

ARRANGEMENTS TO ASSESS AND MANAGE THE RISKS POSED BY TERRORIST RISK OFFENDERS

ARTICLE 50 GUIDANCE

*This guidance is issued under Article 50 of the Criminal Justice (Northern Ireland)
Order 2008*

1. INTRODUCTION	5
1.1 Background.....	5
1.2 Status of Guidance.....	5
1.3 Outline of the arrangements.....	6
1.4 Decision Making.....	7
1.5 Review of Arrangements.....	7
1.6 Relevant Organisations.....	7
<i>Department of Justice</i>	7
<i>Northern Ireland Prison Service</i>	8
<i>Probation Board for Northern Ireland</i>	9
<i>Police Service of Northern Ireland</i>	9
2. STRUCTURES, OVERSIGHT AND ACCOUNTABILITY	10
2.1 Introduction	10
2.2 Governance – Oversight of the Arrangements	10
2.3 Membership of the Strategic Management Forum	11
2.4 Meetings.....	12
<i>Chairperson</i>	12
<i>Frequency</i>	12
2.5 Accountability	12
2.6 Relationship with the Department of Justice	13
2.7 Training	13
2.8 Serious case reviews.....	13
2.9 Links with other public protection arrangements	14
2.10 Multi-Agency Risk Assessment Panel (MARAP).....	14
3 IDENTIFICATION OF RELEVANT OFFENDERS	15
3.1 Introduction	15
3.2 Definitional Criteria.....	15
4. MARAP IN PRACTICE	16
4.1 Introduction	16
4.2 Classification	16
4.4 Licence Conditions.....	17
4.5 Applications to Travel.....	17

4.6	Applications to change permanent residential address	17
4.7	Applications to transfer licence supervision to another jurisdiction within the United Kingdom (and Islands)	18
4.8	Applications to permanently resettle outside of Northern Ireland	18
4.9	Parole Reviews	18
4.10	Revocation of Licence	19
4.11	Record of Decisions	19
4.12	Communication with the Individual	19
4.13	Victim Focus.....	20
4.14	The offender's role	20
4.15	Hospital and Guardianship Orders	21
4.16	Risk assessment.....	21
4.17	Management of Risk	22
4.18	Risk of serious harm - definition	22
5	PRINCIPLES OF CO-OPERATION	23
5.1	Introduction	23
5.2	The nature of co-operation	23
5.3	The principles of co-operation	24
	<i>Respect for role:</i>	24
	<i>Co-ordination not conglomeration:</i>	24
5.4	The practicalities of co-operation	24
5.5	Memorandum of co-operation.....	25
	<i>Purpose and Basis of Co-operation</i>	25
	<i>Scope and Practice</i>	26
	<i>Partners</i>	26
6.	INFORMATION SHARING.....	26
6.1	Overview	26
6.2	Information sharing between organisations.....	27
6.3	Information sharing principles.....	27
	<i>Lawful authority requirement (vires)</i>	27
	<i>Necessity</i>	28
	<i>Proportionality in information sharing</i>	28
	<i>Ensure the safety and security of the information shared</i>	28
	<i>Accountable information sharing</i>	28

6.4	Freedom of information and data protection requests	29
6.5	Summary	29
7	DISCLOSURE	29
7.1	Introduction	29
7.2	Definition of disclosure	30
7.3	Reasons for disclosure	30
7.4	Disclosure to other third parties	32
7.5	Disclosure to courts and parole commissioners	32
7.6	Decision to disclose information to the general public	33
7.7	Disclosure of MARAP minutes to offenders or other third parties	33
7.8	Summary	34
8	RISK ASSESSMENT	34
8.1	Introduction	34
8.2	Criteria for choosing a risk assessment tool	34
8.3	Other contributions to risk assessment	34
8.4	Summary	35
9	LAY ADVISORS	35
9.1	Introduction	35
9.2	Role of the lay adviser and the Strategic Management Forum	35
9.3	Appointment of lay advisers	36
9.4	Short-listing and selection process	37
9.5	Appointment by the Department of Justice	37
9.6	Induction and training	38
9.7	Role of the strategic management forum	38
9.8	Annual Review Process	38
9.9	Confidentiality	38
9.10	Remuneration	39
9.11	Change of circumstances	39
9.12	Re-appointment	39
9.13	Termination of appointment	39

1. INTRODUCTION

The arrangements outlined in this guidance require organisations to share information and work together to:

- a. support the assessment and management of the risk posed to the public by individuals classified under these arrangements as Terrorist-Risk Offenders; and
- b. support the rehabilitation of Terrorist Risk Offenders (TROs).

