



MAPPA

Tayside Multi Agency
Public Protection Arrangements

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE RESPONSIBLE AUTHORITIES
AND
THE DUTY TO CO -OPERATE AGENCIES
WITHIN THE AREA OF THE
TAYSIDE COMMUNITY JUSTICE AUTHORITY**

INTRODUCTION

The Tayside Community Justice Authority and its constituent Responsible Authorities are committed to fulfilling their statutory obligations in respect of the Management of Offenders etc (Scotland) Act 2005 and look forward to working in partnership to achieve the effective management of high risk offenders.

This Memorandum has been prepared by the Responsible Authorities in consultation with the Duty to Co-operate agencies. It is founded on the principles defined by Part 6 of the Multi Agency Public Protection Arrangements (MAPPA) Guidance and sets out the purpose of the Duty to Co-operate and how that duty will be delivered by the agencies party to the Memorandum.

The Responsible Authorities and the Duty to Co-operate agencies agree to co-operate in the manner detailed in this memorandum. This document constitutes this agreement.

STATUTORY BASIS

Sections 10 and 11 of the Management of Offenders etc (Scotland) Act 2005 (Appendix 1) require the Scottish Prison Service, local authorities and the police as Responsible Authorities in the geographical area of a local authority to jointly establish arrangements for the assessment and management of risks posed by

1. sex offenders subject to the notification requirements of the Sexual Offences Act 2003
2. violent offenders convicted on indictment and subject to a probation order or statutory supervision on release from detention or prison
3. other offenders whose conviction leads the Responsible Authorities to believe that they may cause serious harm to the public

The legislation also requires the Health Service, as a Responsible Authority, to establish joint arrangements for the assessment and management of risk posed by mentally disordered offenders who are restricted patients, within the above defined categories.

RESPONSIBLE AUTHORITIES

The Responsible Authorities within the Tayside Community Justice Authority Area are;

Dundee City Council
Angus Council
Perth & Kinross Council
Tayside Police
NHS Tayside
Scottish Prison Service

Appendix 2 details the responsible authorities and 2a details the nominated post holders within each authority.

DUTY TO CO-OPERATE

1. Sections 10(3) and (4) of the Act provide that in establishing and implementing the joint arrangements, the Responsible Authorities must act in co-operation with such persons as Scottish Ministers specify, in an order made by Scottish Statutory Instrument. The Duty to Co-operate is reciprocal and requires agencies to co-operate with each other. The definition of “co-operate” includes the exchange of information. Compliance with the Duty to Co-operate will be reinforced through regulation and inspection regimes.
2. Section 10(5) of the Act requires the Responsible Authorities and the Duty to Co-operate agencies to develop a memorandum setting out the ways in which they are to co-operate with each other.
3. Section 10(7) of the Act defines the “Responsible Authorities”. In the case of the local authority, it is envisaged that responsibility will lie primarily with the Director of Social Work/Chief Social Work Officer. However, other local authority services, such as Education and Housing services will be required to co-operate to discharge corporate responsibility.
4. The agencies/ bodies in the Tayside Community Justice Authority area with a Duty to Co-operate are set out in Appendix 3 .

PRINCIPLES AND PURPOSE OF THE DUTY TO CO-OPERATE

5. All parties to this memorandum who are involved with sex and violent offenders are committed to working on a reciprocal basis by:
 - sharing relevant information within agreed protocols and the development of good practice in relation to the assessment and management of MAPPA offenders within the area of the CJA ;
 - the effective use of resources to manage those offenders; and
 - co-operating in order to sustain public confidence in the multi agency public protection arrangements.
6. The purposes of co-operation are to
 - co-ordinate the involvement of different agencies in assessing and managing risk
 - to enable every agency which has a legitimate interest, to contribute as fully as its existing statutory role and functions require, in a way that complements the work of other agencies.

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7. The Duty to Co-operate relates only to the arrangements for assessing and managing the risks posed by sex and violent offenders as defined by section 10 of the Management of Offenders etc. (Scotland) Act 2005.
8. The duty is reciprocal. It requires the Responsible Authorities to co-operate with the Duty to Co-operate agencies, and vice versa, and Responsible Authorities to co-operate with each other in assessing and managing the risks posed by sex and violent offenders.
9. Duty to Co-operate agencies shall co-operate only in so far as this is compatible with the existing role and/or statutory responsibilities of the agency. The duty does not demand of agencies anything other than that which they are already required to do. It does require them to carry out their responsibilities collaboratively with the Responsible Authorities and the other Duty to Co-operate agencies.

Appendix 4 outlines the roles and responsibilities of each responsible authority and duty to co-operate agency.

PRACTICALITIES OF CO-OPERATION

10. All parties involved in the process agree to work together to:
 - participate in the assessment and management of sexual and violent offenders, for the effective protection of the public.
 - develop an understanding and respect for the differences in role and service provision.
 - co-operate within a party's role and statutory power. It should be noted that the arrangements do not aggregate the responsibility and authority of the parties involved, but clarify the role each party is to play.
 - carry out confident, appropriate and effective information sharing in accordance with the law and in line with local Information Sharing Protocols.
 - be in a position to make decisions which will commit appropriate resources based on agreed levels of risk assessment and management.
 - ensure that diversity issues /equal opportunities for both members of the public and offenders are taken into consideration when assessing risk and formulating risk management plans. Equality before the law is an essential principle in the area of criminal justice and it is important therefore that legal obligations in relation to race, religion, age, gender and disabilities are recognised.
 - Attend, where appropriate, MAPPA and other meetings in the delivery of public protection. (In relation to Level 3 MAPPP meetings, each party will provide appropriate representation at senior level.)

