



Department of
Justice

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Guidance to agencies on public protection arrangements (PPANI)

Article 50, Criminal Justice (Northern
Ireland) Order 2008

Foreword by the Minister of Justice



Protecting the public from the risk posed by serious criminal offenders, especially risk to children and other vulnerable groups from sexual abuse, continues to be a top priority for Government. We know this is a huge problem crossing all levels of society, all walks of life and all social backgrounds. We know the depth of concern and fear that sexual offending can impart. We also know that many cases of sexual and physical abuse, particularly of children, go unreported and undetected and that often the abuse is carried out by family members and others known to the victims.

To respond to this concern, we have provisions in the Criminal Justice (NI) Order 2008 designed to increase public protection. These provisions place a duty on a number of agencies, both within the criminal justice sector and elsewhere, to cooperate in the interest of better assessment and management of risk posed by serious sexual and violent offenders. The legislation also provides for me to issue guidance to the agencies on the discharge of any of their functions which contribute to risk management.

The original guidance was issued in October 2008 and created the public protection arrangements in Northern Ireland (PPANI). This version has been updated to reflect developments and improvements to the arrangements and, perhaps most importantly, seeks to clarify and better present the context within which the arrangements work.

The arrangements outlined by this guidance, which has statutory backing, require agencies to share information and work together to manage the risk posed by both sex offenders and certain violent offenders.

The objective is to achieve maximum effectiveness in the efforts made on a multi agency basis to manage, and therefore reduce, the risk posed to the community by offenders, both sexual and violent, who might pose a serious threat to either an individual or to the public in more general terms.

This revised guidance is issued to all agencies listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008, along with the Prison Service and Youth Justice Agency. All have a duty to give effect to this guidance. All must exercise in accordance with this guidance the functions of their respective organisations where they contribute to the more effective assessment and management of the risks posed by certain sexual and violent offenders.

It is important, however, to place these arrangements in their proper context. Along with the development of risk assessment and management procedures, the Criminal Justice (NI) Order 2008 introduced a new sentencing framework, which included extended and indeterminate sentences for public protection. This means that dangerous sexual and violent offenders are in the future unlikely to be released into the community until the risk they pose is considered by the parole commissioners to be at a level which is then manageable. They will then be released under the supervision of the Probation Board, and these multi agency arrangements will be used to make the management of their risk as effective as possible.

This revised guidance, and the accompanying operational manual of practice agreed by agencies, reflects the continuing development of the public protection arrangements. The guidance reflects learning and experience gained since the public protection arrangements were launched in October 2008. The criminal justice agencies, and other stakeholders, remain committed to working together to reduce the risk of serious harm being inflicted by sex offenders and certain violent offenders.

Although police and probation are at the front line in protecting the public, there are vitally important roles played by social services, prisons and others. I am grateful that all the agencies concerned accept the need for a multi agency response to risk management and continue to provide and share much useful information.

This is both a challenging and dynamic process, and this guidance will be reviewed as necessary to ensure that agencies will be ready to respond to those challenges and to keep at the top of the agenda the importance of protecting the public from serious sexual and violent harm.

David Ford
Minister of Justice

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Section 1

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Introduction

1.1 Status of the guidance

This guidance is issued by the Minister of Justice under Article 50 of the Criminal Justice (Northern Ireland) Order 2008. All “agencies” listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008 have a duty to give effect to this guidance in exercising their functions which contribute to the more effective assessment and management of the risks posed by certain sexual and violent offenders. The guidance is issued to the following agencies:

- Police Service of Northern Ireland;
- Probation Board for Northern Ireland;
- Northern Ireland Prison Service;
- Youth Justice Agency;
- Department of Education;
- Department for Employment and Learning;
- Department of Health, Social Services and Public Safety;
- Department for Social Development;
- HSC Boards and HSC trusts;
- Education and Library Boards;
- Northern Ireland Housing Executive; and
- National Society for the Prevention of Cruelty to Children;

1.2 Outline of the arrangements

Statutory arrangements were established in 2008 to assist in the management of risk posed by certain offenders in the community who present evidence of likelihood to cause serious harm. These arrangements are known as the public protection arrangements in Northern Ireland (PPANI). In England, Wales and Scotland there are similar arrangements known as multi agency public protection arrangements (MAPPA). The arrangements involve agencies working together and sharing information to better protect the public in a co-ordinated manner. There is no corporate body formed by the legislation to deliver these arrangements. The relevant criminal justice agencies (eg police and probation) and others, such as social services, deliver their own statutory responsibilities and obligations relating to public protection in a joined up and cooperative way. It is also important to note that the public protection arrangements do not replace existing child protection procedures. The Police Service of Northern Ireland, Probation Board for Northern Ireland, the Northern Ireland Prison Service and social services clearly have a greater public protection role than the other agencies listed and this is reflected throughout this guidance.

1.3 Decision Making

Agencies need to be mindful of both their own statutory obligations and the duties placed on them by this guidance. They need to ensure that their own statutory roles and functions are not compromised by the public protection arrangements. Agreement on risk management between agencies is a goal rather than a requirement. Each agency has its own statutory responsibilities to discharge. However, differences of opinion in respect of either the risk assessment or risk management plan must be fully documented. No agency should feel pressured to agree to a course of action which they consider is in conflict with their statutory obligations and wider responsibility to public protection. Each agency retains responsibility for its own actions in relation to the assessment and management of risk.

1.4 Revision of the guidance

The version of the guidance published on 6 October 2008 was developed through extensive consultation with agencies and with other interested parties through public consultation. This version of the guidance has been developed in light of operational experience and further consultation with key agencies listed in Article 49 of the Criminal Justice (Northern Ireland) Order 2008. While the guidance is designed to be comprehensive it is not overly prescriptive but seeks to set out broad principles to be followed by agencies. This revised version will be subject to further revision, as required, to take account of changes in practice, in legislation and other developments in public protection.

This guidance is consistent with the:

- Prison Service’s Public Protection Policies and Instructions;
- Probation Board for Northern Ireland Practice Standards 2006 and Risk of Serious Harm Policy;
- ACPO (2007) – Guidance on Protecting the Public: Managing Sexual and Violent Offenders;
- Area Child Protection Committees’¹ Regional Child Protection Policy and Procedures (2005); and
- Co-operating to Safeguard Children DHSSPS (2003); and
- Sharing to Safeguard DHSSPS Circular 3/96 (revised 2009) - Information Sharing about Individuals who may pose a risk to Children

Following the issue of the “Report of the Multi Agency Inspection of Child Protection” by Social Services Inspectorate (DHSSPS) in January 2007, a number of reforms have been initiated. Amongst these is the “Information Sharing Policy, Standards and Criteria” for agencies working with families and children in Northern Ireland. This “protocol” is an essential guide to sharing information between practitioners in various agencies, particularly when there are safeguarding concerns. Agencies operating this guidance should be mindful of their responsibilities under this protocol.

1.5 Legislation

The following is the relevant underpinning legislation which allows for multi agency cooperation:

Criminal Justice (Northern Ireland) Order 2008

Part 3 - Risk assessment and management

Interpretation

Article 49

(1) In this Part “agencies”² means

- (a) the Police Service of Northern Ireland;
- (b) the Probation Board for Northern Ireland;
- (c) the Department of Education;
- (d) the Department for Employment and Learning;
- (e) the Department of Health, Social Services and Public Safety;
- (f) the Department for Social Development;
- (g) HSC Board and HSC trusts;
- (h) Education and Library Boards;
- (i) the Northern Ireland Housing Executive;
- (j) the National Society for the Prevention of Cruelty to Children;

“serious harm” means death or serious personal injury, whether physical or psychological;

“specified” means specified in guidance under Article 50.

(2) The Secretary of State may by order amend the definition of “agencies”³ in paragraph (1).

Guidance to agencies on assessing and managing certain risks to the public

Article 50

- (1) The Secretary of State may issue guidance to agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by persons of a specified description.
- (2) Guidance under this Article may contain provisions for the purpose of facilitating co-operation between agencies, including

- (a) provisions requiring agencies to maintain arrangements for that purpose and to draw up a memorandum of co-operation; and
 - (b) provisions regarding the exchange of information among them.
- (3) Paragraph (2) does not affect the generality of paragraph (1).
- (4) Agencies shall give effect to guidance under this Article.
- (5) The Secretary of State shall consult the agencies before issuing guidance under this Article.
- (6) The Secretary of State shall not specify a description of persons in guidance under this Article unless, whether by reason of offences committed by them (in Northern Ireland or elsewhere) or otherwise, the Secretary of State has reason to believe that persons of that description may cause serious harm to the public.

Review of arrangements and report on functions

Article 51

- (1) The agencies shall, in consultation with the lay advisers appointed under paragraph (2), keep any arrangements mentioned in Article 50(2)(a) under review with a view to monitoring the effectiveness of the arrangements and making any changes which appear to be necessary or expedient.
- (2) The Secretary of State shall appoint 2 lay advisers and pay to or in respect of them such allowances as the Secretary of State may determine.
- (3) As soon as practicable after the end of each financial year, the agencies shall jointly prepare and publish a report on the discharge during that period of
 - (a) their functions connected with assessing and managing risks posed by persons of a specified description; and
 - (b) their duty under paragraph (1).
- (4) The report must include
 - (a) details of any arrangements mentioned in Article 50(2)(a), and
 - (b) information of such descriptions as the Secretary of State may determine.

¹ Work is underway to establish a regional Safeguarding Board for Northern Ireland (SBNI) and a Safeguarding Panel within each of the five HSC Trust geographical areas. It is anticipated that the new structures will commence during 2011. The SBNI will become responsible for the development of regional guidance relating to the safeguarding of children.

² Northern Ireland Prison Service and Youth Justice Agency are not separately specified in the legislation as they are part of the Department of Justice.

³ The functions of the Secretary of State were transferred to the Department of Justice on 12 April 2010

1.6 Relevant agencies

This part briefly outlines the role each of the agencies listed in Article 49 of the Order can perform within the framework of the public protection arrangements.

Police Service of Northern Ireland

The mission of the Police Service of Northern Ireland (PSNI) is to make Northern Ireland safer. Working together in partnership, the PSNI shares a commitment to ensure the continued delivery of high quality policing to all the communities in Northern Ireland. The PSNI is committed to providing the reassurance demanded by the people of Northern Ireland.

Contribution to public protection

The PSNI has a key role to play in protecting the public from those sex offenders and violent offenders who pose a risk of serious harm. The delivery of this high profile area of core business is essential in maintaining public confidence in the work of the police service.

The PPANI Administration Unit, currently staffed by police officers, is responsible for completing static risk assessments on cases and coordinating meetings of, and providing administrative support to, Local Area Public Protection Panels. Police officers also fulfill the role of designated risk manager for those offenders whose risk management is the lead responsibility of the PSNI.

Local Public Protection Teams (PPT) and the inter-agency contribution of PSNI, PBNI and Social Services also provide a vital service.

The PSNI are also responsible for ensuring that all sex offenders subject to the notification requirements of the Sexual Offences Act 2003:

- Notify, as required;
- Are risk assessed; and
- That all suspected breaches of the notification requirements are investigated and appropriate action taken.

Probation Board for Northern Ireland

The aim of the Probation Board for Northern Ireland (PBNI) is to help reduce crime and the harm it causes. PBNI is committed to working effectively, in partnership with a number of voluntary, private and statutory organisations. This function contributes to the public protection arrangements, which is also complemented by PBNI's professionally based case management approach to offenders.

Contribution to public protection

PBNI will assess, manage and supervise offenders who have been made subject to various court orders and licences to help protect the public from harm and reduce re-offending.

Probation officers also fulfill the role of designated risk manager for those offenders whose risk management is the lead responsibility of PBNI. PBNI area managers also chair the Local Area Public Protection Panels (LAPPPs).

PBNI will ensure that all relevant offenders are managed according to its practice standards. The standards provide a framework for the effective assessment, management and supervision of offenders as well as provision of reports to courts and parole commissioners. These standards are referred to in paragraph 1.4.