Article 50 of the Criminal Justice (Northern Ireland) Order 2008 is the underpinning statutory authority providing for multi-agency co-operation.

1.1 BACKGROUND

It is recognised that the operational management of terrorist-risk offenders presents a complex series of issues that differ from those encountered with other individuals and therefore it is necessary to adapt the systems to take account of these differences.

Accordingly, delivery partners have worked together to develop arrangements to address the specific operational challenges presented by managing these individuals.

There is a collective and statutory responsibility to the public to ensure that there are effective and consistent arrangements to manage the risk of serious harm presented by TROs. The response of organisations must have regard to their positive obligations under Article 2 of the European Convention on Human Rights (ECHR) to mitigate the particular risks these individuals pose to the public.

1.2 STATUS OF GUIDANCE

This guidance is issued by the Department of Justice under Article 50 of the Criminal Justice (Northern Ireland) Order 2008. The guidance is issued to:-

- the Department of Justice;
- Northern Ireland Prison Service (NIPS);
- Probation Board for Northern Ireland (PBNI); and
- Police Service of Northern Ireland (PSNI).

These organisations have a statutory duty to give effect to this guidance in exercising their functions to contribute to the effective assessment and management of the risks posed by terrorist-risk offenders and where relevant (as detailed within this guidance)

contribute to the assessment and management of the risks posed by this cadre of offender. The specific roles are set out in para 1.6 below.

This guidance is separate from the guidance issued under Article 50 of the 2008 Order in 2012 relating to Public Protection Arrangements for Northern Ireland (PPANI) for individuals convicted of certain violent or sexual offences.

1.3 OUTLINE OF THE ARRANGEMENTS

These are statutory arrangements which set out the roles and responsibilities of the organisations listed in section 1.6 below. In accordance with Article 50(6) of the 2008 Order. Individuals classified as meeting the definitional criteria (see section 3.2 below) are considered to be persons who may cause serious harm to the public.

The arrangements involve organisations 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 organisations listed in this guidance 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 arrangements set out in this guidance do not replace any existing procedures, e.g. child protection arrangements, terrorist notification requirements.

These arrangements reflect a commitment among relevant organisations to work collaboratively with the aim of satisfying the statutory responsibility to manage Terrorist Risk-Offenders.

The arrangements have been established to:

- a. Determine if an individual meets the definitional criteria to be classified as a TRO;
- b. Provide pre-sentence/court reports (with risk assessment);
- c. Provide input to the licence setting process;
- d. Provide relevant information to input to and inform relevant risk assessments;
- e. Provide relevant information to inform decisions surrounding temporary release from custody;
- f. Provide relevant information to inform decisions to support rehabilitation of TROs;
- g. Identify the range of information that should be provided (and how) to the Parole Commissioners' for Northern Ireland to inform and assist the parole review process;
- h. Consider applications from TROs on licence within the community to change address within NI and/or United Kingdom;
- i. Consider applications from TROs on licence within the community to travel (overnight within Northern Ireland, and to travel to other jurisdictions within and/or outside the United Kingdom);

- j. Consider applications from TROs on licence within the community to permanently resettle outside the Northern Ireland; and
- k. Where relevant, identify appropriate sanctions (including initiation of revocation of licence proceedings) where a TRO's behaviours, attitude and o/or actions undermine the purpose of a licence, namely:
 - i. Protection of the public
 - ii. Reduce reoffending
 - iii. Rehabilitation of the individual

1.4 DECISION MAKING

Organisations 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 these arrangements. Agreement on risk management between organisations is a goal rather than a requirement. Each organisation 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 organisation retains responsibility for its own actions in relation to the assessment and management of risk.

1.5 REVIEW OF ARRANGEMENTS

The organisations have a duty, under Article 51(1) of the Criminal Justice (Northern Ireland) Order 2008, to keep any arrangements under review with a view to monitoring the effectiveness of the arrangements.