DISCLOSURE OF INFORMATION

11. Disclosure of information on registered sex offenders is the responsibility of the Chief Constable. The signatories to this memorandum agree that in any situation where the issue of disclosure is a possibility, the case must be referred to the police. Guidance on the issues to be taken into account by the police when considering disclosure is contained in Part 7 of the MAPPA Guidance.

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12. Disclosure of information on other offenders subject to the MAPPA should only be undertaken following discussion with the Responsible Authorities and other Duty to Co-operate agencies involved.

INFORMATION SHARING

13. The signatories to this memorandum agree to work to the principles of the Concordat on Information Sharing for Sex Offenders (Scottish Executive 2005) including:

- the implementation and review of national standards and
- the adoption and use of the definitions agreed.

The Concordat is reproduced at Appendix 5

14. Each Local Authority area will have in place a data sharing protocol and guidance which will underpin the information sharing process.

DISPUTE RESOLUTION

15. The primary objective of the MAPPA is public protection. There will be occasions when the Responsible Authorities and/or the Duty to Co-operate agencies cannot reach agreement. Resolution of disputes/mediation will initially fall to the MAPPA Co-ordinator for the area concerned. If there is still no resolution the matter will be referred to the Tayside MAPPA Strategic Oversight group who will have the strategic overview of the MAPPA arrangements.

ANNUAL REPORT

16. The agencies party to this memorandum agree to co-operate with the Responsible Authorities in the preparation of the annual report under section 11 of the Management of Offenders etc. (Scotland) Act 2005 e.g. in the provision of statistics, case studies etc.

MEDIA HANDLING STRATEGY

17. In view of the level of public concern in relation to this sensitive matter, it is likely that situations will occur where the media takes a direct interest in individual cases. The policies of Tayside Police and the relevant Local Authorities regarding media contact are compatible and will be applied. Communication between the relevant Local Authorities and the media will be through the Chief Executive at Chief Officer level, in consultation with the nominated Senior Officers and Media Services of Tayside Police.

18. Considering responsibility and legislative constraints placed upon the Chief Constable, it has been agreed with the relevant Local Authorities that any press/media statement will only be prepared in co-operation with a senior police

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officer before being issued to the media. This statement will be a corporate statement to be adhered to by all the agencies involved and will be issued by Tayside Police.

STATUS OF THE MEMORANDUM OF UNDERSTANDING

This memorandum is a working document and subject to review and may be altered at any time to reflect changing circumstances. Such changes will be subject to the agreement of all parties.

The review of this document will take place on 31 March 2009.

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SIGNED FOR AND ON BEHALF OF:-

AUTHORITY	DESIGNATION	SIGNATURE	DATE
Dundee City Council	Chief Executive
Angus Council	Chief Executive	.....	.....
Perth & Kinross Council	Chief Executive	.....	.....
Tayside Police	Chief Constable	.....	.....
NHS Tayside	Chief Executive	.....	.....
Scottish Prison Service	Chief Executive	.....	.....

MANAGEMENT OF OFFENDERS (SCOTLAND) ACT 2005

10 Arrangements for assessing and managing risks posed by certain offenders

(1) Subject to subsection (11), the Responsible Authorities for the area of a local authority must jointly establish arrangements for the assessment and management of the risks posed in that area by any person who-

(a) is subject to the notification requirements of Part 2 of the Sexual Offences Act 2003 (c.42);

(b) has been convicted on indictment of an offence inferring personal violence and-

(i) is subject to a probation order under section 228(1) of the Criminal Procedure (Scotland) Act 1995 (c.46); or

(ii) is required, having been released from imprisonment or detention, (or will be required when so released), to be under supervision under any enactment or by the terms of an order or licence of the Scottish Ministers or of a condition or requirement imposed in pursuance of an enactment;

(c) has, in proceedings on indictment, been acquitted of an offence inferring personal violence if-

(i) the acquittal is on the ground of insanity; and

(ii) a restriction order is made in respect of the person under section 59 of that Act of 1995 (hospital orders: restriction on discharge);

(d) has been prosecuted on indictment for such an offence but found, under section 54(1) of that Act of 1995 (insanity in bar of trial), to be insane; or

(e) has been convicted of an offence if, by reason of that conviction, the person is considered by the Responsible Authorities to be a person who may cause serious harm to the public at large.

(2) It is immaterial-

(a) for the purposes of paragraph (a) of subsection (1), where the offence by virtue of which the person is subject to the notification requirements was committed (or, if the person is subject to the notification requirements by virtue of a finding under section 80(1)(b) of the Sexual Offences Act 2003 (c.42), where anything that he was charged with having done took place);

(b) for the purposes of paragraph (b) or (e) of that subsection, where the offence of which the person has been convicted was committed; or

(c) for the purposes of paragraph (c) or (d) of that subsection, where anything that the person was charged with having done took place.