Northern Ireland Prison Service

The Northern Ireland Prison Service (NIPS) plays an important role in protecting the public. It keeps offenders in custody, enabling them to address the causes of their offending behaviour and, by undertaking work, assists in their successful resettlement.

Contribution to public protection

The NIPS will:

- Provide information to the LAPPPs through regular monitoring of the behaviour of offenders in custody;
- When the offender is still in custody, participate in LAPPP meetings;
- Advise colleagues from other agencies about prison systems and procedures such as transfer between establishments and regime programmes.

Health and Social Care Board and Social Care Trusts

Health and Social Care Boards and Trusts have responsibility for providing a range of services including:

- Mental Health Services
- Physical Disability Services
- Learning Disability Services
- Primary Care Services
- Older People Services
- Family and Childcare Services

Contribution to public protection

The links between the responsibilities of Health and Social Care Trusts and the other agencies within the public protection framework will principally be in the area of child and vulnerable adult protection and safeguarding. However, the involvement of Trusts is also essential when dealing with offenders who have learning difficulties or mental health problems. Social Services staff will fulfill the role of designated risk manager in appropriate cases.

Youth Justice Agency

The Youth Justice Agency (YJA) has responsibility for providing a range of statutory services for under 18s in the community and custody including

- monitoring and supervising court and diversionary Youth Conference Orders
- supervising other court Orders
- managing a secure residential centre for sentenced or remand young persons in custody
- providing family services
- providing victim services

Contribution to public protection

The YJA will cooperate with other agencies within the framework of the public protection arrangements for those young persons under 18 years of age whose risks to the community, in exceptional cases, are to be addressed within the public protection arrangements and perform the role of designated risk manager in appropriate cases.

Department of Health, Social Services and Public Safety

The Department of Health, Social Services and Public Safety (DHSSPS) aims to improve the health and wellbeing of people in Northern Ireland. The Department works closely with other government departments and agencies in response to meeting the needs of the population of Northern Ireland.

Contribution to public protection

DHSSPS will cooperate with the other relevant agencies and provide advice on policy, guidance and legislative developments which relate specifically to protecting children and vulnerable adults.

Department for Employment and Learning

To promote learning and skills, prepare people for work and to support the economy the Department for Employment and Learning (DEL) works with two main groups of customers:

- Individuals who are seeking to improve their levels of skills and qualifications or who require support and guidance to progress towards employment, including self-employment; and
- Businesses in both the public and private sectors.

Contribution to public protection

The sharing of information held by the Department can assist the police in locating offenders who fail to comply with risk management plans.

Department of Education /Education and Library Boards

The vision of the education system is 'to educate and develop all young people to the highest possible standards providing equality of access to all'. Realising this vision requires co-ordination across the education sector and a recognition that for young people to achieve their potential requires that they be educated in a safe and caring environment where they are respected and receive the support they need.

There is a legal duty on the Board of Governors of all grant-aided schools to safeguard and promote the welfare of pupils. In addition all schools are required by law to have a child protection policy, which takes account of guidance issued by the Department of Education (DE). All schools should have a named designated teacher for child protection and a named deputy designated teacher. The designated teacher acts as a focal point for child protection within the school through providing advice and support to staff and by liaising with agencies outside the school as appropriate.

Schools are supported in the work of safeguarding children by the Education and Library Boards Child Protection Support Service for Schools (CPSSS). The CPSSS operates a term time advice helpline, provides training for staff across the sector and represents the sector at a local inter agency level.

Pending the establishment of a single education authority, the Department represents the sector at the PPANI Strategic Management Board.

Contribution to public protection

The education service, particularly schools, can assist the work of public protection in the appropriate circumstances, as:-

- pupils are encouraged to develop strategies to stay safe and this can be re-enforced at times when there is a particular local risk;
- staff are well placed to be alert and aware of activities within a locality that could be a threat to pupils' safety;
- in particular situations, and with the authorisation of the police, schools are in a position to warn individuals, groups of pupils, staff or parents of possible danger;
- schools can provide a safe environment for children and young people during school hours; and
- the local school is often the first 'port of call' for parents who have concerns about worrying activities in their area.

Department for Social Development

The Department for Social Development (DSD) contributes to the social functioning and well-being of Northern Ireland society through its mission: 'Together, tackling disadvantage, building communities.' The Department's work centres on tackling poverty, deprivation, community division and disadvantage with interventions at various levels, targeting individual need, supporting vulnerable groups and tackling disadvantage at area and community level.

Contribution to public protection

The Department can contribute to the public protection agenda by sharing information about social security benefit and child maintenance details which can assist the police in locating offenders who fail to comply with risk management plans.

Northern Ireland Housing Executive

The Northern Ireland Housing Executive (NIHE) has two main housing functions that are relevant to the resettlement of offenders – assistance with homelessness (including, in certain instances, the provision of temporary accommodation), and the provision of permanent social housing following assessment under the common selection scheme arrangements, as approved by the Department for Social Development.

The Common Selection Scheme arrangements require allocations of social housing, whether owned by the NIHE or housing associations, to be allocated on the basis of a common assessment of need and allocations policy. All applications, including those by offenders, are assessed in accordance with the rules of the approved scheme.

Contribution to public protection

Research has shown how having stable accommodation can have a positive impact on reducing the likelihood of an offender re-offending. The co-operation of both social and private housing providers is essential in the delivery of individual risk management plans and controlled information exchange is therefore vital. Given the importance of accommodation in the resettlement of offenders and hence in the assessment and management of risk, NIHE representatives can make an important contribution to the public protection arrangements. As indicated above this will not necessarily mean that they have a specific duty to accommodate an offender but their advice about accommodation and the procedures by which it is allocated and the suitability of particular accommodation, will provide a valuable contribution.

The National Society for the Prevention of Cruelty to children

The National Society for the Prevention of Cruelty to children (NSPCC), as the lead voluntary child protection agency in Northern Ireland, has powers under the Children (NI) Order 1995 and Royal Charter. Its members work with victims of abuse in Northern Ireland through a range of services including: three therapeutic teams; help to witnesses through the Young Witness Service; and a specialist team that works with young people who get involved in sexually harmful behaviour.

Contribution to public protection

The NSPCC representation ensures there is an independent child protection viewpoint.

1.7 Other agencies

There can be informal contributions and exchanges with other agencies, including the voluntary sector, which are not listed in the Criminal Justice (NI) Order 2008 but which may be of benefit to the operation of the public protection arrangements. For example, the Ministry of Defence, through the service police, holds information relating to offenders and victims which may need to be disclosed to agencies within the context of the public protection arrangements.

Section 2

PPANI Structures, Governance and Accountability

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PPANI Structures, Governance and Accountability

2.1 Introduction

It is important that the legislative context is given proper regard in determining the strategic functions which the agencies statutorily need to fulfil. There are three main areas:

- The Criminal Justice (NI) Order 2008 provides a power to allow the Department of Justice to issue guidance to the agencies on the discharge of any of their functions which contribute to the more effective assessment and management of the risks posed by certain persons.
- The legislation also tasks the agencies to keep the arrangements under review with a view to monitoring their effectiveness and making any necessary changes. They are assisted in this review function by two lay advisers appointed by the Department of Justice.
- The agencies must also jointly prepare and publish an annual report on the provisions contained in this guidance requiring agencies to maintain arrangements for facilitating cooperation, along with any other information required by the Department.

This guidance therefore provides detail on how the agencies comply with their statutory obligations and the structures which should underpin the joint working arrangements. This section also clarifies responsibilities, governance and lines of accountability.

2.2 Structures - Local Area Public Protection Panels

The practical operation of the multi agency arrangements in assessing risk and working to reduce risk is undertaken by the agencies through a number of local area public protection panels (LAPPPs). These panels are not set up by statute, but this guidance, which has been agreed by the agencies, provides the basis for their operation. The structure of the panels allows the agencies to assess offenders and develop risk management plans. The LAPPP process also allows agencies to review implementation of risk management plans and adjust if necessary. While much of this activity may take place at formal meetings, a great deal of the practical work is done day-to-day, week-to-week through a range of other formal and informal contacts and actions.

LAPPPs are set up to coordinate the risk management of cases within different areas of Northern Ireland. The panels are chaired by probation area managers. Police are a major contributor as the main public protection agency, along with probation. Prisons are the other criminal justice arm, with contributions from Social Services, the Housing Executive and other, less direct, interests as appropriate. Details of the LAPPP process are given in chapter nine.

There is also a co-located public protection team staffed by police and probation and with a social services representative, which takes responsibility for the day to day management of cases where the risk to the public is assessed at the highest level.

2.3 Governance - oversight of the arrangements

The agencies have a duty, under Article 51 (1) of the Criminal Justice (Northern Ireland) Order 2008, to keep any arrangements mentioned in Article 50(2)(a) under review, in consultation with the lay advisers appointed under paragraph (2), with a view to monitoring the effectiveness of the arrangements and making any changes which appear to be necessary or expedient. In order to fulfil this duty, the agencies have chosen to form a strategic forum with responsibility for shaping the operational development of the public protection arrangements. This includes agreeing the strategic role of different agencies and their representation on the strategic forum and brokering the protocols and memoranda of understanding which formalise those roles.

The following are the core responsibilities of the agencies which are progressed through the strategic forum:

- Monitoring and evaluating the overall operation of the arrangements;
- Planning the longer-term strategic operational development of the arrangements in the light of regular (at least every three years) reviews of the arrangements, having regard to legislative and wider criminal justice changes;
- Producing and implementing an annual business plan and the formation of sub-groups to achieve that plan.
- Producing and implementing a media strategy and annual communication plan which promotes understanding of the public protection arrangements;
- Preparing and publishing an annual report;
- Identifying and planning how to meet common training and developmental needs of agency staff involved in the public protection arrangements.

2.4 Membership of the strategic forum

All agencies listed in Article 49 of the Criminal Justice (NI) Order 2008 can be members and attend the forum. However, membership and attendance at meetings should reflect the level of responsibility and contribution made by each agency to the arrangements. While this should not exclude any agency from contributing to the development, decision-making and operational functions of the public protection arrangements it should facilitate engagement at a level which reflects their statutory responsibility.

In order for the agencies to carry out their duties and functions in reviewing the arrangements effectively, the forum must have senior representation from the three core criminal justice agencies (police, probation and prisons) and from social services. However, there may be a need at times for the forum to reflect more fully the diversity of multi agency involvement in the risk assessment and management arrangements, while recognising that some of the agencies have a greater role in the arrangements than others.

Two lay advisers, appointed by the Minister of Justice, should also be full members.

The general principle as to the level of seniority required is that the person has the necessary authority to enable them to:

- contribute to developing and maintaining strong and effective inter-agency public protection procedures and protocols on behalf of their agency;
- address the practical and resource implications of the arrangements;
- Where they are representing a particular sector, they should have the confidence of colleagues to represent their interests and relay decisions taken.

The forum can make arrangements to involve in its work, as needed, representatives from other agencies which contribute to the operation of the public protection arrangements. These other agencies can provide a conduit to their respective sectors for disseminating relevant good practice, or pinpointing a relevant contact for, and providing advice to, those more actively involved in the risk management of offenders.

It is also important that the forum can obtain wider views from a mixture of statutory and voluntary representation that will help shape the strategic operational development of the public protection arrangements.

2.5 Meetings of the strategic forum

i. Chairperson

The forum will be chaired by a senior representative from one of the main criminal justice agencies - police, probation or prisons. The post of chair can be rotated between those agencies on a basis suitable for effective business. The role of the chair is to facilitate discussion to progress business relating to the strategic oversight of the operation of the arrangements.

Whoever performs the role must have sufficient standing to command the respect and support of agencies, and have a firm grasp of operational and strategic issues. The role of chair does not carry with it accountability for decisions made by the forum. Accountability rests with the agencies represented on the forum for decisions affecting the discharge of the functions of their own organisations.

ii. Frequency

The frequency and structure of the meetings will be a matter for the forum. However, full meetings should be no less frequent than quarterly to enable the agencies to effectively monitor the operation of the arrangements. This does not exclude business being conducted, where appropriate, outside of full meetings, through correspondence or by other means. It is also open to the forum to agree that appropriate business, such as reacting quickly to a public interest matter, is conducted by relevant core agency representatives only.