1.6 RELEVANT ORGANISATIONS

This section briefly outlines the role specific organisations will perform within these arrangements.

DEPARTMENT OF JUSTICE

The Department of Justice was established in April 2010, following the devolution of justice powers to the Northern Ireland Assembly. The Department is responsible for the deployment of supervising officers whose role will be to engage with TROs to support the assessment and management of risk posed by these individuals. In addition, the Department has an operational role with respect to the revocation of licences, supporting the parole review process, and oversight of the Electronic Monitoring provision in Northern Ireland.

Contribution

The Department of Justice will:

- a. Provide oversight of service level agreement with relevant service provider relating to the delivery of the designated case management function.
- b. Chair the Strategic Management Forum – see section 2.4 refers;
- c. Support the administration of the Strategic Management Forum
- d. Chair Multi-Agency Risk Assessment Panel (MARAP) meetings/teleconferences – see section 4;
- e. Where applicable, contribute to the classification process and share information to determine if an individual meets the criteria to be classified as a TRO;
- f. Support the administration of MARAP
- g. Share relevant information to the Supervising officer/MARAP to inform the risk assessment and management processes
- h. Provide guidance relating to the revocation of licence;
- i. Support organisations with respect to Parole Review processes; and
- j. Advise MARAP with respect to use of Electronic Monitoring.

NORTHERN IRELAND PRISON SERVICE

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

Contribution

NIPS will:

- a. Participate in meetings of the Strategic Management Forum
- b. Where applicable, contribute to the classification process and share information to determine if an individual meets the criteria to be classified as a TRO;
- c. Share relevant information to the supervising officer/MARAP to inform the risk assessment and management processes;
- d. Participate in MARAP meetings and teleconference calls;
- e. Provide relevant information to MARAP relating to an individual's progress in custody or any related post release engagement, e.g. licence variation;
- f. Refer TRO case as necessary to PCNI;
- g. Provide guidance relating to the revocation of licence¹; and
- h. Prepare and serve, an individual's licence in accordance with the licence conditions agreed and confirmed within MARAP, where applicable.

¹ The Department of Justice has responsibility for the recall of individuals subject to DCS, ECS, or ICS sentences. The Northern Ireland Prison Service has responsibility for the recall of individuals subject to Life sentences. In certain cases, the Secretary of State (through the Northern Ireland Office) may also recall an individual to custody in respect of matters pertaining to national security.

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. This function contributes to the arrangements set out in this guidance.

Contribution

PBNI will:

- a. Where applicable, contribute to the classification process and share information to determine if an individual meets the criteria to be classified as a TRO;
- b. Share relevant information to the supervising officer/MARAP; and
- c. Provide the Supervising officer with access to existing programmes, services and voluntary bodies that may support rehabilitation work with the offender

PBNI is not responsible for, or involved in the supervision or management of individuals classified as TROs under these 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

PSNI has a key role to play in protecting the public from Terrorist Risk Offenders. The delivery of this high profile area of core business is essential in maintaining public confidence in the work of the police service. The PSNI will:

- a. Participate in meetings of the Strategic Management Forum;
- b. Where applicable, contribute to the classification process and share information to determine if an individual meets the criteria to be classified as a TRO;
- c. Participate in MARAP meetings and conference calls;
- d. Share relevant information to the Supervising officer/MARAP to inform the risk assessment and management processes;
- e. Provide relevant information to MARAP relating to individuals subject to notification requirements in accordance with Counter Terrorism legislation; and
- f. Provide practical and logistical support to enable the DCM fulfil their role.

2. STRUCTURES, OVERSIGHT 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 a lay adviser 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 GOVERNANCE – OVERSIGHT OF THE ARRANGEMENTS

The organisations have a duty, under Article 51 (1) of the Criminal Justice (Northern Ireland) Order 2008, to keep any arrangements under review 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 organisations have chosen to form a Strategic Management Forum with responsibility for shaping the operational development of the arrangements set out in this guidance. This includes agreeing the strategic role of different organisations and their representation on the Strategic Management 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 Management 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, where necessary, the formation of sub- groups to achieve that plan;
- Preparing and submitting an annual report to the Minister; and
- Identifying and planning how to meet common training and developmental needs of agency staff involved in the arrangements.