(3) Subject to subsection (11), in the establishment and implementation of those arrangements, the Responsible Authorities must act in co-operation with such persons as the Scottish Ministers may, by order made by statutory instrument, specify.

(4) Subject to subsection (11), it is the duty of-

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- (a) any persons specified under subsection (3) to co-operate; and
- (b) the Responsible Authorities to co-operate with each other,

in the establishment and implementation of those arrangements; but only to the extent that such co-operation is compatible with the exercise by those persons and authorities of their functions under any other enactment.

(5) In the area of each local authority the Responsible Authorities and the persons specified under subsection (3) must together draw up a memorandum setting out the ways in which they are to co-operate with each other.

(6) The Scottish Ministers may issue guidance to Responsible Authorities on the discharge of the functions conferred on those authorities by this section and section 11.

(7) In this section and in section 11, the "Responsible Authorities" for the area of a local authority are-

- (a) the chief constable of a police force maintained for a police area (or combined police area) any part of which is comprised within the area of the local authority;
- (b) the local authority;
- (c) a Health Board or Special Health Board for an area any part of which is comprised within the area of the local authority; and
- (d) the Scottish Ministers.

(8) The Scottish Ministers may by order made by statutory instrument amend the definition of the "Responsible Authorities" in subsection (7).

(9) A statutory instrument containing an order under-

- (a) subsection (3) is subject to annulment in pursuance of a resolution of the Parliament;
- (b) subsection (8) is not made unless a draft of the instrument has been laid before, and approved by resolution of, the Parliament.

(10) Different provision may be made under subsection (3) for different purposes and for different areas.

(11) The functions and duties, under the preceding provisions of this section and under section 11, of the Responsible Authorities mentioned in subsection (7)(c) extend only to the establishment, implementation and review of arrangements for the assessment and management of-

- (a) persons subject to an order under section 57(2)(b) of the Criminal Procedure (Scotland) Act 1995 (c.46) (imposition of special restrictions in disposal of case where accused found to be insane);
- (b) those subject to a restriction order under section 59 of that Act (provision for restrictions on discharge);
- (c) those subject to a hospital direction under section 59A of that Act (direction authorising removal to and detention in specified hospital); or

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(d) those subject to a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (asp 13) (transfer of prisoners for treatment for mental disorder).

(12) But it is the duty of the Responsible Authorities mentioned in subsection (7)(c) to co-operate (to the extent mentioned in subsection (4)) with the other Responsible Authorities, with each other and with any persons specified under subsection (3), in the establishment and implementation of arrangements for the assessment and management of persons other than those mentioned in paragraphs (a) to (d) of subsection (11).

(13) In subsection (7)(c)-

"Health Board" means a board constituted by order under section 2(1)(a) of the National Health Service (Scotland) Act 1978 (c.29); and

"Special Health Board" means a board so constituted under section 2(1)(b) of that Act.

(14) The reference in subsection (7)(d) to the Scottish Ministers is to the Scottish Ministers in exercise of their functions under the Prisons (Scotland) Act 1989 (c.45).

11 Review of arrangements

(1) The Responsible Authorities must keep the arrangements established by them under section 10 under review for the purpose of monitoring the effectiveness of those arrangements and making any changes to them that appear necessary or expedient.

(2) As soon as practicable after the end of each period of 12 months beginning with 1st. April, the Responsible Authorities must-

(a) jointly prepare a report on the discharge by them during that period of the functions conferred by section 10;

(b) publish the report in the area of the local authority; and

(c) submit the report to the community justice authority within the area of which the area of the local authority is comprised.

(3) The report must include-

(a) details of the arrangements established by the Responsible Authorities; and

(b) information of such description as the Scottish Ministers have notified to the Responsible Authorities that they wish to be included in the report.

RESPONSIBLE AUTHORITIES

All Responsible Authorities have a statutory duty to co-operate with each other and with the Duty to Co-operate Agencies in respect of the Management of Offenders as defined in the Management of Offenders etc (Scotland) Act 2005.

The Local Authorities

- Chief Social Work Officer
- Criminal Justice Social Work
- Children's Services
- Community Care
- Housing Services
- Education Authority

NHS Tayside

- Community Health Partnerships
- Community Mental Health Services
- General Adult Psychiatry In - Patient Services
- Forensic Services (Adult Mental Health & Learning Disabilities)
- Acute hospital staff
- Community Drug Treatment Service

Scottish Prison Service

- CJA Liaison manager
- HM Prison Perth
- HM Prison Open Estate
- Other Prisons housing Tayside based offenders

Tayside Police

- Central Division Offender Management Unit
- Eastern Division Offender Management Unit
- Western Division Offender Management Unit
- HQ Crime Management, Offender management
- Other Business areas as relevant