2.6 Business delivery

The agencies will jointly prepare an annual business plan to deliver action on the core business areas outlined in section 2.3. Oversight of delivery of the objectives may be allocated to a number of sub groups, each chaired by an agency listed in Article 49.

The work of the strategic forum will be supported by a PPANI coordinator, assisted by support staff as necessary. The role of the coordinator is to assist the agencies to deliver the business objectives and to facilitate the effective and efficient working of the strategic management arrangements.

The strategic forum will be responsible for agreeing objectives for the PPANI coordinator post to assist in delivery of the business plan. The post will be accountable to the forum for delivering the objectives agreed.

2.7 Funding

The Department of Justice will provide core ring-fenced funding for the agencies to jointly carry out their statutory review and monitoring role, as set out in Article 51 of the Criminal Justice (NI) Order 2008. The funding will include the cost of the strategic coordination function outlined above. The funding will be provided to one of the lead agencies – either police or probation – who will be responsible for recruitment, employment and maintenance of the PPANI coordinating function. The agencies on the strategic forum should agree how the programme costs are allocated to meet the business objectives.

2.8 Accountability

The agencies are individually accountable for their duty to cooperate within the legislative framework and in accordance with this guidance. They are also accountable for all actions taken to deliver public protection within their own statutory functions. There is no corporate responsibility attached to either the LAPPPs or the strategic forum and the members of both answer to their own agencies and established individual lines of accountability for any actions taken within the public protection framework.

The Department of Justice is responsible for the statutory framework and the policy underpinning this legislation. Accountability by the agencies for delivery of the operational functions connected with the assessment and management of risk is met through the preparation and publication of an annual report as set out in Article 51 of the Criminal Justice (NI) Order 2008.

2.9 Relationship with the Department of Justice

The Department of Justice has policy responsibility for the risk assessment and management arrangements set out in the Criminal Justice (NI) Order 2008 and has statutory authority to issue this guidance to agencies. The Department of Justice acts to ensure that the funding provided is allocated to effectively deliver oversight of arrangements which seek to reduce risk to the public. It also acts to ensure that all appropriate information regarding the public protection arrangements is provided to the Minister. It is not represented as a member on the forum, as it does not have statutory responsibility for the strategic review arrangements set out in Article 51. However, a Departmental representative will be available to

attend meetings of the strategic forum and the sub groups for discussions on particular relevant issues or on a recurring basis as needed.

2.10 Communication

The agencies, through the strategic forum, will develop a full communications strategy, which will include engagement by agencies with the media, public and political representatives and the community, both proactively with regard to the operational delivery of the arrangements and in response to specific issues concerning risk assessment and risk management of individual cases.

2.11 Monitoring and evaluation

Monitoring and evaluation by the forum will contribute to the annual report and provide the means of reviewing effectiveness of the public protection arrangements. The forum should analyse the relevant data on at least a quarterly basis to allow some bench marking and the opportunity for timely intervention where issues are identified. The statistical information provided in the annual report should include: offender totals, a more detailed breakdown of those assessed as requiring management of risk within the public protection arrangements, civil orders obtained under the Sexual Offences Act 2003, enforcement action taken and details of those who have been charged with further serious sexual or violent offences.

In addition to considering this quantitative data, the forum should consider qualitative information, which can best be sourced from a review of individual cases. These reviews will help establish good practice and identify and address operational and organisational difficulties.

2.12 Annual report

The preparation and publication of the annual report is an important statutory function of the agencies, delivered through the forum. It should focus on the operation of the arrangements in the relevant year and on developments that have taken place. It should report on progress against the main business objectives set for that year. A prime objective for the report is to offer a vehicle for educating public opinion and managing public expectations.

A critical aspect will be the presentation of statistics for the number of cases assessed and the number risk managed within the public protection arrangements.

2.13 Training

Work with those who pose a significant risk of serious harm is recognised as being challenging and demanding and staff should be sustained and supported in this through proper training and supervision arrangements.

While agencies have a responsibility for the training and supervision of their own members of staff, it is clearly in the interests of the public protection arrangements that agency representatives on the strategic forum consider collectively how training needs for their agency's staff involved in delivering the arrangements might best be addressed on a joint agency basis.

2.14 Serious case reviews

The strategic forum must be informed by the relevant agency of any case where an individual, whose risk of serious harm is being managed through the public protection arrangements, is charged with a serious sexual offence or violent

offence (includes any assault involving GBH or above), or where a significant failure occurs in their risk management.

The forum may commission a serious case review of the management of any case. The objectives of a serious case review are:

1. To look at whether agencies involved in the management of risk posed by the individual did all that could reasonably be expected of them to manage the assessed risks; and
2. Whether there are lessons to be learned about the effectiveness of the public protection arrangements.

Serious case reviews can have two levels:

1. An internal multi-agency review
2. An independent case review

Where it is deemed necessary to commission an independent case review the following steps must be taken:

1. An independent person should be commissioned to undertake a serious case review and to chair a serious case review panel.
2. Each agency should appoint a representative to conduct an internal agency review and to provide a report to the chairperson.
3. Each agency should appoint a representative at appropriate level to represent his/her agency on the serious case review panel.
4. The independent chairperson should convene meetings of the serious case review panel as considered necessary and produce a report on findings and recommendations.

5. Where the death or serious harm of a child has occurred there must be cooperation with any case management review or child death review initiated by the Regional Child Protection Committee (SBNI).

Any report produced following a serious case review will be jointly owned by the agencies represented on the strategic forum who will make all decisions in relation to its circulation and use. Costs for the appointment of an independent reviewer should be met from the central budget.

2.15 Links with other public protection arrangements

Agencies involved in other multi agency forums should ensure recognition of the commonality of some of the public protection issues being faced and establish effective mechanisms for jointly addressing them. This is particularly relevant as a number of the same agencies are involved in each multi agency forum though not always with the same personnel.

2.16 Development of the public protection arrangements

The Department of Justice retains the power to issue guidance to agencies on the discharge of their functions which contribute to the public protection arrangements. However, the development and improvement of the operational delivery of public protection is a matter for agencies represented on the strategic forum.

Section 3

PPANI in Practice

- 3.1 Introduction
- 3.2 The arrangements
- 3.3 PPANI administration
- 3.4 Victim focus
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- 3.7 Hospital and Guardianship Orders
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- 3.10 Risk assessment
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- 3.12 Risk of serious harm - definition
- 3.13 Young persons under 18

3

PPANI in practice

3.1 Introduction

This section describes the core functions and key responsibilities of agencies in relation to the public protection arrangements and clarifies how risk is assessed and managed. It:

- Gives a brief overview of the public protection arrangements ;
- Describes what is meant by PPANI administration;
- Sets out how victims must be considered within the public protection arrangements;
- Describes the offender's role in the arrangements.

The effectiveness of the public protection arrangements depends largely on close working relationships between the police, prisons, probation and social services, and their relationship with the other agencies.

Agencies must ensure that the core functions of PPANI are established across the agencies and procedures are in place to:

- Identify relevant offenders;
- Share information safely and securely;
- Risk assess offenders; and
- Manage offender risks with the most suitable risk management plans.

3.2 The arrangements

Multi agency public protection arrangements are broadly understood as co-operation between police, probation and social services, with contributions from others, focused almost exclusively on the assessment and management of risk posed by offenders in the community.

Public safety considerations are an increasingly important aspect of sentencing undertaken by courts and of sentence planning conducted by prisons and other custodial settings, e.g. juvenile justice centre and hospital secure units. Also, the availability of criminal intelligence about offending behaviour has already provided assistance to the police in effecting early detection for serious sexual and violent offences. The public protection arrangements contribute significantly towards the integration of the work of a number of criminal justice agencies, together with social care agencies such as health, social services and housing, in order to reduce serious offending, minimise serious harm to the public and assist in the early detection of repeat offenders. This is the context in which the arrangements should be understood.

The public protection arrangements have been developed from best practice identified in previous multi agency working and in close consultation with operational practitioners within each of the agencies involved. The

arrangements encapsulate the core functions of public protection and clarify the procedures for assessing and managing risk and provide the basis upon which consistent public protection practice can be developed within Northern Ireland.

The arrangements comprise five core functions:

- i. The identification of relevant offenders;
- ii. The identification of lead agency responsibility for management of risk;
- iii. The sharing of relevant information among agencies;
- iv. The assessment of risk; and
- v. The management of risk.

An essential feature of the arrangements is that its functions are dynamic and overlapping i.e. they complement and are an integral part of one another. Risk assessment is not a 'one off activity' but one which ensures that whenever any new information, relevant to the risk posed by the offender, becomes known to an agency, it is shared to update the risk assessment. Thus risk assessment is itself a dynamic process, which must be capable of responding to the changing circumstances of the offender or his environment.

3.3 PPANI administration

The efficient administration of the public protection arrangements is key to ensuring that agencies efforts are co-ordinated and meaningfully contribute to public protection. The purpose of the administration role is to ensure that the identification of offenders and information sharing functions operate effectively. The administration role also comprises the provision of data to support strategic oversight and monitor effectiveness.

The PPANI administration unit, currently within the police, aims to:

- a. Provide a focal point of contact and advice for agencies on all aspects of the public protection arrangements;
- b. Receive details of all offenders who pose a significant risk of serious harm to others and for whom a multi agency risk management plan is necessary to manage that risk;
- c. Coordinate meetings and refer cases to the relevant meeting which require management of risk through the multi agency arrangements;
- d. Maintain case records, utilising relevant information systems;
- e. Receive risk management plans and minutes from all LAPPP meetings showing clearly the status of each offender and the agencies delivering components of the risk management plan;
- f. Provide quality assurance and audit including reviewing the effectiveness of communication by and between agencies;
- g. Collate data returns at LAPPP meetings for strategic monitoring; and
- h. Ensure recording of the LAPPP individual case papers facilitate data collection.

PPANI administration is a dedicated resource that aims to support the work of the LAPPPs and ensure the effective administration of the public protection arrangements.

3.4 Victim focus

Victim safety, preventing re-victimisation and avoiding the creation of new victims is fundamental to the effective fulfilment of public protection overall. However, the primary focus

of these arrangements is to manage the risk presented by an offender. Nevertheless, victims' issues are also part of the effective operation of the arrangements. Agencies need to ensure that decision making is informed by appropriate engagement with current victims and/or families/carers, and, where practicable and appropriate, with potential victims. This approach allows risk assessment and risk management plans to properly reflect victim concerns and provide appropriate measures to protect them.

The agencies should consider victims of the offence as well as those who, whilst not directly involved, have been seriously affected by it – the family of a murder victim, for example. Agencies must also consider new or potential victims, such as an offender's new partner.

3.5 The offender's role

There is a contribution that offenders can make to changing their behaviour. Measures which impose external controls and prohibitions such as: conditions in licences, including residence requirements, and Sexual Offences Act (2003) civil order provisions, such as Sexual Offences Prevention Orders and Risk of Sexual Harm Orders, can provide the offender with a clear and partly self-policed set of behaviour boundaries. These boundaries can increase therapeutic benefits and enhance public protection practice, for example, police and probation undertaking joint visits to offenders and working closely with prisons to establish suitable licence conditions for offenders prior to release.

Offenders and, in the case of offenders with a mental disorder or learning disability, their carer/appropriate adult, should be provided with an opportunity to inform the process of assessing and managing the risks they present. Similar provision for an appropriate adult/parent should

be made for any young person under 18 whose management of risk is referred into the public protection arrangements on the exceptional need basis set out in section 3.13.

It is good practice for offenders to know that the assessed risks they present are being managed through the public protection arrangements, what the arrangements are and what this means for them. This responsibility should be discharged by the designated risk manager who should ensure that the offender fully understands the content of any written or oral communication.