2.3 MEMBERSHIP OF THE STRATEGIC MANAGEMENT FORUM

The organisations and individuals listed below will be members of the forum:

- Department of Justice
- Northern Ireland Prison Service
- Police Service for Northern Ireland; and
- The Independent Lay Advisor(s)

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 these arrangements it should facilitate engagement at a level which reflects their statutory responsibility. In order for the organisations to carry out their duties and functions in reviewing the arrangements effectively, the forum must have senior representation from each of the organisations listed above. SMF may invite representatives from other organisations to attend meetings on an ad-hoc basis to examine specific agenda items.

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 organisations which contribute to the operation of these arrangements.

2.4 MEETINGS

CHAIRPERSON

The forum will be chaired by a senior representative of the Department of Justice. 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 organisations, 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 organisations represented on the forum for decisions affecting the discharge of the functions of their own organisations.

FREQUENCY

The frequency and structure of the meetings will be a matter for the forum. However, full meetings should be no less frequent than bi-annually to enable the organisations 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.

2.5 ACCOUNTABILITY

The organisations 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 MARAP meetings or the Strategic Management Forum and the members of both answer to their own organisations and established individual lines of accountability for any actions taken within MARAP.

The Department of Justice is responsible for the statutory framework and the policy underpinning this legislation.

2.6 RELATIONSHIP WITH THE DEPARTMENT OF JUSTICE

The Department of Justice has policy responsibility for arrangements set out in the Criminal Justice (NI) Order 2008 and has statutory authority to issue this guidance to organisations. 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 MARAP is provided to the Minister.

2.7 TRAINING

Work with those who pose a 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 arrangements that agency representatives on the Strategic Management 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.

2.8 SERIOUS CASE REVIEWS

The strategic management forum must be informed by the relevant agency of any case where an individual, whose risk of serious harm is being managed through the arrangements set out in this guidance, is charged with terrorism or terrorist related offence, 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:

- i. To look at whether agencies involved in, or have a responsibility to provide information to inform the assessment and management of risk posed by the individual did all that could reasonably be expected of them to support the assessment and management of risks; and
- ii. Whether there are lessons to be learned about the effectiveness of the arrangements.

Serious case reviews can have two levels:

- i. An internal multi-agency review
- ii. An independent case review

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

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

Any report produced following a serious case review will be jointly owned by the agencies represented on the Strategic Management Forum who will make all decisions in relation to its circulation and use. Costs for the appointment of an independent reviewer shall be met by the Department of Justice.

2.9 LINKS WITH OTHER PUBLIC PROTECTION ARRANGEMENTS

Organisations 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 organisations are involved in each multi agency forum though not always with the same personnel.

2.10 MULTI-AGENCY RISK ASSESSMENT PANEL (MARAP)

The practical operation of the multi-agency arrangements in assessing risk and working to reduce risk is undertaken through a multi-agency risk assessment panel (MARAP). This panel is not set up by statute, but this guidance, which has been agreed by the agencies, provides the basis for its operation. The structure of the panel allows relevant agencies to assess offenders and develop risk management plans. The MARAP 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 between the Supervising officers and the TROs.

The role and responsibilities of MARAP is set in more detail in section 4 below.

3 IDENTIFICATION OF RELEVANT OFFENDERS

3.1 INTRODUCTION

Article 50(6) of the Criminal Justice (NI) Order provides for the Department to specify in guidance, for the purposes of these arrangements, a description of persons which it believes may cause serious harm to the public. This description is provided at 4.18 below.

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 accurate identification 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.