MANAGEMENT OF OFFENDERS / MAPPA

RESPONSIBLE AUTHORITY NOMINATED SENIOR OFFICERS

RESPONSIBLE AUTHORITY	POST-HOLDER	NAME
Dundee City Council	Service Manager	Kathryn Rae
Angus Council	Service Manager	Isobel Townsend
Perth & Kinross Council	Lead officer	John Gilruth
Scottish Prison Service	Partnerships and Commissioning Directorate (CJA Liaison Manager)	Linda Dorward
Tayside Police	Detective Superintendent, HQ Crime Management	Det. Supt. Roddy Ross
NHS Tayside Dundee	Community Health Partnership	David Lynch Kings Cross
NHS Tayside Perth	Community Health Partnership	Bill Nicoll PRI
NHS Tayside Angus	Community Health Partnership	Susan Wilson Orchardbank

DUTY TO CO-OPERATE AGENCIES

The duty to co-operate agencies as defined in the Criminal Justice Directorate Circular 15/2006 (Third version September 2007)

are:-

In respect of The Local Authorities area they will specifically be:-

Housing Providers (Registered Social landlords) (National Agreement)

Scottish Children's Reporter Association (National Agreement)

SACRO (Scottish Association for the Care and Resettlement of Offenders)

APEX

SERCO

NCH (National Children's Homes)

SALVATION ARMY

CATH (Churches Action for the Homeless)

CYRENIANS DUNDEE

CAFE PROJECT

ANGUS CARERS CENTRE

BARNARDOS

DUNDEE SURVIVAL GROUP

It must be acknowledged that this list is not exhaustive and any agency who by virtue of the service they provide are involved in the assessment and management of an individual must co-operate with the Responsible Authorities and other Duty to Co-operate Agencies.

DUTY TO CO-OPERATE - ROLES AND RESPONSIBILITIES

This Appendix to the memorandum outlines the roles and responsibilities of each Responsible Authority and Duty to Cooperate agency.

1. LOCAL AUTHORITY SOCIAL WORK SERVICES

Chief Social Work Officer

Each Authority will have a designated Chief Social Work Officer who is responsible for the “oversight” of services.

This includes:

- monitoring of all social work services (including those that are purchased);
- advising;
- challenging policy or practice.

This includes the local authority responsibilities for:

- assessment and management in relation to probation, community service, supervised attendance and throughcare established by the Social Work (Scotland) Act 1968 Section 27
- assessment and management of certain offenders who may pose risks (the Sexual Offences Act 2003 and the Management of Offenders Etc (Scotland) Act 2005)

Different local authorities have different departmental structures. They may provide services themselves or in partnership with other agencies. They also vary in which ancillary services they provide. Different local authorities may be involved in the provision of pilot schemes that are not available throughout the country for example, the provision of specialist courts or various community disposals.

Adult Offenders

The Local Authorities provide a range of social work and social care services, including the provision of criminal justice services. The core criminal justice responsibilities are:

- the provision of reports to Court and Parole Board.
- supervision of probation; community service and supervised attendance orders.
- supervision of post-custodial licences, including certain sex offenders sentenced to six months or more.
- provision of a Throughcare Addiction Service (TAS), which is voluntary for short-term prisoners, and all persons leaving custody are entitled to apply for voluntary aftercare up to 12 months after leaving custody.

National Objectives and Standards for Criminal Justice Social Work lay down that reports to Court or the Parole Board should include a risk assessment and any action

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plan for someone on probation or a post-custodial license should include a risk management plan aimed at reducing the risk of re-offending or the risk of serious harm. Supervision of these orders or licences should be informed by the risk management plan.

The Irving Report recommended that when the risk assessment was undertaken on a registered sex offender this should be done jointly with the police; the police should be notified of any change to the risk assessment and at the end of supervision another risk assessment should be undertaken.

Young Offenders and Children who Offend

Local authorities provide services to adult offenders, and to young people who offend or who are at risk of offending. This covers anyone up to the age of 16 who is offending, including registered sex offenders, and may cover those between 16 and 18. It may be that Children and Families Social Work rather than Criminal Justice Social Work supervises young people on probation

Children who offend are considered to be children in need and are governed in the main by the principle that the paramount consideration must be the welfare of the child. However, The Children Scotland Act 1995 (sections 16/17) states there may be exceptions to this for the purposes of protecting members of the public from serious harm (whether or not physical harm). In those kinds of situations, a local authority may act or take decisions which prioritise public protection over the welfare of the child.

Child Protection

In addition to the services to adult and young offenders, local authorities have a duty to promote the well being of children, and to identify and respond to abusive or adverse situations. Each local authority will provide child protection guidance on how its staff will fulfil their child protection duties. Specifically they are required to make enquiries about any children referred to them in order to determine:

- if they are in need;
- if compulsory measures of supervision are required; or
- if a child protection or exclusion order is needed for their protection.

On the basis of information gathered, the social work service will determine if a multi-agency plan is needed for the support of the child. This will be developed as part of a multi-agency case conference and may include a decision to place the child on the Child Protection Register or to refer the child to the Children's Reporter.

Where urgent action is needed, the social work services may apply either for an exclusion order against the person who is likely to place the child at risk or a child protection order to remove the child or agree with the parents for the child to be looked after by the local authority or another responsible person.

In addition each local authority will be part of a multi-agency approach to child protection lead by a Child Protection Committee. The Committee will issue multi-agency guidance laying out the points of contact, guidance etc.