Offenders do not attend LAPPP meetings. However, offenders, whose risks are being managed through the public protection arrangements, following initial assessment of risk, should be allowed the opportunity to present information relevant to the management of their risk to the LAPPP meeting through their designated risk manager.

The LAPPP must only consider information provided by the offender which is relevant to the management of the risk posed by the offender in the community.

There are some cases where information about the risk management plan should be withheld from the offender on the grounds that it may increase their risk or compromise the effectiveness of the measures involved. Confidential information^[3] will not be disclosed to the offender. Information from victims, some third parties and details of police operations are highly confidential and must be adequately protected by all agencies involved in the arrangements. The decision to withhold information from the offender must be agreed at a LAPPP meeting and the reasons clearly recorded in the minutes and the case record.

³ Section 29 of the Data Protection Act (1998) enables personal data to be stored within a confidential section if it is necessary to prevent or detect crime or apprehend or prosecute offenders; and where disclosing information to the offender would be likely to prejudice these purposes.

Engaging the offender in the reality of management of risk can be very productive, although it will not be appropriate for every individual. Offenders can make a positive contribution to their own management of risk and should not be viewed only as part of the problem. Agencies should ensure that there is a clearly stated mechanism for informing offenders and that the information to be shared is fully recorded in minutes and case records.

3.6 Identification of relevant offenders

Effective multi agency public protection starts with an accurate identification of relevant offenders. Prompt and accurate identification will allow agencies to gather and share relevant information and enable them to complete the correct initial assessment of risk. In the absence of this initial accuracy, there are real dangers that important information will not be gathered and shared, or that information will be shared inappropriately, and the energy of agencies will be diverted from those offenders posing the highest risk of serious harm. The criteria for initial assessment to determine if management of risk through the public protection arrangements is required are as follows:

(a) Relevant Sexual Offender

A person is a relevant sex offender if he/she:

- is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or
- has been convicted of a sexual offence or sexually motivated offence, is not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, but about whom an agency has current significant concerns.

(b) Relevant Violent Offender

A person is a relevant violent offender if he/she:

- has been convicted on or after 6th October 2008 of a violent offence (including homicide) against a child or vulnerable adult; or who has a previous conviction for a violent offence against a child or vulnerable adult and about whom an agency has current significant concerns.
- has been convicted on or after 1st April 2010 of a violent offence (including homicide) in domestic or family circumstances; or who has a previous conviction for a violent offence in domestic or family circumstances and about whom an agency has current significant concerns.
- has been convicted on or after 1st September 2011 of a violent offence (including homicide) where the offence, in certain circumstances, has been aggravated by hostility and about whom an agency has current significant concerns.

For the purpose of this guidance 'significant concerns' is defined as

“Where an agency has current evidence of behaviour on the part of an offender that indicates the risk of his/her causing serious harm to others has increased.”

For the purpose of this guidance 'vulnerable adult' is defined as:

“A person aged 18 years or over, who is in receipt of or may be in need of community care services by reason of mental or other disability, age or illness and who is or may be unable to take care of him or herself, or unable to protect him or herself against significant harm or exploitation.”

For the purpose of this guidance 'serious sexual assault' is defined as⁴

- Rape
- Sexual assault by penetration
- Sexual assault where the assault is particularly serious or features of the offence are aggravated
- Causing a person to engage in sexual activity without consent
- Any other offence of a sexual nature deemed especially serious by the investigating officer
- An attempt to commit any of the above offences.

Identification of relevant offenders is primarily the responsibility of the police but any agency can refer an individual for initial risk assessment where the above criteria are fulfilled. Agencies such as probation, social services, including mental health and learning disability services, will hold the most comprehensive information, and must liaise with local police regarding having cases scheduled for inclusion in Local Area Public Protection Panel (LAPPP) meetings for risk assessment and consideration of the need for multi agency management of risk.

For agencies or individuals that are not formally part of the public protection arrangements, concerns about individuals posing a risk of serious harm must be taken seriously and should be referred directly to the police, who will determine whether such individuals pose a risk and what actions are necessary to address that risk. Where the assessment of risk of serious harm does not meet the criteria for management of risk within the public protection arrangements the cause for concern may still be dealt with under the procedures set out in HSC Circular

3/96 (revised) Sharing to Safeguard (Information Sharing About Individuals Who May Pose a Risk to Children).

The relationship between the public protection arrangements and Circular 3/96 (revised) Sharing to Safeguard, needs to be proactively examined in all cases for applicability and overlap. Good co-operation and communication between agencies and professionals is vital.

3.7 Hospital and Guardianship Orders

Offenders who commit serious sexual and/or violent offences and who receive a hospital or guardianship order may require management of their risk within the public protection arrangements. The hospitals where they are detained, therefore, have a responsibility to notify the PPANI Administration Unit when the offender is admitted to hospital and to notify the Administration Unit when the offender/patient is likely to return to the community as soon as the prospect of the patient's discharge has been confirmed. Notification must include an assessment of potential risks of serious harm, any identified victims and how these risks are to be managed.

3.8 Links with Parole Commissioners

Although a number of the agencies involved in the public protection arrangements will contribute information to the Parole Commissioners to assist decisions on release, it is only after a decision is made by the parole commissioners to release that a case is referred to a LAPPP and an assessment of risk undertaken and a management plan developed where appropriate.

⁴ The National Centre for Policing Excellence (NCP) "Guidance on the investigation of serious sexual offences", ACPO - 2005.

3.9 Links to other multi agency forums

It is vital that the agencies involved in operating the public protection arrangements coordinate their PPANI input with other multi agency participation: Regional Child Protection Committee/SBNI; the Domestic Abuse Forum and Sexual Violence Forum, including MARAC, to ensure that identified risks are being effectively managed and that there is no duplication of effort, as this could reduce the effectiveness of risk management plans.

3.10 Risk assessment

The definition of 'risk assessment' used in this guidance is:

“The collection, analysis and interpretation of the relevant available facts and information on a relevant sexual or violent offender in order to understand, assess and classify his/her behaviour with regard to his/her current likelihood to cause serious harm and the potential danger to victims should such harm be caused.”

Risk assessment procedures require accurate and detailed information. This information will include previous convictions, previous assessments where these are available, progress reports on offender programmes, witness and victim statements and details of interviews with the offender.

3.11 Public protection arrangements management of risk

The purpose of risk assessment is to enable agencies to identify relevant offenders who present evidence⁵ of likelihood to cause serious harm which necessitates multi agency management of risk within the public protection arrangements.

The risks posed by offenders whose initial, and any subsequent, risk assessment indicates they present evidence of likelihood to cause serious harm which necessitates multi agency management of risk, must be addressed through an agreed multi agency risk management plan. The management of risk will require meaningful multi agency co-operation, collaboration and support, within the bounds of agencies existing statutory duties, to manage the risk.

Management of risk should be understood as harm reduction either through the reduction of the likelihood of risk occurring, or the reduction of its impact should it occur. Risk management plans should address the specific risk factors presented by the individual. Actions should address both the likelihood of the risk occurring and the reduction of its impact should it occur.

The risks presented by offenders assessed as not requiring multi agency management of risk will not be addressed within the context of the public protection arrangements. However, agencies will be expected to be vigilant and keep such cases under review as they continue to discharge their individual statutory responsibilities for public protection as follows:

- Probation Board for Northern Ireland, where the offender is either subject to a statutory court based probation supervision requirement, or where the offender has voluntarily agreed to work with PBNI.
- Northern Ireland Prison Service, where the offender is in prison.
- Youth Justice Agency, where the offender is a young person under 18 and not subject to probation supervision.

- Relevant Health and Care Trust, where an individual is subject to a Hospital Order, a Guardianship Order, a Supervision and Treatment Order, is a resident in a Residential Care home or is an inpatient or outpatient receiving psychiatric treatment or is otherwise regarded as posing a risk of harm.
- Police Service of Northern Ireland, in relation to offenders subject to notification requirements of the Sexual Offences Act 2003 and their general public protection duties.

The nature of the management of risk necessary for these cases is to be determined by the lead relevant agency. If an agency has a significant concern about the behaviour of an offender whose likelihood to cause serious harm is not being addressed through the public protection arrangements, they can refer the case through the PPANI Administration Unit for reassessment by the Local Area Public Protection Panel (LAPPP). It is important that there is continued information sharing across agencies about cases not subject to multi agency management of risk under the public protection arrangements.

3.12 Risk of serious harm - definition

For the purpose of this guidance the definition of 'serious harm' set out in Article 49 of the Criminal Justice (NI) Order 2008 has been further defined and explained as follows:

“Harm (physical or psychological) which is life threatening and/or traumatic and from which recovery is usually difficult or incomplete”.

Risk of serious harm is the likelihood of this event happening. It should be recognised that the risk of serious harm is a dynamic concept and should be kept under review. In determining whether an individual presents a risk which fits this

definition a number of factors must be taken into consideration:

- (a) The nature of the persons previous offending and whether it resulted in serious harm being caused. For the purpose of this guidance, previous offending involving the following characteristics will be viewed as having caused 'serious harm':
 - Homicide;
 - Rape;
 - Indecent Assault involving an oral act (fellatio or cunnilingus);
 - Vaginal or anal intrusion by the offender on the victim either digitally or with the use of a foreign object;
 - Assault involving the use of a weapon or instrument resulting in really serious physical harm;
 - Coercion involving the use of a weapon or instrument;
 - The use of intentional/expressive violence over and above that required to control the victim or where the victim has been subjected to a level of violence, which has resulted in serious injuries requiring hospital treatment;
 - Assault in circumstances where the victim has been abducted or imprisoned; and
 - The use of drugs or other substances by the offender on the victim during the commission of the assault (this should exclude the voluntary acceptance of alcohol by the victim – unless the drink is believed to have been spiked.
- (b) Whether there are identifiable indicators of the likelihood of serious harm being caused either imminently or at any time.

- (c) Whether evidence indicates that physical harm caused by the risk would be life threatening or so serious that any potential victim's recovery would be difficult or incomplete.
- (d) Whether evidence indicates that psychological harm caused by the risk would be life threatening or so serious that any potential victim's recovery would be difficult or incomplete.

3.13 Young persons under 18

Management of the risks posed by young persons under the age of 18 who fall within the definition of relevant sexual or violent offender should not normally require management of risk within the public protection arrangements. In the vast majority of cases, those risks will be effectively managed under the present social services child protection and children in need arrangements, as set out in current Area Child Protection Committees' (ACPC) Regional Policy and Procedures and Co-operating to Safeguard Children Guidance, or Youth Conference Order/Plan. ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance and Youth Conference Order/Plan are multi agency processes (involving criminal justice as well as social care and education) and should ensure implementation of a sufficient management plan. However, exceptionally when either a Health and Social Care Trust, the Youth Justice Agency, the Northern Ireland Prison Service or the Probation Board for Northern Ireland consider that multi agency risk assessment and management of risk within the public protection arrangements is necessary, in respect of the risks posed by a young person under 18, who would, if he/she were an adult, fit the criteria of a relevant offender, they should seek assistance by referring the case to the PPANI Administration Unit for initial assessment by a LAPPP.

Agencies referring the case of a young person under the age of 18 must evidence the risk of serious harm which cannot be adequately managed under the existing ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance or Youth Conference Order/Plan.

When the risk of serious harm which gave rise to the referral diminishes sufficiently to enable management of the risk under ACPC Regional Policy and Procedures and Co-operating to Safeguard Children Guidance or Youth Conference Order/Plan, assistance in the management of risk within the public protection arrangements should no longer be required.

Contact with a young person under the age of 18, their appropriate adult/parent, about any public protection arrangements involvement in the management of risk of serious harm remains the responsibility of the referring agency. Agencies must make appropriate provision to address the specific needs of engaging with a young person on such matters.

