise interventions with offenders who cause crime in the locality and involves a multi agency approach to problem solving with local partners.

Terrorists and Domestic Extremists

Those convicted of any terrorist legislative offence:

- (Terrorist Act 2000)
- Anti-terrorism Crime and Security Act (2001)
- Prevention of Terrorism Act 2005
- Terrorism Act 2006
- Count-terrorism Act 2008

Or having been convicted of conspiracy attempts, aiding and abetting, counselling, procuring or inciting a terrorist legislative offence, These are now contained in Schedule 15 list of offences.

- Offenders are identified by the nature of the conviction by the courts, and for others, the court will determine the nature of the link to terrorism or domestic extremism
- The OM to identify early in sentence if eligible for MAPPA under Category 2 or 3 at level 2 or 3 – even where on the face of it, it appears they have committed offence at a low level and refer to the MAPPA Coordinator
- A MAPPA meeting must be held at least 6 months prior to release – Prison must be invited.

Where subject to statutory supervision the Probation Service must convene meeting. Police should share all relevant information. Good communication between Police teams, including counter-terrorism units, local policing units. MAPPA Coordinator in consultation with Police decide who attends MAPPA. Coordinator and Chair discuss pre-meeting.

OM's to be experienced and equipped to manage MAPPA cases.

RMP must reflect impact on community and how effectively addressed, restrictive and monitoring including any notoriety and risks to agencies.

The Prevent Duty Guidance, recently published by the Home Office, is part of the Counter-Terrorism and Security Act 2015 and places a duty on prisons and probation to have due regard to the need to prevent people from being drawn into terrorism

Domestic Extremism

Applies to unlawful action that is part of a protest or campaign. Often associated with single issue protests.

A small group of campaigners commit offences, e.g., trespass, theft, malicious communications, blackmail, damage, and at the extreme end serious crime offences in contravention of explosive acts and terrorism legislation.

There are 5 main themes for Domestic Extremism:

- animal rights extremism
- environmentalist extremism
- far right political extremism
- far left political extremism and
- emerging trends or activity unduly illegally influenced or threaten economic and community cohesion

Where an OM or agency comes into contact with an offender who has committed an offence which could identify them as domestic extremist they should contact the MAPPA Coordinator or Probation Counter Terrorist Lead.

Early consultation with police is important. Probation will complete OASys, OGRs is likely low, the RMP should take account of the impact on the community. Usually sophisticated organisations and impact serious. Also likely to attract media attention. Include restrictions and monitoring.

The MAPPA coordinator will consider for inclusion in MAPPA under category 3.

May require a different composition of attendance at panel meetings, to be identified by the MAPPA coordinator in conjunction with the NOMS lead. Only those agencies required to manage the case.

Co-ordinator and Chair discussion before hand.

Serious Case Reviews (SCR)

SMB has an established Serious Case Review Committee to review cases where convicted offenders subject to MAPPA, charged or convicted of an offence of murder, manslaughter, rape or attempt of.

The SCR will scrutinise the activity of agencies in a transparent process which examines whether guidance and policies were followed.

The purpose of the SCR is to look at whether arrangements were effectively applied and did agencies work together to do all they reasonably could to manage effectively the risk of further offending. It may also identify areas of good practice.

The aims - to establish lessons learnt and how act upon, and inform future development of MAPPA, policies and procedures. It is essential therefore that each agency completes the review as requested by the Chair in a timely manner. As part of this document the expectation is that agencies will cooperate with this process where required.

A mandatory full SCR will be commissioned where the offender was managed at level 2 or level 3 at any time 28 days before the new offence occurs and the offence is murder, manslaughter; rape or attempts of.

Other reviews include:

- Probation Serious further offence procedures
- Police integrated management review if category 1
- For children SCR – under Chapter 8 working together to safeguard children 2006
- Domicile reviews (Domestic Violence and Victims Act 2004, implemented in 2009)
- Mental Health – HSG (94) 27
- Prison investigations (PSO 1300)
- YOS – Serious Incidents
- Parole Board Review Committee
- Probation complete SFO's procedures

Public Protection Casework Section (PPCW)

Ministry of Justice

Role and Offender Licence Conditions Summary

PPCW deals with all pre and post release NOMS casework in respect of the release and recall of prisoners, including:

- Parole reviews of all **Indeterminate (Life and IPP's)**
- Parole reviews of **Determinate Sentences**, prisoners serving 15 years and over
- Early release of prisoners on compassionate grounds
- Recall of **determinate** and **indeterminate** prisoners
- Recall of prisoners released, i.e., **HDC**
- Process appeals against recalls
- Representing the Secretary of State and views of victims at Parole Board and Oral Hearings
- Operational policy and reference

The Parole Board is made up of specialist professionals and lay members from the general public who consider risk assessment reports from prison and probation for the purpose of informing release and licence conditions.

There are 6 standard licence conditions in each licence, plus any additional conditions required.