Vulnerable Adults

Local authorities will also be party to arrangements to protect vulnerable adults: those aged over 16 who, by virtue of, or may be disadvantaged by, physical or emotional frailty, old age, intellectual impairment caused by disability or illness, mental illness or other mental health problems **and** who is unable to take care of himself or unable to protect himself from significant harm.

In the absence of an identified local contact, agencies should contact the Director of Social Work.

2. THE POLICE

The Police have a duty to uphold the law by preventing the committing of offences, by preserving order and by protecting life and property. They have risk assessment procedures in place to ensure the safety and wellbeing of any individual who considers themselves to be in a threatening situation. The responsibilities of the Police in relation to registered sex offenders are to maintain an accurate record of those persons in the Police Force area who are required to register with the police in terms of sex offender legislation; to initiate enquiries where such persons fail to comply with the requirements placed upon them; to participate in the multi agency process established for assessing and managing the risk presented by sex offenders or other potentially dangerous offenders in the community; and to develop, in conjunction with partner agencies, risk management plans for the purpose of monitoring and managing sex offenders. The Police also have a responsibility to keep records on unregistered sex offenders whose current behaviour is of concern.

3. THE SCOTTISH PRISON SERVICE (SPS)

For all prisoners, the SPS is responsible for carrying out risk and needs assessments to assist in determining the management of the prisoner during sentence and in preparation for pre- release planning and release. SPS is also responsible for proactive joint working with the Criminal Justice Social Work (CJSW) supervising officer during sentence and in preparation for release. This process of sentence planning is referred to as Integrated Case Management (ICM). A key objective of ICM is to ensure that, along with police and CJSW, SPS meets statutory requirements to establish joint arrangements for assessing and managing the risk posed by sex offenders, including the sharing of information.

4. ELECTRONIC MONITORING SERVICE PROVIDERS

Electronic Monitoring Service providers are included in the Duty to Co-operate in acknowledgement of the important service they can provide as part of a high risk management plan. Currently the Scottish Executive contract for the provision of electronic monitoring in Scotland is with **SERCO Ltd.**

SERCO's Duty to Co-operate is to be understood as being synonymous with their contractual responsibilities.

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In practical terms this may involve them:

- providing a point of contact for advice to the Responsible Authorities on the available technology, explaining what it can and cannot do; and
- attendance by a member of the SERCO Ltd management team at MAPPA or MAPPP meetings when the circumstances of a particular case deem it appropriate for them to do so.

It is recognised that electronic monitoring has a part to play in supporting and adding robustness to an offender's licence which may contain a number of specific conditions. SERCO Ltd must ensure that appropriate protocols are put in place to share information about MAPPA offenders. These protocols will shape communication with partner agencies and ensure that information on any failure by the offender to comply will be passed to appropriate agencies within an agreed time scale.

Contact Details: Norman Brown

5. HOUSING AGENCIES

Housing agencies which are under a Duty to Co-operate are local authority housing services and providers and Registered Social Landlords (RSLs). Their role is to contribute to the management of risk identified by Responsible Authorities by:

- co-operating with the Responsible Authorities by providing accommodation
- liaising with the Responsible Authorities on the ongoing management and monitoring of the risk of the offender as a tenant, including any tenancy moves or evictions
- having regard to community safety and having in place exit strategies where a property is no longer suitable and/or the offender's safety is at risk.

The roles and responsibilities of housing providers in relation to housing sex offenders fall into two categories – strategic and operational. The strategic role and responsibilities are outlined below. The operational role is detailed in the National Accommodation Strategy for Sex Offenders in Scotland which replaces the 1999 CIH Practice Guidance.

Strategic role

The local authority (including a local authority which has transferred its housing stock to an RSL) is responsible for ensuring the development of a strategic response to the housing of sex offenders. However, in any local authority area there is likely to be a multiplicity of housing providers and local authorities must involve and consult RSLs in their area in developing their strategic response. This should include an assessment of local need and provision for the range of accommodation for sex offenders and should clarify the contribution by RSLs in their area.

It is the responsibility of the local authority to provide an initial single point of contact for accommodation requests from Responsible Authorities. This single point of contact is the Sex Offender Liaison Officer (SOLO) who will provide strategic co-ordination in

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relation to housing sex offenders within any local authority area. The SOLO role involves:

- identifying the most appropriate housing provider following the risk assessment carried out by the Responsible Authorities
- ensuring that the housing provider is included by the Responsible Authorities in liaison arrangements relevant to the identification of appropriate housing and the management of risk
- liaising pro-actively with Responsible Authorities and housing providers on ongoing risk management and community safety issues

Individual housing providers should have in place policies and processes in relation to the housing of sex offenders and the management of risk which are agreed with their governing bodies and conform to the new Practice Guidance. They have a responsibility to take part in the development of local protocols for the sharing of information. They should:

- identify a Link Officer (or officers) to liaise with the SOLO and Responsible Authorities. Where possible there should be more than one link officer identified to allow for back up.
- provide information on housing stock and voids to the SOLO at agreed intervals (in accordance with a negotiated agreement)
- respond to specific requests by the SOLO about the availability of housing in relation to the accommodation needs of sex offenders prior to their release from custody
- have in place processes for responding to requests from the SOLO to house sex offenders
- assist in the management of risk by advising on the suitability of accommodation in regard to location and make up of households
- keep the SOLO advised of any proposed house moves or house purchases by sex offenders
- ensure Link Officers take part, where appropriate, in any relevant case conferences
- ensure processes are in place within the organisation to protect staff dealing with the sex offender, for example, in the case of home visits

Housing providers depend on effective information protocols and a co-ordinated approach by Responsible Authorities. Responsible Authorities must therefore ensure that:

- they have effective liaison arrangements in place with the SOLO.