Identifying the level of risk presented by a young person under the age of 18 can be particularly challenging given that they may have a limited criminal history and that patterns of behaviour can often change rapidly during adolescence. Therefore, managing the assessed risks posed by young people under 18 through the public protection arrangements should only occur on an exceptional basis. However, the agencies involved are aware that there are a very small number of young people who can present a very serious risk to others. The management of this exceptional risk may be more effectively addressed through liaison between the current normal child protection and children in need arrangements or Youth Conference Order/Plan and the public protection arrangements

Section 4

PPANI co-operation

- 4.1 Introduction
- 4.2 The nature of co-operation
- 4.3 The principles of co-operation
- 4.4 The practicalities of co-operation
- 4.5 Memorandum of co-operation

4

PPANI co-operation

4.1 Introduction

The Police Service of Northern Ireland, the Probation Board for Northern Ireland, the Northern Ireland Prison Service, and the Health and Social Care Board and Health and Social Care Trusts have a well defined and widely recognised lead role to play in protecting people from harm. These agencies, in consultation with the remaining agencies, should take the lead in the development of a memorandum setting out the ways co-operation within PPANI will take place.

This section of the guidance:

- Defines the nature of co-operation between agencies and explains what it can involve in practice;
- Sets out the principles of co-operation;
- Explains the key practicalities of co-operation;
- Outlines the role of each agency listed in Article 49 of the Order and the type of involvement each may have in the public protection arrangements; and
- Provides advice about the 'memorandum of co-operation' required under Article 50 of the Order.

4.2 The nature of co-operation

The Order requires agencies to cooperate with each other in assessing and managing the risks posed by certain offenders. It does not define the activities involved in that co-operation. Rather, it requires that co-operation is determined through a memorandum drawn up by agencies.

The purpose of the memorandum is to enable the practicalities of co-operation to be agreed. This makes good sense because it allows due account to be taken of the variations in the structure and relationships between all the agencies concerned.

Agencies are required to co-operate only in so far as this is compatible with their existing statutory responsibilities. Therefore, co-operation does not require agencies to do anything other than what they are already required to do under their existing functions. However, it does require that they discharge their functions, where these relate to relevant offenders, as set out in this guidance, collaboratively with the other agencies.

The requirement to co-operate in accordance with this guidance is imposed only on those agencies identified in Article 49 of the Order which can only be varied by order of the Minister of Justice. Agencies cannot decide to exclude those stipulated in Article 49 from the arrangements and any agency listed cannot opt out of cooperating with the arrangements.

4.3 The principles of co-operation

Respect for role: co-operation depends upon respecting the different role each agency performs and the boundaries which define it. Unless clarity on authority is maintained, responsibility and accountability will become clouded and agencies may misunderstand the basis upon which they co-operate. In turn, this may cause representatives of those agencies to feel disempowered or professionally compromised – a result which PPANI co-operation is explicitly intended to prevent. Without this clarity, agencies may assume that a referral of a case for assessment and risk management under the public protection arrangements somehow diminishes or even absolves them of any continuing responsibility, which is not the case.

Co-ordination not conglomeration: the public protection arrangements are a means of enabling different agencies to work together and share information. The public protection arrangements do not create a legal entity or statutory body but simply offer a way of allowing relevant agencies to maximise their effectiveness in dealing with risk in the community by operating within a formal multi agency framework. Authority rests with each of the agencies involved. While consensus may be reached and joint action agreed, that consensus and action remain the responsibility of each agency. PPANI co-operation does not aggregate the responsibility and authority of the agencies involved, rather it clarifies the roles each agency is to play.

PPANI co-operation is based on the integrity of each agency's existing statutory role and responsibilities. It must be based upon informing and influencing partners. Co-operation cannot be based on the command and control of one agency by another.

4.4 The practicalities of co-operation

Engaging an agency's co-operation is therefore dependent upon:

- Identifying that an agency has a legitimate interest or specific responsibility.
- Advising about how best it can become involved and helping it to co-ordinate its involvement with that of other agencies.

The memorandum agencies must draw up should describe the ways in which they agree to cooperate. The specific activities involved in co-operation will however be determined by the circumstances of each case. The type of activities co-operation will involve can be broken down into four areas:

- Providing a point of contact for other agencies. While much of the formal business of co-operation will be conducted at LAPPP meetings, co-operation will also entail informal contact. To enable that informal contact, and to channel the more formal engagement, it is important that each agency provides a point of contact, someone who can at least signpost the direction to take if not help smooth the way by brokering introductions and other arrangements.
- Providing general advice about an agency's role and the type of services it provides. This can helpfully involve advice about how those services can be accessed.
- Providing specific advice about the assessment and/or the management of the risks a particular case poses.
- Co-ordination: this key partnership function requires each agency to perform its role and to carry out its responsibilities in ways which at best complements the work of other agencies, or at the least does not frustrate or compromise their work.

4.5 Memorandum of co-operation

Under Article 50(2)(a) of the Order the Department of Justice requires agencies to maintain arrangements for facilitating co-operation and to draw up a memorandum of co-operation. The purpose of this requirement is to enable the practicalities of co-operation to be determined.

The memorandum should make clear the purpose of co-operation; the principles upon which co-operation will take place; the activities involved in cooperating and the systems and procedures which support them; and the partners to the agreement. The memorandum should be based on the structure outlined below.

Purpose and Basis of Co-operation

- Statutory basis: Criminal Justice (NI) Order 2008 and possible reference to other local protocols and agreements;
- Local statement of the broad purpose or objectives outlining the value of the public protection arrangements multi agency joint working, which may, for example, highlight the particular significance the memorandum has in cementing the relationships and arrangements underpinning other protection work such as safeguarding children and domestic abuse work; and
- Principles: as outlined in 11.3 above and the general principles underpinning the public protection arrangements as covered throughout this guidance. For example, defensible decision making and prioritising the use of resources to where they are most needed.

Scope and Practice

- Identify relevant caseload within the public protection arrangements;
- Outline the levels of assessment and risk management;
- How information sharing takes place;
- How the annual report is going to be prepared;
- How the media and public interest enquiries will be handled; and
- How and when the memorandum will be reviewed.

Partners

- Identify the agencies party to the agreement of the memorandum;
- Identify principal point of contact for operational/case-related matters as well as the 'senior officer' underwriting the agreement on behalf of the agency; and
- Set out the role of each agency, level of commitment that is practicable and appropriate.

Co-operation is not new and the memorandum of co-operation will in several respects confirm existing good practice arrangements already in place.

Section 5

Information sharing

- 5.1 Introduction
- 5.2 Information sharing between agencies within PPANI
- 5.3 Information sharing principles
- 5.4 Freedom of Information and data protection requests
- 5.5 Summary

5

Information sharing

5.1 Introduction

The effectiveness of the public protection arrangements depends upon the delivery of risk management plans devised by agencies to address the specific risk factors posed by individual offenders in the community. Risk management plans are dependent upon the quality of the risk identification and assessment processes; and the quality of both the risk assessment and the risk management plan are heavily influenced by the effectiveness of information sharing arrangements. Unless all relevant information is available, in good time, to those making the assessments and drawing up risk management plans, public protection may be compromised. Agencies involved in the public protection arrangements must have effective arrangements in place for practicable information sharing with each other.

Given that the exchange of information is essential to effective public protection, this guidance clarifies the principles upon which agencies may exchange information amongst themselves, and where a decision may be taken to disclose such information to other persons or organisations outside the public protection arrangements, for example, to an employer, voluntary group organiser or church leader who has a position of responsibility/control over the offender and other persons who may be at risk from the offender.

This guidance only applies to information that relates to individuals, i.e. personal information, as it is this type of information on which the law confers heightened protection. The principles contained in this guidance on information sharing and disclosure take into account the common law duty of confidence, the Data Protection Act 1998 and the European Convention on Human Rights (as incorporated into domestic law by the Human Rights Act 1998).

5.2 Information sharing between agencies within PPANI

This guidance simply sets out the basic principles upon which information sharing protocols should be drawn up for the purposes of public protection. The principles outlined in this guidance not only ensure compliance with the law, but are also aimed at promoting trust between agencies. That trust must be nurtured and sustained by professional integrity and by procedures which ensure that the process of sharing information is safe and secure. To ensure that this is effectively achieved, the agencies must have in place an agreed information sharing protocol. It is also important that agencies are mindful of the Department of Health, Social Services and Public Safety: Information Sharing Policy, Standards and Criteria for Agencies Working with Families and Children.

5.3 Information sharing principles

Information sharing must:

- Have lawful authority;
- Be necessary;
- Be proportionate; and done in ways which ensure the safety and security of the information shared; and
- Be accountable.

The meaning of each of these principles is explained below.

Lawful authority requirement (vires)

Each agency sharing information within the public protection arrangements must have either a prima facie statutory or common law power to do so. The police, probation, and prison services, in respect of their wider criminal justice responsibilities, social services in respect of their child protection, mental health and learning disability responsibilities, have clearly recognised statutory duties, which will necessarily involve sharing information. The Criminal Justice (NI) Order 2008 also recognises that co-operation between agencies in operating the public protection arrangements will also include the exchange of information.

Therefore, due to the above, all relevant agencies have the prima facie legal power to exchange information relating to public protection.

To identify the purpose of sharing information and to ensure the agencies' obligations to retain and use the information lawfully, the persons with whom the information is shared must know:

- Why they have been given it, i.e. the purpose for which the information has been given must be connected either to that person's authority and role as a representative of an agency involved in the public protection arrangements or because they are someone to whom disclosure is justified because of the exceptional risk posed to them by the offender;
- That it must remain confidential, be kept and shared safely and securely and retained for as long as necessary; and
- What they are expected to do with that information.

Necessity

Information should only be exchanged where it is necessary for the purpose of properly assessing and managing the risks posed by offenders within the public protection arrangements. The specific purposes of sharing information within the context of the public protection arrangements are:

- To identify those offenders who present a serious risk of harm to the public;
- To ensure that the assessment of the risks they present is accurate; and
- To enable the most appropriate risk management plans to be drawn up and implemented to manage the assessed risks and thereby protect the public.

Proportionality in information sharing

In order to satisfy this criterion, it must be shown that the managing and assessing of the risk posed by the offender could not effectively be achieved other than by the sharing of the information in question. Clearly, in almost all cases of identifying, assessing and managing risk within the public protection arrangements, this principle will easily be met.

Ensure the safety and security of the information shared

Good practice must ensure that all information about offenders is kept securely and is shared with and available only to those who have a legitimate interest in knowing it; that is, agencies and individuals involved in the public protection arrangements. Safeguards must be in place to ensure those who do not have a legitimate interest in the information cannot access it accidentally or deliberately.

Accountable information sharing

So that information is shared accountably the agencies must ensure that the administrative procedures underpinning the efficient operation of meetings as part of the public protection arrangements have the confidence of participants. The importance of accurate, clear and timely record keeping is necessary to demonstrate that accountable information sharing occurs. Also, that safe and secure information storage and retrieval procedures are evident.

5.4 Freedom of information and data protection requests

Freedom of Information and data protection requests should in the first instance be referred to the agency with lead responsibility for holding the information requested and processed in line with that agency's procedures for dealing with such requests.

5.5 Summary

This guidance, issued by the Department of Justice under Article 50 of the Criminal Justice (Northern Ireland) Order 2008, provides a framework which supports and enables lawful, necessary, proportionate, secure and accountable information sharing, whilst the Data Protection Act (1998) puts controls on data sharing so, together, they facilitate responsible information sharing between agencies for legitimate purposes.

The detailed sections within this guidance on multi agency meetings and case conferences provide answers to questions on how information about offenders should be shared within the context of the public protection arrangements. Agencies must have relevant and consistent information sharing protocols that provide a clear framework for data sharing and give confidence to all parties about what is expected of them, their roles and their responsibilities.

Compliance with this guidance should mean that few difficulties with sharing information will arise. This guidance does not, however, prescribe how all cases involving information sharing will be dealt with. Whether information should be shared and if so, how much information and with whom, must be decided on a case-by-case basis.