3.2 DEFINITIONAL CRITERIA

An individual will be classified as a TRO where an individual meets the following criteria:

- a. The individual has been convicted of an offence under Terrorism legislation for which he/she is currently serving a sentence; or
- b. The individual has been convicted of, and is currently serving a sentence for offences where the sentencing judge has made explicit reference to, or indicated connection to terrorism, or terrorist activity; or
- c. The individual has been convicted of, and is serving a current sentence for offence(s) where MARAP is satisfied offence(s) was committed in connection to terrorism, or connection to terrorist activity; or
- d. The individual has been convicted of, and is serving a current sentence in custody or on licence within the community and MARAP partners are satisfied there is information that indicates the individual is of terrorism concern

Scope

The criteria above applies to the following:

- a) An individual currently serving:
 - i. Determinate Custodial Sentence
 - ii. Extended Custodial Sentence
 - iii. Indeterminate Custodial Sentence

- iv. Terrorist Sentence (introduced by Counter Terrorism and Sentencing Act 2021);
 - v. Serious Terrorist Sentence (introduced by Counter Terrorism and Sentencing Act 2021); and
 - vi. Life Sentence
- b) An individual on licence, with the exception of anyone released on licence under the terms of the Belfast Agreement 1998 (known as the Good Friday Agreement) who has not been convicted and currently serving a sentence (listed above) since their release under the Belfast Agreement.

4. MARAP IN PRACTICE

4.1 INTRODUCTION

Representatives from the following organisations will attend and participate in MARAP meetings/conference calls:

- a) Department of Justice
- b) NIPS
- c) PSNI; and
- d) Relevant supervising officers appointed by the Department of Justice to manage individuals classified as TROs under this guidance.

MARAP meetings will be chaired by the Department of Justice

4.2 CLASSIFICATION

MARAP will assess and determine if individuals meet the definitional criteria set out in section 3.2 to be classified as a TRO. An individual will be classified as a TRO where there is a consensus by MARAP partners that an individual meets the criteria and should be managed under these arrangements.

Where any agency considers an individual should be assessed to determine if he/she should be classified as a TRO, the organisation must submit a referral to MARAP with narrative report setting out the full details of the case and evidencing how the classification criteria is met. The MARAP referral should include any supporting information/rationale to inform the classification process e.g. court reports, police papers, sentencing remarks etc. A MARAP meeting or tele-conference will be convened as appropriate to assess whether the individual meets the definitional criteria.

All individuals designated as Terrorist Risk Offenders (TROs) will be managed by supervising officers under the arrangements set out in this guidance for the duration of the relevant sentence. For the avoidance of doubt, the Probation Board for Northern

Ireland remains statutorily responsible for the management and supervision of all other offenders on licence in the community.

Where, a TRO on licence is also subject to a concurrent licence in relation to a sentence which would not satisfy the classification criteria, the DCM will be responsible for the supervision of that individuals licence until the Sentence Licence Expiry Date (SLED) of the licence associated with terrorism/terrorist-related offences. Upon completion of the TRO licence, PBNI will assume responsibility for supervision of any extant licences e.g. those not associated with terrorism/terrorist-related offending.

4.4 LICENCE CONDITIONS

Licence conditions (and any subsequent variation of conditions) will be agreed and confirmed by MARAP. In the case of Extended Custodial Sentenced, Intermediate Custodial Sentenced, or Life Sentence prisoners MARAP will consult with PCNI regarding appropriate licence conditions.

There is no change to the current licencing setting process. Individuals classified as TROs will ordinarily be subject to the following licence conditions on release from custody:-

- a. The standard licence conditions set out in Article 2 of the Criminal Justice (Sentencing) (Licence Conditions) (Northern Ireland) Rules 2009²; and
- b. A condition requiring the individual “must not engage in terrorist-related activities nor participate in any organisation that supports, directs, authorises or controls such activities. (This condition does not limit in any way the standard conditions above requiring continuing good behaviour)”.

4.5 APPLICATIONS TO TRAVEL

Where a TRO has submitted an application to travel to other jurisdictions outside Northern Ireland, a MARAP meeting or tele-conference will be convened as appropriate to assess whether the application should be approved or refused.

All applications will be considered in line with the travel policy and any relevant guidance (issued by the DOJ).

4.6 APPLICATIONS TO CHANGE PERMANENT RESIDENTIAL ADDRESS

²If sentenced to DCS, ECS, ICS

Where a TRO has submitted an application to change their approved address, a MARAP meeting or tele-conference will be convened as appropriate to assess whether the application should be approved or refused.

All applications will be considered in line with the change of address policy and any relevant guidance (issued by the DOJ).