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- housing providers receive (through the protocols for information sharing) sufficient information to manage and minimise risk in tenancies occupied by sex offenders
- they respond effectively to ongoing issues of community safety identified by housing providers

6. EDUCATION AUTHORITIES

Local Authority Education Services must act in cooperation with other Responsible Authorities and Duty to Co-operate agencies in the management of offenders under sections 10 and 11 of the Management of Offenders Etc (Scotland) Act 2005. This duty will be performed in the context of the local or relevant Multi-Agency Public Protection Arrangement (MAPPA) but only insofar as this is compatible with existing statutory responsibilities.

General Responsibilities

Education Authorities are statutorily required to 'make adequate and efficient provision of school education' (Education (Scotland) Act 1980) for their area. They are further required to develop the 'personality, talents, mental and physical abilities' of children and young people to their 'fullest potential' (Standards in Scotland's Schools Act 2004). They have a duty to identify and keep under consideration any additional support needs of any kind that children and young people may have and to meet such needs, in cooperation with other authorities and bodies in certain circumstances (Education (Additional Support for Learning) (Scotland) Act 2004), reinforcing their shared, corporate responsibilities under the Children (Scotland) Act 1995 to make provision for children 'in need'.

They have therefore a dual role in providing education, and in developing and nurturing children and young people.

Working Cooperatively

Increasingly, education services are working in an integrated way with social work, health, the voluntary sector and other relevant bodies (e.g. police) in the following areas:

- Planning and delivery of services
- Assessment and information sharing about individual children and families
- Ensuring child protection
- Significant incident review
- Quality assurance and inspection

Local authorities are required to publish plans for Children's Services, whilst integrated inspections of these services (initially in respect of child protection) are underway and will soon extend to all services for children.

Thus, national and local governance arrangements and practice; frameworks, protocols and procedures for partnership working and cooperation already exist across a number of the Responsible Authorities and 'Duty to Co-operate' agencies.

Disclosure

Education Authorities already co-operate with relevant bodies in relation to the disclosure of information and the assessment of risk for offenders. A further consideration for education services will be their duties under the Protection of Children (Scotland) Act 2003 to refer onto the list of people disqualified from working with children, anyone with a relevant conviction or anyone who has been dismissed or transferred or moved where there was judged to be risk of harm to children. It is an offence to employ such people. Education Authorities have a similar but wider ranging legal duty to refer matters concerning the conduct of certain staff to the General Teaching Council (Scotland).

7. VOLUNTARY SECTOR

The statutory authorities can commission voluntary sector bodies to monitor, supervise or provide support to sex offenders. Voluntary agencies working with offenders in areas connected with, for example, employment, rehabilitation, supported accommodation or housing provision will be in a position to provide valuable information about the offender to feed into the risk assessment and management process.

8. SCOTTISH CHILDREN'S REPORTER ASSOCIATION (SCRA) - THE ROLE OF THE PRINCIPAL REPORTER

The Principal Reporter has a statutory role in relation to the Children's Hearings System. The role relates predominantly to 2 groups of children¹:

1. children who are the subject of a current referral to the Principal Reporter as they may be in need of compulsory measures of supervision (a "supervision requirement"); and
2. children who are the subject of a supervision requirement.²

The Principal Reporter delegates to individual Children's Reporters his or her statutory duties relating to these children. The role of the Scottish Children's Reporter Administration ("SCRA") is to support the Principal Reporter in the exercise of his or her statutory functions. Although SCRA is a national body, it has a local presence in each local authority area. Each local authority area has an Authority Reporter. In the larger local authority areas there are more than one Authority Reporter.

Children are referred to the Principal Reporter for a variety of reasons, but principally

¹ For the purposes of this note, "child" is as defined in section 93 of the Children (Scotland) Act 1995. Principally this definition refers to:

- Any person under the age of 16 years
- Any person of 16 or 17 years of age who is the subject of a supervision requirement.

² The other children or young people (i.e. those aged 16 or 17 that are not the subject of a supervision requirement) in relation to whom the Principal Reporter has a statutory role are:

- Children or young people who have been prosecuted in court for an offence and have pled guilty or been found guilty of an offence and the court has:
 - Requested the advice of a children's hearing as to the disposal of the case; or
 - Remitted the case to a children's hearing for the disposal of the case.
- Children who are the subject of an application for an antisocial behaviour order in relation to whom the court has requested advice.
- Children who have been charged with an offence that has resulted in them being jointly reported to the Procurator Fiscal and the Children's Reporter.