Section 6

Disclosure

- 6.1 Introduction
- 6.2 Definition of disclosure
- 6.3 Reasons for disclosure
- 6.4 Disclosure to other third parties
- 6.5 Disclosure to courts and parole commissioners
- 6.6 Decision to disclose information to the general public
- 6.7 Disclosure of LAPPP meeting minutes to offenders or other third parties
- 6.8 Summary

6

Disclosure

6.1 Introduction

Effective risk management requires that the risk assessment process identifies those persons who may be at risk of serious harm from the offender. The risk management plan must identify how those risks will be managed. As part of this process, consideration must be given in each case as to whether disclosure of information about an offender to others should take place to protect victims, potential victims, staff and other persons in the community.

The purpose of disclosure of information is: to facilitate the risk management plan, to facilitate public protection and to reduce the risk of serious harm. It is preferable that the offender is aware that disclosure is taking place and, on occasion, they may make the disclosure themselves in the presence of the Designated Risk Manager (DRM) or the content of the disclosure would be confirmed subsequently by the DRM. However, there will be cases where informing the offender that disclosure is taking place could increase the potential risks to the victim(s) and, in those cases, the offender will not be informed. Any decision to disclose information must be clearly recorded at the Local Area Public Protection Panel (LAPPP).

Voluntary and private sector services who engage with offenders, on behalf of agencies operating the public protection arrangements, and who are

involved in risk management, will normally have a service level agreement (SLA) or formal contract agreed with the statutory organisations for whom they are undertaking the sub-contracted work. This SLA/contract will address the issues of disclosure and confidentiality. If this is in place then agencies should treat such “intermediate” organisations in the same manner as they treat other statutory bodies. Where no such SLA/contract is in place, then consideration must be given as to their confidentiality status and what information should be disclosed. In such situations, the LAPPP should treat them as they would a member of the public and have appropriate safety considerations in place. The agencies, through the strategic forum, must ensure that there is in place a means to capture information relating to disclosure.

6.2 Definition of disclosure

“The communication to any party outside those involved in the public protection arrangements of any information that relates to an individual, whose management of risk is being delivered by agencies through a multi agency risk management plan. The disclosure will be a component of the risk management plan for that identified individual.”

6.3 Reasons for disclosure

The agencies are responsible for maintaining confidentiality in respect of all cases. However, occasionally that duty to maintain confidentiality will be overridden by a greater need to protect the public, or any individual or section of the community. This situation may arise when intelligence or information indicates that an individual may assault or cause serious harm to another. Disclosure may become justifiable where it is not possible to reduce the risk through other means.

It will be necessary to demonstrate how disclosure is likely to assist the containment or removal of the identified risk. There can be no general rule of disclosure; each case must be decided on its merits. The following points must be considered:

- The nature and the extent of the information to be disclosed;
- The person receiving the information;
- How the receiver will utilise the information.

The principles underpinning disclosure to third parties are the same as for information sharing, but inevitably involve greater sensitivities given that disclosure may be to individual members of the public as opposed to central or local government or law enforcement bodies. Because of this, great caution should be exercised before making any such disclosure: the issue of disclosure must always be considered and a record made of the reason for either making a disclosure or not making a disclosure. This guidance presumes that disclosure will not only be considered in each case but will be made where management of the assessed risk requires it. If such a course of action is required, it must be part of a risk management plan and be formally agreed.

Disclosure should be considered:

- When there is evidence that grooming behaviours may take place, for example, through leisure clubs, churches, employment;
- If there is a condition in a Sexual Offences Prevention Order/licence excluding offenders from a specific location and/or having contact with named persons;
- Where others (including other service users) may be at risk, for example, in supportive accommodation. This may include other service users, but usually it will be staff and managers who are told in order to enable more appropriate placements and for greater vigilance to be exercised;
- Where there is a need to protect past or potential victims, in particular where offenders strike up new relationships with partners who have children or grandchildren. In some cases, this may include friends or neighbours who have children;
- To schools and colleges if grooming behaviours need to be prevented.
- For young people under 18 who attend school or college, limited and controlled disclosure may be made to designated school or college staff;
- Where a person may be in a position to actively assist in the management of risk of an offender by being familiarised with risk factors and scenarios.

The lawful authority and necessity requirements described in section 5 (Information Sharing) will be met in cases where making the disclosure is for the purposes of the management of risk posed by offenders within the context of multi agency risk management plans. The critical factor in determining if a disclosure is lawful is therefore likely to be the proportionality requirement. The following criteria should be met before disclosing information about an offender to a third party:

- (i) The offender presents a risk of serious harm to the person, or to those for whom the recipient of the information has responsibility (for example, children).
- (ii) There is no other practicable, less intrusive means of protecting the individual(s), and failure to disclose would put them in danger. Also, only that information which is necessary to prevent the harm may be disclosed, which will rarely be all the information available.
- (iii) The risk to the offender should be considered although it should not outweigh the potential risk to others were disclosure not to be made. The offender retains his rights (most importantly his Article 2 right to life) and consideration must be given to whether those rights are endangered as a consequence of the disclosure. It is partly in respect of such consideration that widespread disclosure of the identity and whereabouts of an offender is rarely advisable.
- (iv) The disclosure is to the right person and that they understand the confidential and sensitive nature of the information they have received. The right person will be the person who needs to know in order to avoid or prevent the risks.
- (v) The involvement of the offender (where risk factors allow) both in the decision regarding the need to disclose and in the actual disclosure itself. In some cases, the ideal situation is for the offender to give their consent and to undertake the disclosure themselves. This could be either in the presence of their DRM or for the content of the disclosure to be confirmed/verified by the DRM subsequently.
- (vi) Preparation and discussion with those third parties receiving the information. This includes: checking what they already know; that they understand the confidential and sensitive nature of the information they have received; that they know how to make use of the information, and what to do in the event of anything occurring which they need to report, and that they know whom to contact.

Disclosure of information will not abrogate agencies of any of their responsibilities.

Disclosure of information to a third party must be viewed as only one component of a full risk management plan.

6.4 Disclosure to other third parties

When necessary, representatives from other agencies and from outside Northern Ireland may be invited to participate in a Local Area Public Protection Panel (LAPPP), to contribute to the assessment and management of risk posed by offenders. Such representatives will be required to sign a confidentiality agreement and will be required only to share such information as is required for the purpose of contributing to the assessment and management of risk posed by a particular offender and which is compliant with current legislation. It is against this background of sharing information that the issue of disclosing information by agencies to the public arises.

There may be some cases where the management of risk posed by an offender in the community cannot be carried out without the disclosure of some information to a third party. For example, management of risk may be improved through disclosure to an employer, voluntary group organiser or church leader who has a position of responsibility/control over the

offender and other persons who may be at risk from the offender. Such disclosures must be made on the basis of clear justification and be supported by all of the agencies involved.

6.5 Disclosure to courts and parole commissioners

The lawful authority and necessity requirements described in chapter 5 (Information Sharing) will clearly be met when disclosure is to the courts, when considering dangerousness prior to sentence, or to the parole commissioners, when considering suitability for release back into the community. The confidentiality agreement which will be signed by agencies who participate in a LAPPP will clearly state that information shared for the purpose of contributing to the assessment and management of risk posed by a particular offender will be made available to the courts or parole commissioners on request.

Where the court or parole commissioners are asking for agency-specific information, for example, specific information which fed into the risk assessment process, then the request should generally be sent to that agency. Most, if not all, of the information provided to LAPPP meetings is derived from information stored on the individual agency's database(s) and the provision of that information to third parties is the responsibility of that agency.

6.6 Decision to disclose information to the general public

Any decision to disclose information to the general public has wide ranging implications, therefore the PSNI, at an appropriately senior level, will exercise the final responsibility for the decision to disclose personal or confidential information to the public about an individual whose management of risk is being addressed within the public protection arrangements.

6.7 Disclosure of LAPPP meeting minutes to offenders or other third parties

In working with offenders, victims and other members of the public, all agencies have agreed boundaries of confidentiality. The information contained in the LAPPP meeting 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.

These minutes are likely to include personal, confidential third party (including victim) and operationally sensitive information and are, therefore, not suitable for disclosure under one or more of these exemptions of the Freedom of Information Act (2000):

- Investigations and proceedings by Public Authorities (section 30(1)(B));
- Health and safety (section 38);
- Personal information (section 40); and
- Information provided in confidence (section 41).

There may also be restrictions on disclosing this information to others under the Data Protection Act (1988) and the Human Rights Act (1998) and related European case law.

There may be increased requests for copies of LAPPP meeting minutes from offenders and other third parties. A full copy of the LAPPP meeting minutes should not be provided. Instead, redacted minutes should be provided.

All requests from offenders or other third parties for LAPPP meeting minutes must be responded to. All requests and decisions relating to disclosure of the LAPPP meeting minutes must be recorded on case risk management records.

6.8 Summary

This guidance identifies the principles to be followed in the decision making process where, for the purpose of public protection, disclosure of personal and confidential information to any party outside the public protection arrangements is to be considered. Each agency should work to a corporate agreement on information sharing and confidentiality within the public protection arrangements. The purpose of an identified process will lead to clarity as to when disclosure is justifiable, and will also provide evidence of objectivity and proportionality in the event the decision is challenged.

Section 7

Risk assessment

- 7.1 Introduction
- 7.2 Criteria for choosing a risk assessment tool
- 7.3 Other contributions to risk assessment
- 7.4 Summary

7

Risk assessment

7.1 Introduction

The assessment of risk posed by an offender, and the identification of the factors that have contributed to the offending are the starting points for all work with offenders. There must be a professional discussion and agreement regarding the level of risk of serious harm and the type of management of risk required.

7.2 Criteria for choosing a risk assessment tool

It is expected that properly validated methods of risk assessment will be used by agencies to assess risk posed by offenders.

7.3 Other contributions to risk assessment

One of the benefits of close working relationships between agencies within the public protection arrangements, is that access to other forms of needs assessment are made available, which can complement formal risk assessment. These assessments will be of particular importance in assessing offenders with, for example, mental

health problems or learning difficulties. Needs assessments made by colleagues in other agencies, including those in health, education, housing and social services, can critically inform the assessment of the risk of serious harm. The key principle for agencies operating the public protection arrangements is that risk assessments, undertaken by individuals within agencies, should be based on the tools and procedures currently approved for use within that agency. Agency protocols and procedures must be carefully adhered to and current guidance on the use of the respective tools must be followed.

7.4 Summary

The assessment of risk of serious harm posed by an offender, and the identification of the factors that have contributed to the offending, form the key building blocks of offender management of risk. Formal risk assessments inform and underpin defensible decision making. As further risk assessment tools are developed and validated, agencies may wish to consider review and revision of the risk assessment instruments used.

Section 8

Management of risk

- 8.1 Introduction
- 8.2 Types of management of risk
- 8.3 Management of risk within the public protection arrangements
- 8.4 Management of risk outside the public protection arrangements
- 8.5 Delivery of risk management plans

8

Management of risk

8.1 Introduction

While the management of risk of serious harm posed by offenders is both complex and difficult it is central to the purposes of the public protection arrangements and the agencies have a duty to ensure that the assessed risk of serious harm is managed. In practice this means that agencies must seek to ensure that strategies to address the risks are identified and where necessary a multi agency risk management plan is developed, delivered and reviewed on a regular basis.

Management of risk is the process of addressing the identified risks of serious harm by putting an appropriate risk management plan in place. Management of risk is both complex and dynamic and it is not possible to eliminate risk entirely. It is therefore critical that: the decisions made are defensible; that the risk management plan is implemented and monitored through regular reviews and that adjustments to the plan are made, as necessary.

Risk management plans must include action to monitor the behaviour and attitudes of the offender and when necessary intervene in the individual's life in order to minimise the risk of serious harm to others. It is important that plans relate not only to the risk situation as it is now but are also capable of addressing risk as it may develop in the future, drawing upon information from all agencies within the public protection arrangements.

The ability of agencies operating the arrangements to deliver effective management of risk will depend on a number of factors. Case specific details such as the nature and severity of the risk posed, factors that may trigger re-offending behaviour, and whether any statutory powers exist to modify or contain behaviour are all highly relevant in determining what risk management options are appropriate. So too is the engagement of a range of agencies that are able to make a specific contribution to the development of appropriate strategies and to directly deliver elements of the risk management plan.