Standard Licence Conditions		Additional Licence Conditions
To keep in touch	1	No contact
Receive home visits	2	Prohibited activity
Permanently reside (and notify in advance of any change – even for one night)	3	Residency
Approved employment (including voluntary)	4	Prohibited contact
Not to travel outside the UK	5	Accredited programme
Be of good behaviour	6	Drug/alcohol requirement
	7	Curfew
	8	Exclusion
	9	Non-association
	10	Provide details of vehicles
	11	Notify of developing intimate relationships
	12	Drug testing
	13	Polygraph testing (PI 13/10 updated)

Must be applied for from either the Governor or Parole Board, depending on sentence.

The Probation Service has the statutory responsibility to manage licence and any recalls.

The PPCW section make executive decisions on behalf of the Secretary of State to recall an offender's licence and can equally make decisions about executive re releases.

The Police and Probation Service Joint National Protocol identifies roles and responsibilities of each Service.

PI 4/09 makes clear the process of sharing information and sets out mandatory actions required by Probation Trusts.

Mental Health Unit

The Mental Health Unit exists to perform the Secretary of State's delegated functions in respect of restricted patients under the Mental Health Act 1983. They are specifically involved in prison transfers to hospital and where there are concerns about discharge into the community.

Section 37 Hospital Orders under **Section 37** of the Mental Health Act 1983 require compulsory detention for treatment in a psychiatric hospital. The Secretary of State has no responsibility for these.

Section 41 A Crown Court can impose a Restriction Order under **Section 41** of the Act made at the same time as a **Section 37** Hospital Order where it is necessary for the protection of the public from serious harm. There is no time limit, therefore Restriction Orders are indefinite. The Secretary of State consent is required for any leave into the community, transfer to another hospital or a change in level of security, discharge into the community except where directed by the Tribunal and remission to prison of a transferred patient.

Section 42 **Section 42** of the Mental Health Act allows the Secretary of State to discharge a subject to conditions (conditional discharge) and recall them if necessary; also to end the restrictions at any time (absolute discharge).

Section 47 **Section 47** empowers the Secretary of State to transfer a prisoner to hospital for treatment. Under **Section 49** they can impose restrictions. Transfers under these circumstances late in sentence should be avoided due to reluctance to co-operate in treatment and these risks may increase. This will only be approved where there is evidence treatment will be of benefit to the prisoner.

Section 48 **Section 48** provides similar powers in respect of remand and other prisoners.

Section 45a and 45b The Crown Court can impose a prison sentence and at the same time direct the offender to hospital. This is limited direction when as soon as they no longer require treatment they return to prison.

Criminal Procedures (Insanity) Act 1964 as amended by Criminal Procedure (Insanity and Unfitness to Plead) Act (1991) and the Domestic Violence, Crime and Victims Act (2004) deal with those persons who are found unfit to plead. The court may dispose of such people if they are found at trial to have committed the act using sections of the Mental Health Act including section 37, with or without restriction order under section 41 as well as a community supervision order and absolute discharge.

Detained patients have rights of appeal to a First Tier Tribunal (Mental Health). The Tribunal has a duty to discharge a restricted patient, absolutely or conditionally if they are not satisfied, the criteria for detention in hospital are met. The vast majority of restricted patients will be conditionally discharged. Conditional discharge can only take place if adequate arrangements are in place.

This does not include Section 47, Section 48 and Section 45a, when tribunals must then refer to the Secretary of State.

Legislation

Relevant legislation for MAPPA

Criminal Justice Act 2003 section 325 – 327 governs the multi agency public protection arrangements. 325(4) provides for the legal authority for the exchange of information under MAPPA. 325(6) sets out statutory duty to cooperate to relevant agencies and services. Duty to cooperate includes sharing and receiving information where necessary. Permits lawful disclosure where necessary.

The Sex Offender Act 1997 – introduced a requirement for offenders convicted of specified sexual offences to register with the police.

Sex Offences Act 2003 Part 2 added to the registration requirements and defines registered sex offenders as those convicted or cautioned since 1997 of a sexual offence listed in schedule 3 of the Act or who at that point were serving a sentence for a like offence.

Criminal Justice and courts services Act 2000 required the Police and Probation as the responsible authorities to establish MAPPA panels. Section 28 – 29a provides for Disqualification orders from working with children.

The Criminal Justice Act 2003 made the Prison service a responsible authority and imposed a duty on other agencies to cooperate and areas to recruit lay advisors to the SMB. Schedule 15 identifies category 2 violent offences.

Crime and Disorder Act 1998 – section 115 also provides certain powers to share information. Permits disclosure where necessary. Section 17 places a duty on Local Authorities to prevent crime and disorder in its area.

Data Protection Act 1998 – governs the processing of personal data. Section 29(1) allows agencies to process data for lawful purposes and a duty to prevent and detect crime. Not to share if it puts people at risk. Section 29(1) a allows the release of personal data where necessary for the prevention and detection of crime.

Human Rights Act 1998 – Article 8 right to respect for private and family life. No interference of this right except in the interests of public safety for the prevention or detection of crime for the protection of morals or protection of rights and freedoms of others. Must be proportionate.