4.7 APPLICATIONS TO TRANSFER LICENCE SUPERVISION TO ANOTHER JURISDICTION WITHIN THE UNITED KINGDOM (AND ISLANDS)

Where a TRO has submitted an application seeking to transfer their licence supervision to another jurisdiction within the United Kingdom, a MARAP meeting or tele-conference will be convened as appropriate to assess whether the application should be approved or refused.

All applications must be considered in line with the applications for licence transfer to other jurisdictions within the United Kingdom policy and any relevant guidance (issued by the DOJ).

4.8 APPLICATIONS TO PERMANENTLY RESETTLE OUTSIDE OF NORTHERN IRELAND

Where a TRO has submitted an application to permanently resettle outside of Northern Ireland, a MARAP meeting or tele-conference will be convened as appropriate to assess whether the application should be approved or refused.

All applications must be considered in line with the applications for resettlement outside of the United Kingdom policy and any relevant guidance (issued by the DOJ).

4.9 PAROLE REVIEWS

Where a TRO's case has been referred to the Parole Commissioners for Northern Ireland (PCNI), a MARAP meeting or tele-conference will be convened as appropriate to consider all available information relating to the individual and determine if written or oral evidence should be submitted with respect to:

- a. progress in NIPS custody/responsivity to planned programmes and interventions;
- b. engagement with the Supervising officer;
- c. ongoing PSNI investigations/criminal proceedings;

- d. risk assessments provided by the DCM;
- e. risk management in the community (including proposed licence conditions);
- f. suitability for release; and
- g. any other information deemed relevant by partners to support the purpose of a licence.

4.10 REVOCATION OF LICENCE

The Supervising officer will be responsible for initiating proceedings to revoke a licence where the DCM considers that the risk of harm/serious harm has increased more than minimally since the point of release, and the increased level of risk can no longer be safely be managed in the community.

The Department of Justice will advise the Minister of Justice that revocation proceedings have been initiated and will keep the Minister updated on developments. Where PCNI make a recommendation to recall an individual, the Department of Justice³ is responsible for assessing all available information to determine if a licence should be revoked and the individuals recalled to prison custody.

4.11 RECORD OF DECISIONS

A record of each MARAP meeting or teleconference call will be maintained to ensure details key decisions are captured and any necessary action points circulated to participants. All records will be securely stored following departmental guidelines.

4.12 COMMUNICATION WITH THE INDIVIDUAL

Individuals classified as TRO, will be provided with an information leaflet prior to their release from custody. The information leaflet will set key elements of the arrangements and associated policies. NIPS will be responsible for issue of the leaflet along with the individual's licence. For those TROs currently on licence in the community, individuals will receive a copy of the information leaflet, and associated policies.

The Supervising officer will be responsible for issuing relevant correspondence to the individual. This will include confirming the outcome of a MARAP meeting or conference call to determine if an application to travel, change address or permanently resettle outside the Northern Ireland has been approved or refused.

³ Including the Northern Prison Service (in cases involving the revocation of an individual on a life licence)

4.13 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 risks 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.

4.14 THE OFFENDER'S ROLE

There is a contribution that offenders can make to change their behaviour and desist from offending. Measures which impose external controls and prohibitions such as: conditions in licences, including residence requirements, and other provisions, such as Terrorist Notification Requirements can provide the offender with a clear and partly self-policed set of boundaries. These boundaries can enhance public protection practice, for example, police and Supervising officers 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 these arrangements.

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

Offenders do not attend MARAP meetings. However, offenders, whose risks are being managed through these arrangements, following initial assessment of risk, should be allowed the opportunity to present information relevant to the management of their risk to the MARAP meeting through their supervising officer.

The MARAP 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 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 MARAP meeting and the reasons clearly recorded in the minutes and the case record.

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.

4.15 HOSPITAL AND GUARDIANSHIP ORDERS

Offenders who commit terrorism or terrorist related offences and who receive a hospital or guardianship order may require management of their risk within these arrangements. The hospitals where they are detained, therefore, have a responsibility to notify the DOJ when the offender is admitted to hospital and to notify the Mentally Disordered Offender 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.

4.16 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 terrorist risk 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 (where available).

4.17 MANAGEMENT OF RISK

The purpose of risk assessment is to enable agencies to identify relevant offenders who present evidence of likelihood to cause serious harm which necessitates multi agency management of risk within these 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.