Effective management of risk is the core purpose of the public protection arrangements and requires all agencies sharing relevant information to ensure that it can be achieved.

8.2 Types of management of risk

The management of risk within the public protection arrangements is intended to enable resources to be deployed to manage identified risk in the most efficient and effective manner. It is based on the principle that cases should be managed at the lowest level consistent with providing a defensible risk management plan. Oversight of delivery of management of risk within the public protection arrangements will be carried out by Local Area Public Protection Panels (LAPPPs).

8.3 Management of risk within PPANI

Multi agency management of risk within the public protection arrangements should be used only where it is considered necessary to address the risk of serious harm posed by the offender. In these cases the active involvement of more than one agency will be required to deliver the risk management plan.

Good practice suggests that the following agencies should routinely play an active role in the management of risk within the public protection arrangements:

- police;
- probation;
- prison service;
- social services.

Representation on LAPPPs from the above agencies should be supplemented by other agencies, such as the Northern Ireland Housing Executive, depending on the particular circumstances of each case, to ensure full information sharing and engagement of other service providers in the delivery of the risk management plan.

Management of risk within the public protection arrangements will generate a significant caseload that will require active management and review

by the LAPPPs. To achieve this, LAPPPs must be effectively managed and supported. The frequency of LAPPP meetings is a matter for the agencies themselves to decide, and will largely depend on the number and complexity of the caseload. However, a multi agency risk management plan should be reviewed to ensure that the plan is effective and that identified actions have been progressed no later than every 12 weeks.

Agencies should not expect that management of risk within the public protection arrangements will apply indefinitely. Once an effective risk management plan is firmly established, and the risk is reduced so that it no longer necessitates multi agency involvement, the case should revert for risk management purposes to the relevant agency with responsibility for that particular offender. Should the assessed risk increase the type of risk management should be reviewed.

8.4 Management of risk outside the public protection arrangements

The risk posed by offenders assessed by the multi agency LAPPP as not requiring multi agency intervention, will not be addressed within the context of the public protection arrangements. However, agencies do have existing individual statutory responsibilities for elements of public protection, which will be performed outside the multi agency public protection arrangements.

Cases where the management of risk is addressed outside the public protection arrangements, by an agency exercising its individual statutory responsibility for public protection can be referred at any stage to the LAPPP for further assessment where significant concerns⁶ arise. It is therefore essential that good information sharing takes place to enable any concerns to be identified in a timely manner for referral back into the multi agency arrangements.

Agencies must remain alert to the fact that just as risk can and will change, so the means of managing risk should change. The public protection arrangements provide the framework within which changes in the management of risk can be effectively and consistently addressed within the overriding principle that cases should be managed at the lowest appropriate level, determined by defensible decision making.

8.5 Delivery of risk management plans

There is a clear expectation that agencies will discharge actions falling to them as part of the risk management plan, and for which they have a statutory responsibility, in an expedient manner and report on delivery of those actions in an open fashion at the LAPPP.

⁶ 'Significant concerns' is defined in section 2.6 as "Where an agency has current evidence of behaviour on the part of an offender that indicates the risk of his/her causing serious harm to others has increased."

Section 9

Local area public protection panel meetings

- 9.1 Introduction
- 9.2 Purpose of meetings
- 9.3 Agency representation
- 9.4 Conducting meetings
- 9.5 Chairing
- 9.6 Identifying LAPPP responsibility
- 9.7 Transferring cases between LAPPPs

9

Local area public protection panel meetings

9.1 Introduction

The importance of holding effective Local Area Public Protection Panel (LAPPP) meetings, to share information within the public protection arrangements to support risk assessment and formulate risk management plans, in order to protect victims and communities, cannot be over emphasised.

An effective meeting requires:

- Good identification of and representation by those agencies which need to be present;
- The right people in attendance who have the capability and authority to make the necessary decisions;
- All the pertinent information being available;
- Good organisation and management of the meeting; and
- Proper record keeping.

9.2 Purpose of meetings

The purpose of the meeting is for agencies to share information which:

- Is pertinent to undertaking multi agency risk assessments;
- Identifies the likelihood of re-offending;
- Identifies serious risk of harm issues and their imminence;
- facilitates the delivery, review and adjustment of effective risk management plans.

9.3 Agency representation

Key to the effectiveness of LAPPP meetings is multi agency involvement and representation. In determining the level of the representation, and the nature of each agency's involvement, three factors must be considered:

1. The representatives must have the authority to make decisions committing their agency's involvement. If decisions have to be deferred, due to the inability of agency representatives to take decisions and/or commit resources, then the effectiveness of the multi agency operation will be weakened and may compromise the risk management plan.
2. The representative must have relevant experience of risk/needs assessment and management of risk, and the analytical and team-working skills to inform discussions. Such experience and skills can usefully contribute both to case-specific management of risk and in providing advice on management of risk more generally.
3. Continuity of personnel. The effectiveness of LAPPP meetings is dependent upon establishing good working relationships across agencies. Multi agency work is often complex and benefits greatly from the continuity of personnel and their professional engagement.

Multi agency management of risk is an expensive resource and should only be used where it is necessary to manage the risk of serious harm in a collaborative and co-ordinated manner. Involvement of agencies, when they have no information or advice to offer and no services for the offender, wastes agency time and may undermine involvement in other relevant cases. As referrals to LAPPPs increase, it is essential that a flexible and focussed approach is taken to ensure that the right agencies attend to develop the right risk management plans for the right cases. Where agencies fail to attend or provide information, and this affects the ability of the meeting to construct an effective risk management plan, the chair of the LAPPP meeting will initially follow this up locally with the agency. If this is not successful, then it should be brought to the attention of the strategic forum.

9.4 Conducting meetings

It is important that LAPPP meetings are well organised and allow sufficient time to discuss the case properly. Accurate records must be made using an agreed format. These records must be written in a way which allows those not present at the meeting to understand the nature of the discussion. The records must also demonstrate defensible decision making.

9.5 Chairing

Police and probation clearly have a significant role in the day to day operation of the public protection arrangements. For this reason it is important that the LAPPP meetings are chaired by a representative of one these agencies. The chair should be someone who has the necessary

skills and ability required to fulfil the role. All new chairs should receive induction, which provides access to an experienced chair for advice and guidance. They should also receive appropriate training.

Chairing LAPPP meetings is essentially one of combining the roles of facilitator and leader. The task is to ensure that the business of the meeting i.e. the identification of risks, with the production and appropriate review of the risk management plan, is conducted in an effective and efficient manner. It is expected that the chair will ensure that:

- The agenda is followed and all items are fully discussed;
- Meetings are properly recorded and minutes are circulated within the specified timescales;
- Meetings run to the time allocated to them but the time allowed should be sufficient to address the issues;
- Practice guidelines are adhered to; and
- Where agencies fail to attend meetings and this affects the ability to fully assess risk and establish management plans, or where agencies have not undertaken agreed tasks, that this is followed up with the respective agency locally.

This will involve:

- Enabling appropriate contributions from all participants;
- Summarising key points;
- Testing for consensus; and
- Suggesting options for moving forward.

9.6 Identifying the relevant LAPPP

For the vast majority of offenders in the community, identification of the relevant LAPPP is easily determined by place of residence. However, in a small number of cases offenders may have no fixed residence or there may be some other grounds for questioning which is the relevant LAPPP. In these circumstances agencies will need to agree by reference to other factors such as previous statutory responsibility, knowledge of past offending or the current provision of services which is the relevant LAPPP.

9.7 Transferring cases between LAPPPs

It is not uncommon for offenders to move from one relevant LAPPP area to another. The responsibility for arranging the transfer of all the relevant information to the new LAPPP lies with the chair of the LAPPP from whom the case is being transferred.

The requirements of the procedures set out in the HSC Circular 3/96 (revised); Sharing to Safeguard must also be satisfied to ensure that notification of a change of domicile of an offender is exchanged between agencies.

Section 10

Good practice standards

- 10.1 Introduction
- 10.2 The four features of good practice
- 10.3 Defensible decision making
- 10.4 Rigorous (evidence based) risk assessment
- 10.5 Management of risk
- 10.6 Evaluating performance

10

Good practice standards

10.1 Introduction

Previous experience, research and the continual review and development of multi agency risk assessment and management arrangements in Northern Ireland and Great Britain have led to improved understanding of what works best in the effective risk management of offenders. The challenge is not only to match current practice with what is already known but also to respond rapidly to new learning.

10.2 The four features of good practice

Professor Hazel Kemshall (2003)⁷ in her research into the community management of high-risk offenders in England and Wales clarified that public protection depends upon:

- Defensible decisions;
- Rigorous (evidence based) risk assessments;
- The delivery of risk management plans which match the identified risk factors; and
- The evaluation of performance to improve delivery.

10.3 Defensible decision making

Although the public protection arrangements represent a significant strengthening of public protection, the arrangements cannot provide absolute protection. Research⁸ has shown that 32% of first-time murderers and 36% of serious sexual offenders have no previous convictions.

In many cases, the decision making involved in the assessment of risk and its management can, and indeed often does, prevent re-offending but it is not infallible. Even the most diligent efforts by agencies cannot always prevent serious harm. In place of infallibility great emphasis must be put on defensibility; making the most reasonable decisions based on the information available at the time and carrying them out professionally.

The idea of defensible decisions is not about being defensive, rather it is making sure that decisions are transparent and can be easily understood. It is intended to embed risk assessment with rigour and management of risk with robustness and ensure that practice is evidence based. Kemshall⁹ summarised its criteria as:

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

⁷ Kemshall, H. (2003) The Community Management of High-Risk Offenders, Prison Service Journal, March 2003

⁸ Soothill, K, Francis, B., Ackerley, E, and Fligelstone, R. (2002) Murder and Serious Sexual Assault: What criminal histories can reveal about future serious offending. Police Research Series Paper 144

⁹ Kemshall, H (2003) *ibid.*

10.4 Rigorous (evidence based) risk assessment

No risk assessment tool can be 100% predictive. Good risk assessment practice is dependant upon those undertaking it having all the relevant information and time to consider it. For this reason, this guidance places great emphasis upon the identification of risk and information sharing to assess risk. Once risk has been identified, and after information has been shared, it is the skills of practitioners, enhanced by the involvement of other professionals, which make the procedure meaningful. We know, for example, that while an offender's past convictions and other "static" factors are reliable indicators of risk, the risk assessment skill often lies in discerning the "dynamic" risk factors and, more importantly, in drawing up the risk management plan.

It is important to include the victim perspective in the public protection arrangements. The victim is central to the offence and the risks to the victim must be properly assessed and managed. In addition, with proper care and support, victims can provide vital information for the assessment and management processes. Indeed, the victim may be the person who best knows the true risk posed by the offender.

It is precisely because risk assessment can never become formulaic, and because there will always be a place for using discretion, agencies must ensure that risk assessment is a dynamic and continuous process. It must never become a "one off event", especially with offenders who present the highest risk.

10.5 Management of Risk

Management of risk begins with planning how the assessed risks are to be managed and matching risk with lawful, necessary and proportionate responses to protect the public. The implementation of the risk management plan, like risk assessment, is dynamic. It must respond to changes in risk and in the circumstances likely to affect risk. This should be supported by drawing up the plan using clear objectives for the offender and for those managing the risk.¹⁰

This guidance does not provide detailed strategies for management of risk and specific means of achieving objectives but highlights the principles of good practice in managing the higher risks. These are as follows:

1. By co-ordinating how each agency fulfils its respective responsibilities, the public protection arrangements ensure that the co-ordinated outcome is greater than the sum of its individual parts. This principle is of particular significance when the arrangements engage with agencies less familiar and confident about focussed public protection work.
2. Integration of the measures used to promote the offender's self management (sometimes referred to as the "internal controls") with those which are designed principally to constrain risk (sometimes referred to as the "external controls"). Very few risk management plans are constructed with only one or other of these measures as internal and external controls are rarely mutually exclusive.