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because of concerns regarding their care or protection or because they are involved in offending behaviour. In relation to these children, the Principal Reporter has a statutory role to:

- investigate the circumstances of a child who has been referred, if such an investigation is necessary;
- refer a child to a children's hearing if the Principal Reporter decides that the child requires compulsory measures of supervision;
- arrange any children's hearing, ensuring that relevant written material is provided to the children's hearing, and to record the proceedings of that hearing;
- appear in the sheriff court in any proof hearing in relation to the reason that a child was referred to a children's hearing; and
- notify certain parties of the outcome of the referral of the child.

In relation to children who are the subject of a supervision requirement, the Principal Reporter has a statutory role to:

- arrange any children's hearing to review the child's supervision requirement, ensuring that relevant written material is provided to the children's hearing, and to record the proceedings of that hearing;
- notify certain parties of the outcome of that review hearing; and
- conduct a further investigation and decide whether a children's hearing to review the child's supervision requirement is required in the event of such a child being referred again to the Principal Reporter.

It is important to note that where a child is the subject of a supervision requirement, it is the local authority that has the ongoing statutory responsibility to safeguard and promote the child's welfare.

Although the Principal Reporter has a statutory role in relation to a children's hearing, the children's hearing is independent of the Principal Reporter. The children's hearing decides whether a child requires compulsory measures of supervision and if so, what form they should take.

Since the coming into force of the Antisocial Behaviour etc. (Scotland) Act 2004, the Principal Reporter also has a statutory role in relation to:

- considering whether to apply, and then applying to the sheriff court for a parenting order; and
- applying to the Sheriff Principal in relation to any duties imposed on a local authority.

There are 2 groups of children in relation to whom the Principal Reporter is likely to have contact with the MAPPA:

1. a child who has contact with an adult offender who is known to the MAPPA; and
2. a child to whom section 10(1) of the Management of Offenders etc (Scotland) Act 2005 applies³.

³ It is important to note that section 10(1) does *not* apply to a child who committed an offence where the offence was disposed of by a decision of either the Principal Reporter or a children's hearing. Therefore section 10(1) would only

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However, the Principal Reporter will *only* be involved if the child is in one of the children, identified above, in relation to whom the Principal Reporter has a statutory role.

In these cases the Principal Reporter is likely to:

- request information from one or more of the “Responsible Authorities” as part of the Principal Reporter’s investigation into the referral of a child;
- provide information to one or more of the “Responsible Authorities” as part of that investigation;
- request information from one or more of the “Responsible Authorities” when arranging a children’s hearing to review a child’s supervision requirement;
- provide information to one or more of the “Responsible Authorities” regarding the outcome of any referral or any children’s hearing; and
- request information (and possibly call a person as a witness) from one or more of the “Responsible Authorities” in the course of a proof hearing.

Given the nature of the Principal Reporter’s involvement in MAPPA cases, there are likely to be limited circumstances in which an Authority Reporter (or a member of his/her team) will attend a MAPPA meeting in relation to a particular case.

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CONCORDAT ON INFORMATION SHARING

Information exchanges covered by this Concordat

The overview below describes the main information exchanges covered by this Concordat. All exchanges are assumed to be two way.

Various Agencies to Police

Prior to submitting a report to the Procurator Fiscal, police may request and receive information from a variety of agencies.

Police to Procurator Fiscal

Information in relation to the prosecution of alleged offenders is passed from police to the Crown Office / Procurator Fiscal Service.

Police and Procurator Fiscal to Scottish Children's Reporter Administration and social work services

Information is passed to SCRA in relation to both children who are perpetrators of crime, and who are victims of crime. Information is also passed to SCRA in relation to children who are at risk. Aspects of this information can also be shared with social work services

Procurator Fiscal to Courts

Information relating to the prosecution of alleged offenders is passed between Procurators Fiscal and courts. This encompasses both courts managed by SCS and by local authority District Courts.

Procurator Fiscal to Defence Agents

Information may be passed by the Procurator Fiscal to defence agents, although this exchange is clearly beyond the scope of this concordat.

Scottish Children's Reporter Administration to Sheriff Courts

In certain circumstances, information is passed from SCRA to Sheriff Courts in relation to proof hearings.

Sentencing

A range of information is gathered from social work or health sources on behalf of the court in order to inform the disposal. These reports (for example Social Enquiry Reports) become the property of the court.

Courts to SCRO (whether directly or via police forces)

Court disposals are passed to SCRO. In most cases, these are passed directly, but in the case of some smaller district courts, these are passed via the police.

SCRA to SCRO

In some instances, information is passed from SCRA to SCRO.

Courts to SPS, the State Hospital and Social Work Services

On sentence or disposal, information relating to this is passed by the court to SPS (in the case of custodial sentences), the State Hospital or any hospital which detains patients under the Mental Health Act, or Social Work services (in the case of community disposals). The trial judge's report (where relevant) is passed to the Parole Board and to the Life Sentence Review Division of the Scottish Executive by SCS. Reports are

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passed to SPS by the Scottish Executive for life sentence prisoners, prisoners on extended sentences and children convicted on indictment, but for determinate sentence prisoners, reports are passed directly to SPS by SCS (although this is currently under review).