Police Act 1996 – allowing the police certain powers and for disclosure

Common Law – Ram doctrine refers to certain general powers possessed by bodies that form part of the Ministry of Crown

Police and Justice Act 2006 – provides a statutory duty to disclose non personal data to other section 115 relevant authorities

Freedom of Information Act 2000 – all information except personal information. Subject to exemptions e.g. law enforcement and information provided in confidence

Offender Management Act 2007 – provides for the legal basis for Probation areas and trusts, also provides the vires to share information in some circumstances

Safeguarding Vulnerable Groups Act 2006 – combined with the Bichard inquiry led to the Vetting and Barring scheme and need to ISA registration

Criminal Justice and Immigration Act (2008) s 140 introduces a presumption that disclosure will take place if a child sex offenders being managed by a RA with relevant pre cons presents a risk of serious harm to any identified person(s) particularly children unless there is a defensible reason for not doing so.

Children Act 1989 section 47 duty to investigate, s17 child in need

Children Act 2004 section 10 duty to cooperate, section 11 safeguard and promote welfare

Safeguarding and Vulnerable Groups Act 2006 – Vetting and Barring

Terrorism Act 2000 Anti terrorism

Crime and Security Act 2001

Prevention of Terrorism Act 2005

Terrorism Act 2006

Counter Terrorism Act 2008

Mental Health Act 1983 sections 37, 41 and 117

Department of Health Code of Practise on Confidentiality permits disclosure where necessary

Offender Rehabilitation Act 01 February 2015 -

From Sunday 1st February 2015 the Offender Rehabilitation Act applies for offences committed after this date. Part of that act says that all offenders who receive a custodial sentence, regardless of length will have supervision for at

least 12 months. For offenders who receive a short custodial sentence this will mean a period of Post Sentence Supervision (PSS)

Civil orders for Sex Offenders amended as from 08 03 15 –

SOPO's now removed and we now have

Sexual Harm Prevention Order (SHPO) – Replaces the Foreign Travel Order and the SOPO

Sexual Risk Order (SRO) – replaces the Risk of Sexual Harm Order

Notifications orders remain the same

In addition revisions to the CJ Act 2003 include:

Offenders must notify all foreign travel outside UK (previously only 3 days or more)

Offenders must notify weekly where they have no sole or main residence in the UK

Offenders must notify when residing or staying in a household with a child for a period of at least 12 hours

Offenders must notify to the police information contained in or in relation to their passport, bank account, credit card or debit card at each notification.

Criminal Justice and Courts Act 2015 from 13 04 15:

Introduces new offences e.g. offence when Unlawfully at large post recall once you have told offender he has been recalled or 6 months out of touch

Disqualification Orders removed from 26 05 15

GLOSSARY

ACPO	Association of Chief Police Officers
ASPIRE	Assess Sentence Plan Implement Review Evaluate
ASSET	See YOS section
CPPC	Critical Public Protection Case
CPA	Care Programme Approach
CQC	Care Quality Commission
DACH	Division of Adult & Community Health
DCI	Detective Chief Inspector
DTC	Duty to Cooperate
EM	Electronic Monitoring
HDC	Home Detention Curfew
IC	Implementation Circular
IDVA	Independent Domestic Violence Advisor
IPP	Indeterminate Public Protection
ISA	Independent Safeguarding Authority
LPU	Local Policing Unit
LSCB	Local Safeguarding Children's Board
MAPPA	Multi Agency Public Protection Arrangements
MARAC	Multi Agency Risk Assessment Conference
NHS	National Health Service
NOMS	National Offender Management Service
OGR's	Offending General Risk Indicator
OM	Offender Manager
PI	Probation Instruction
PPCW	Public Protection Casework
PPO	Prolific and Priority Offenders
PPU	Public Protection Unit
RA	Risk Assessment
RMP	Risk Management Plan
ROH	Risk of Harm
ROSH	Risk of Serious Harm
ROTL	Release on Temporary Licence
RSL	Registered Social Landlord
SARA	Spousal Assault Risk Assessment
SARNC	Standard Assessment Risk Needs
SCR	Serious Case Review

SMB	Strategic Management Board
SOPO	Sex Offender Prevention Order
SPO	Senior Probation Officer
SPOC	Single Point of Contact
VLO	Victim Liaison Officer
YOI	Young Offender Institution
YOS/YOT	Youth Offender Service/Team

SIGNATORIES

On behalf of the respective agency/authority, I acknowledge the statutory duty to cooperate in respect of the Multi Agency Public Protection Arrangements.

On behalf of this agency I agree staff in this agency will cooperate as outlined above, whilst acting within our lawful remit.

POLICE

Signed

Dated

PROBATION

Signed

Dated

PRISON

Signed

Dated

HEALTH AUTHORITY

Signed

Dated

LOCAL AUTHORITY CHILDREN'S SERVICES DEPARTMENT AND EDUCATION

Signed

Dated

ADULT SOCIAL CARE

Signed

Dated

YOUTH OFFENDING SERVICE

Signed

Dated

LOCAL HOUSING AUTHORITY

Signed

Dated

REGISTERED SOCIAL LANDLORD

Signed

Dated

JOB CENTRE PLUS

Signed

Dated

ELECTRONIC MONITORING

Signed

Dated

Appendices

These have been sent separately.