¹⁰ Kemshall, H. (2001 and 2002) suggests these objectives are best defined using the **SMART criteria: Specific, Measurable, Achievable, Realistic and Timely**

3. Each case is managed at the lowest appropriate level that is consistent with providing a defensible risk management plan. The principles of good defensible decision-making will ensure that this is achieved and that the “inflation” of low risk cases, with the consequent inappropriate use of resources, is avoided. Integral to this principle is the need for appropriate contingency plans in the event of a breakdown in risk management arrangements.

10.6 Evaluating performance

While nothing can detract from the importance of high quality risk assessment and management, good and better practice is contingent upon a regime of planning, enacting, reviewing and evaluating, which leads to better public protection.

The agencies, through the strategic forum, discharge the formal responsibility for the statutory duty to review, monitor and to make necessary changes to the risk assessment and management arrangements.

Evaluating performance is not only at the strategic level; evaluation is part of good professional practice. Whether through formal supervision or in the continuous process of reconsidering risk and its management, evaluation is one of the core skills of practitioners operating the public protection arrangements. Finally, evaluation is important because it helps identify more sharply where resources are best deployed and where additional resources are most needed.

Section 11

Lay advisers

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11

Lay advisers

11.1 Introduction

Article 51 (2) of the Criminal Justice (Northern Ireland) Order 2008 requires the Department of Justice to appoint two lay advisers. The Order makes clear that the lay advisers will be appointed to assist in the review and reporting functions and not operational decision making. Lay advisers will therefore be expected to contribute to the strategic forum and may also participate in any sub-groups. Lay advisers will be encouraged to develop effective links and share experience with lay advisers performing a similar role in other parts of the UK under multi agency public protection arrangements.

11.2 Role of the lay adviser and the strategic forum

The lay adviser role is a statutory appointment with a modest remuneration. They act as informed observers and provide a challenge function to put questions which the professionals closely involved in the work might not necessarily think of asking.

The agencies, through the strategic forum, have a duty to consult with the lay advisers on issues relating to their monitoring role. The forum should ensure that reports from lay advisers are commissioned and tabled and discussed at regular meetings and that business planning and annual reports are shared in draft with the lay

advisers. The forum should review the role and performance of the lay adviser on an annual basis and report to the Department on developmental issues in relation to the role.

It is expected that advisers will attend meetings of the strategic forum and undertake such familiarisation and reading as necessary to enable them to understand and to contribute to those meetings. They are not expected to become experts; their value is to provide a challenge to the professionals by acting as a "critical friend", and bring to the review and monitoring function their understanding and perspective as lay persons from the community. A more detailed list of their functions is provided in the lay adviser's handbook.

Lay advisers will be expected to provide between eight and 16 hours per month to their role. They will contribute to the monitoring and evaluation of the operation of the public protection arrangements, as stated in Article 51(1) of the Criminal Justice (NI) Order 2008. They will not participate in the decision making on risk assessment and risk management or have any involvement in operational activity, nor will they act alone as a representative of the arrangements.

11.3 Appointment of lay advisers

Lay advisers are appointed by the Department of Justice for a period of three years. They can apply to serve for a further period of three years should they wish to and if the agencies support their reappointment (see 11.12 below). All applicants for positions as lay advisers must apply for a basic disclosure, through Access NI, as part of the recruitment process. The strategic forum will ensure this check is carried out. In addition, two personal references must be obtained, and verified by the forum, as to the suitability of the person to become a lay adviser.

The specification for a lay adviser is as follows:

- No formal educational qualifications are necessary but must be able to understand complex information in written and numerical form;
- An interest in community and social issues, preferably with a history of involvement;
- Ability to make decisions based on and supported by available information;
- Capacity for emotional resilience, retaining sensitivity whilst dealing with tragic or painful human situations. In particular, this includes an ability to understand the needs and feelings of victims;
- Ability to accept the complexity of human behaviour;
- Good social skills, able to work effectively with people in groups and informal meetings;
- An awareness of, and commitment to, equality and diversity;
- Ability to challenge constructively the views and assumptions of senior professionals; and
- Ability to maintain confidentiality.

In order to preserve the “lay” status of those who are appointed to the role, and to avoid any potential conflict of interest, there are certain categories of people who are ineligible for appointment due to their current or previous experience. These comprise:

- Members of Parliament or the NI Assembly;
- Local Councillors;
- Civil servants at the Department of Justice;
- Members of staff from any criminal justice agency (and within seven years of leaving such employment);
- Current members on the Probation Board for Northern Ireland;
- Current members of the Northern Ireland Policing Board;
- Current members of district policing partnerships;
- Current members of prison independent monitoring boards;
- Anyone who is conducting research on subjects that fall within the remit of PPANI (and within eight years of completing such research);
- Anyone who through personal or family circumstances may not be able to provide an unbiased view of PPANI; and
- Anyone whose paid employment involves working with offenders that fall within the remit of PPANI. A similar exclusion may apply to voluntary work where the primary focus is with PPANI offenders, such as sexual offenders.

In order to attract suitable candidates for selection, the strategic forum must consider how to reach out to communities in order to stimulate people’s interest in the work of the public protection arrangements locally and the

role of the lay adviser. The forum may wish to advertise in the local press, local radio, libraries, and agency websites.

11.4 Short-listing and selection process

The selection process employed by the strategic forum must help identify individuals who are able and suitable to undertake the role of lay adviser. It is important that the forum attracts a sufficient pool of candidates to enable it to effectively short-list suitable candidates. Good practice principles must apply to the short-listing and selection process. All papers must be retained throughout the lay adviser's time in post.

11.5 Appointment by the Department of Justice

Once the strategic forum has reached a decision to nominate a lay adviser as being suitable for appointment, the chair should write to the Department of Justice. This letter should include the proposed lay adviser's full personal details and a biographical pen-picture as this detail is required to make the appointment.

Once the Minister has agreed an appointment, the Department will write directly to the applicant and to the strategic forum informing the agencies of that decision.

11.6 Induction and training

All newly appointed lay advisers must, following their appointment, be provided with appropriate induction. The PPANI co-ordinator will facilitate their induction and provide ongoing support and guidance.

The shape and duration of the induction period will vary between individuals but it is essential that it equips the lay adviser to undertake their role. The lay adviser should be provided with an opportunity to be informed of the basic structure of the criminal justice system, as well as the roles of each agency involved in the public protection arrangements.

11.7 Role of the strategic forum

The strategic forum should facilitate ongoing support for the work of the lay advisers. The forum should also ensure that the lay advisers are given full opportunity to raise issues for discussion at each meeting.

Opportunities should be identified for lay advisers to engage with lay advisers performing a similar role throughout the UK under similar multi agency public protection arrangements.

An informal review should be conducted once a year between the lay advisers and the chair or other member of the strategic forum.

The PPANI co-ordinator will provide lay advisers with ongoing support and guidance and will meet with them on at least a quarterly basis.

Details of induction requirements, lay adviser functions and other useful information are provided in the lay adviser's handbook.

11.8 Annual Review Process

An informal review should be conducted once a year between the lay adviser and the chair and/ or other members of the strategic forum. The review will focus on the annual programme of activities.

It is a two way review and a forum for discussing how the lay adviser sees their contribution over the year to the oversight of the public protection arrangements, and for any feedback that the forum chair or member might be able to give.

The lay adviser may be accompanied by the PPANI co-ordinator if they wish.

11.9 Confidentiality

Lay advisers must not disclose information given to them in confidence in consequence of their work with the strategic forum or information acquired by them in any aspect of their role, which they believe to be of a confidential nature, without the consent of a person authorised to give it or unless required to do so by law.

11.10 Remuneration

The lay adviser receives a modest remuneration and an entitlement to legitimate expenses such as travel and refreshments and, where necessary, accommodation, for attending official functions/conferences. Compensation for loss of earnings or child care expenses should also be available. These issues should be identified prior to appointment and addressed during the induction process.

11.11 Change of circumstances

Lay advisers must notify the forum chair of any change in circumstances that could affect their suitability to undertake their role. This would certainly involve being charged or summonsed for any criminal offence, or a change in personal circumstances that would affect their role as a lay adviser. It would also include any circumstances where a member of the public, having knowledge of the relevant facts, could reasonably regard it as so significant as to compromise the lay adviser's ability to discharge their responsibilities. The chair of the forum, in conjunction with other agency colleagues, will determine what action is appropriate.

11.12 Re-appointment

Lay advisers are appointed by the Department of Justice for a period of three years. Lay advisers can apply to serve for a further period of three years should they wish to and if the agencies, through the strategic forum, support their reappointment. Where the forum is proposing that the lay adviser should continue in post, the chair should write to the Department of Justice confirming that this is supported by the agencies. The Department will confirm the continuation of the lay adviser in post and write to this effect to the chair of the strategic forum and the lay adviser.

11.13 Termination of appointment

The Department of Justice retains the right to terminate the appointment of a lay adviser whose conduct or performance is not felt to be of the required standard. Misconduct will encompass such matters as lack of commitment, conviction for a criminal offence, unauthorised disclosure of information or abusing their position as a lay adviser. Performance will include such matters as not fulfilling the annual programme of activities. These examples should not be interpreted as establishing a prescriptive list. Recommendation for the termination of an appointment will require the endorsement of the strategic forum.

A letter should be sent from the forum to the Department of Justice, who will consider the recommendation for termination of appointment. If the Department considers that the recommendation meets the necessary criteria for termination of appointment, a letter will be sent to the lay adviser and copied to the forum notifying the termination of appointment.

Section 12

Performance and standards

- 12.1 Performance
- 12.2 Quantitative data
- 12.3 Qualitative data
- 12.4 Key performance

12

Performance and standards

12.1 Performance

The agencies, through the strategic forum, need to be satisfied that the public protection arrangements are working well and that the management of risk posed by relevant offenders within the arrangements meet the defensibility test. The defensibility test is:

“Was everything that could reasonably have been done to prevent offenders from re-offending actually done?”

This applies to how each individual agency fulfils their legal obligation and how the agencies work together in achieving comprehensive management of risk. The agencies, through the strategic forum, need to be able to demonstrate this empirically through monitoring and evaluation of performance.

The monitoring and evaluation activities of the forum contribute to the annual report, drive the business planning process, provide the means of reviewing the effectiveness of the public protection arrangements and contribute to public confidence in the arrangements. It involves the collection and analysis of both quantitative and qualitative data.

The forum should analyse this data on at least a quarterly basis to allow some bench marking and the opportunity for timely intervention where issues are identified.

12.2 Quantitative data

The strategic forum must have arrangements in place to collect data and monitor the following for sexual and violent offenders whose management of risk is addressed through the public protection arrangements:

- The total caseload;
- New cases in a specific time period;
- The number of “wanted/missing” sexual and violent offenders ;
- The number of offenders who commit a further offence which necessitates the commissioning of an independent serious case review as set out in 9.5 of this guidance;
- Disclosure (excluding self disclosure) – decisions regarding limited/full public disclosure detailing where disclosure has taken place, to whom and by whom and those cases where it has not;
- Civil orders which have been applied for – the number granted, the number refused and the number made by the court at point of criminal conviction – sexual offences prevention orders (SOPOs), notification orders, foreign travel orders and risk of sexual harm orders;
- The number of breaches of SOPO and action taken; and
- Number of cases where a breach of licence has resulted in a recall to custody.

12.3 Qualitative data

Qualitative data to determine how effectively the public protection arrangements have operated should be obtained from:

- Case audits;
- Serious case reviews, and
- Policy reviews and inspections

The forum should undertake an audit of all cases whose management of risk is addressed through the public protection arrangements at least annually.

12.4 Key performance indicators

The following key performance indicators will measure the adherence to best practice within the framework of the public protection arrangements:

- All cases in the community whose management of risk is addressed through the public protection arrangements reviewed no less than once every 12 weeks (see section 8.3);
- Disclosure to be considered by the LAPPP in all cases; and
- Full attendance by each agency at an appropriate level of seniority at LAPPP meetings over each calendar year.