4.18 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.
- 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.

5 PRINCIPLES OF CO-OPERATION

5.1 INTRODUCTION

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 relevant agencies listed in Article 49 of the Order and the type of involvement each may have in the these arrangements; and
- Provides advice about the 'memorandum of co-operation' required under Article 50 of the Order.

5.2 THE NATURE OF CO-OPERATION

The 2008 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.

5.3 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 multi-agency 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 these arrangements somehow diminishes or even absolves them of any continuing responsibility, which is not the case.

CO-ORDINATION NOT CONGLOMERATION:

These arrangements are a means of enabling different agencies to work together and share information. The arrangements set out in this guidance 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. Multi-agency co-operation does not aggregate the responsibility and authority of the agencies involved, rather it clarifies the roles each agency is to play.

Multi-agency 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.

5.4 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:

1. **Providing a point of contact for other agencies.** While much of the formal business of co-operation will be conducted at MARAP 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.
2. **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.
3. **Providing specific advice about the assessment and/or the management of the risks a particular case poses.**
4. **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.

5.5 MEMORANDUM OF CO-OPERATION

Under Article 50(2)(a) of the 2008 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 these arrangements, 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 addressing domestic abuse; and
- Principles: as outlined in 5.3 above and the general principles underpinning these 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 these 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.

6. INFORMATION SHARING

6.1 OVERVIEW

The effectiveness of these arrangements depends upon the effectiveness of information sharing between relevant organisations.

This guidance clarifies the principles upon which organisations may exchange information amongst themselves, and where a decision may be taken to disclose such information to other persons or organisations outside of these arrangements, for example, to an employer, voluntary group organiser or church leader who has a position of responsibility/control over the individual and other persons who may be at risk from the individual.

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 2018 and the European Convention on Human Rights (as incorporated into domestic law by the Human Rights Act 1998).

6.2 INFORMATION SHARING BETWEEN ORGANISATIONS

This guidance simply sets out the basic principles upon which information sharing protocols should be drawn up for the purposes of these arrangements. The principles outlined in this guidance not only ensure compliance with the law, but are also aimed at promoting trust between organisations.

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 organisations must have in place an agreed information sharing protocol.

6.3 INFORMATION SHARING PRINCIPLES

Information sharing must:

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

The meaning of each of these principles is explained below.

LAWFUL AUTHORITY REQUIREMENT (VIRES)

Each agency sharing information within these arrangements must have either a prima facie statutory or common law power to do so. Each organisation listed at paragraph 6.1 have clearly recognised statutory duties, which will necessarily involve sharing information. The Criminal Justice (NI) Order 2008 also recognises that co-operation

between organisations within the arrangements set out in this guidance will also include the exchange of information.

Therefore, due to the above, all relevant organisations have the prima facie legal power to exchange information.

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

- a. That it must remain confidential, be kept and shared safely and securely and retained for as long as necessary;
- b. What they are expected to do with that information
- c. 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 or organisation within these arrangements; or
 - someone to whom disclosure is justified because of the exceptional risk posed to them by the individual.

NECESSITY

Information should only be exchanged where it is necessary to support the operation of these arrangements, and give effect those actions which are necessary to prevent reoffending, assist the rehabilitation and resettlement of the individual and enhance public safety.

PROPORTIONALITY IN INFORMATION SHARING

In order to satisfy this criterion, it must be shown that operation of these arrangements could not effectively be achieved other than by the sharing of the information in question. Clearly, in almost all cases within these arrangements, this principle will easily be met.

ENSURE THE SAFETY AND SECURITY OF THE INFORMATION SHARED

Good practice must ensure that all information about relevant individuals is kept securely and is shared with and available only to those who have a legitimate interest in knowing it; that is, organisations and individuals involved in these 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 organisations must ensure that the administrative procedures underpinning the efficient operation of meetings as part of these 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.

6.4 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.

6.5 SUMMARY

This guidance, issued by the Department of Justice on authority of the Minister 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 (2018) puts controls on data sharing so, together, they facilitate responsible information sharing between organisations for legitimate purposes.

Organisations 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.