SPS and Social Work processes while in custody / Social Work processes during sentence

Information is exchanged between SPS and prison and community-based social work services and the police while an offender is held in custody, in relation to, for example, temporary release. Information may be exchanged between social work services and voluntary organisations (or others) where a community disposal is imposed. Information may also be exchanged with health services. Integrated Case Management information including risk assessments, risk management plans and summary documents.

The State Hospital, other mental illness hospitals, SPS, other health and social work services

Exchanges of information both where an individual remains within the State Hospital or where he or she is transferred to SPS custody would be encompassed by this Concordat.

SPS and the Parole Board for Scotland

SPS is charged with preparing parole dossiers on all offenders eligible and wishing to be considered for parole. Parole dossiers typically include information drawn from SPS, social work and health sources. Integrated Case Management information including risk assessments, risk management plans and summary documents.

Pre-liberation, Liberation and Supervision in the Community

A range of agencies are involved in the preparation of offenders for liberation and their management in the community. This should also be taken to include the preparation for discharge of those detained at the State Hospital. Information passes between the agencies for the purposes of risk assessment, management and monitoring. Integrated Case Management information including risk assessments, risk management plans and summary documents. A range of non-criminal justice agencies, such as health and housing may also be involved. Broadly, the exchanges covered would include the following agencies:

- SPS
- The State Hospital
- Police
- Social work services
- The Risk Management Authority
- Scottish Children's Reporter Administration
- Housing services, including social landlords
- Education services (including schools, further and higher education)
- Health services
- Voluntary agencies (both at their own hand and as subcontractors to any of the services set out above)

NATIONAL STANDARDS

Standard 1: Policy and Procedures

Agencies have written policies and procedures in place, supported by robust systems and structures to collect, store and ensure the effective handling and transfer of information with timed targets for the speed of transfer.

- Policies and guidance set out the principles and reasons for information sharing;
- The statutory authority and obligations for sharing information on sex offenders are included in the written procedures;

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- A senior member of staff provides leadership and takes responsibility for high level decisions on the release of information, including decisions not to share which should be subject to audit;
- There are clear instructions, regularly updated, on how the arrangements operate within the organisation;
- Timed targets are set for the transfer of information and performance is monitored on a regular basis;
- There is a procedure for ensuring that accurate records are maintained and processes are proofed for security integrity;
- Rules for recording, managing and deleting information are in place.

19. *Standard 2: Processes for Managing the Partnerships and Flow of Information*

Agencies and staff are clear about the information to be transferred and received and the agencies with whom it can be shared.

- Local protocols are agreed with partner agencies and reviewed at regular intervals;
- Rules are in place to establish which agency owns the data at each stage in the process;
- A checklist is maintained of the information to be transferred at each stage, to whom and the timescales for doing so;
- A checklist is maintained of the information to be received at each stage, from whom and the timescales for doing so;
- The rules are set out for disclosing information to other public bodies;
- Systems are in place to ensure that the process of transferring information to partners is secure.

20. *Standard 3: Management of People*

Staff are aware, knowledgeable and skilled in the information sharing principles and process, recognising their own needs and those of their partners.

- Staff roles and responsibilities are clearly set out in job descriptions;
- Suitable training and supporting written material including checklists are provided for staff;
- Staff participate in joint training with other agencies to develop shared understanding and effective communication.

21. *Standard 4: Performance Monitoring*

- Agencies have performance monitoring and reporting mechanisms in place, including an internal quality assurance process.

AGREED DEFINITION OF TERMS

Signatories to this Concordat have agreed to use the following terms defined with reference to the ViSOR system.

Primary Designations

Registered Sex Offender – an offender that has been convicted of an offence that requires them to register under the Sex Offenders Act 1997 or the Sexual Offences Act 2003 or by the granting of a civil order which imposes such a requirement.

Non Registered Sex Offender – an offender convicted of a sex offence, as determined by the Criminal Justice and Court Services Act 2000 or the Sexual Offences Act 2003 which does not carry a registration requirement, but who has received the appropriate sentence.

Violent Offender – an offender that has been convicted of a violent offence as determined by the Criminal Justice and Court Services Act 2000 and has received the appropriate sentence or, as identified under Schedule 15 of the Criminal Justice Act 2003 has received the appropriate sentence.

Dangerous Offender – an offender, with the relevant offence, who is demonstrating behaviour that is

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deemed to pose a significant risk of harm to the public.

Potentially Dangerous Person – a person, without a conviction or a relevant offence, who is demonstrating behaviour that is deemed to pose a significant risk of harm to the public.

Secondary Designations

These terms form a core dataset on sex offenders (and violent offenders), and any national or local additions to this should be implemented so as to protect the integrity of these categories.

The following sub-categories of Registered Sex Offender have been agreed. These should only be used in a way, which allows the primary designation of Registered Sex Offender to be readily identified. The agreed subcategories are:

- Registered Sex Offender – Currently registered;
- Registered Sex Offender – Required to register but has not yet done so. (This would include those serving a prison sentence who would be required to register on release.)

The following sub-categories of Non Registered Sex Offender have been agreed. These should only be used in a way, which allows the primary designation of Non Registered Sex Offender to be readily identified. The agreed subcategories are:

- Non Registered Sex Offender – Not required to register;
- Non Registered Sex Offender – Previously registered but the period has expired.