7 DISCLOSURE

7.1 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. This includes consideration of requests by individual members of the public under Article 50(2A) of the Criminal Justice (NI) Order 2008.

The purpose of disclosure of information is: to facilitate risk management, to facilitate public protection and to reduce the risk of serious harm. It is normally preferable that the offender is aware that disclosure is taking place and, on occasion, it may be appropriate for them to make the disclosure themselves in the presence of the Supervising officer (DCM), or for the content of the disclosure to be confirmed subsequently by the DCM and/or PSNI. 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, where appropriate, at the Multi-Agency Risk Assessment Panel (MARAP).

Voluntary and private sector services who engage with offenders, on behalf of agencies operating these 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 MARAP should treat them as they would a member of the public and have appropriate safety considerations in place. The agencies, through the strategic management forum, must ensure that there is in place a means to capture information relating to disclosure.

7.2 DEFINITION OF DISCLOSURE

“The communication to any party, outside those involved in these 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 or by a single agency. The disclosure will in most cases be a component of the risk management plan for that identified individual.”

7.3 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 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 in the context of risk management and be formally agreed.

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 is rarely advisable.
- (iv) Disclosure is made to the right person and 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 DCM, or for the content of the disclosure to be confirmed/verified by the DCM 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 may receive; 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 risk management.

7.4 DISCLOSURE TO OTHER THIRD PARTIES

When necessary, representatives from other agencies and from outside Northern Ireland may be invited to participate in a MARAP meeting 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 case 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.

7.5 DISCLOSURE TO COURTS AND PAROLE COMMISSIONERS

The lawful authority and necessity requirements described in section 6 (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 MARAP 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.

7.6 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 these arrangements.

7.7 DISCLOSURE OF MARAP 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 MARAP 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 (2018) and the Human Rights Act (1998) and related European case law.

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

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

7.8 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 these arrangements is to be considered. Each agency should work to a corporate agreement on information sharing and confidentiality within the arrangements set out in this guidance. 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.

8 RISK ASSESSMENT

8.1 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.

8.2 CRITERIA FOR CHOOSING A RISK ASSESSMENT TOOL

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

8.3 OTHER CONTRIBUTIONS TO RISK ASSESSMENT

One of the benefits of close working relationships between agencies within these 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. The key principle for agencies operating these 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.

8.4 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, and the review of those 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.

9 LAY ADVISORS

9.1 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 management forum and may also participate in any sub-groups.

9.2 ROLE OF THE LAY ADVISER AND THE STRATEGIC MANAGEMENT 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 management 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 Management 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 twelve hours per month to their role. They will contribute to the monitoring and evaluation of the operation of these 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.

9.3 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 9.12 below). All lay advisers must secure SC disclosure, as part of the recruitment process. The Strategic Management 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 this guidance (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 these arrangements; and
- Anyone whose paid employment involves working with offenders that fall within the remit of this guidance.

In order to attract suitable candidates for selection, the Strategic Management Forum must consider how to reach out to communities in order to stimulate people’s interest in the work of these 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.

9.4 SHORT-LISTING AND SELECTION PROCESS

The selection process employed by the Strategic Management 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.

9.5 APPOINTMENT BY THE DEPARTMENT OF JUSTICE

Once the selection panel has reached a decision to nominate a lay adviser as being suitable for appointment, the Chair of the Strategic Management Forum should submit a nomination to the Minister of Justice seeking agreement to appoint.

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

9.6 INDUCTION AND TRAINING

All newly appointed lay advisers must, following their appointment, be provided with appropriate induction. The Chair, MARAP 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 these arrangements.

9.7 ROLE OF THE STRATEGIC MANAGEMENT FORUM

The Strategic Management 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.

An informal review should be conducted once a year between the lay advisers and the Chair or other member of the Strategic Management Forum. The Chair, MARAP 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.

9.8 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 Management 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 these arrangements, and for any feedback that the forum chair or members might be able to give.

9.9 CONFIDENTIALITY

Lay advisers must not disclose information given to them in confidence in consequence of their work with the Strategic Management 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.

9.10 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.

9.11 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 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.

9.12 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 management forum, support their reappointment. The Department will confirm the continuation of the lay adviser in post and write to this effect to the lay adviser.

9.13 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 Management Forum.

