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| **Mental Health Casework Section**Guidance:Multi-Agency Public Protection Arrangements (MAPPA) and the Restricted Patient System |
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MHCS – MAPPA and the Restricted Patient System

Version 1 issued September 2020

# Purpose of this guidance

All NHS commissioned Mental Health, Learning Disability and Autism Services, and Local Authorities have a statutory duty to cooperate with MAPPA, and the Secretary of State expects that Responsible Clinicians in charge of the care of restricted patients must ensure that this duty is fulfilled.

This document has been created to provide information for MHCS staff and those working directly with restricted patients to outline the requirements and expectations with regard to MAPPA arrangements in conjunction with the MHCS’ responsibility to discharge of the Secretary of State’s functions under the Mental Health Act (1983).

It is advised that all professionals working with restricted patients refer to the full MAPPA guidance with particular attention to Chapter 26 - *Mentally Disordered Offenders and MAPPA.*

{<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=10736788>}. Further information can also be found on the MAPPA website {[https://mappa.justice.gov.uk](https://mappa.justice.gov.uk/)}.

**NB: Please note, in December 2020, the Government responded to Jonathan Hall QC’s independent review of the MAPPA used to supervise terrorist and terrorism-risk offenders. Work in response to those recommendations continues and future updates to this guidance will reflect the outcome of this work on its completion. The full report and recommendations made can be found here:** [**Multi Agency Public Protection Arrangements review - GOV.UK**](https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-review)[**(www.gov.uk)**](https://www.gov.uk/government/publications/multi-agency-public-protection-arrangements-review)

# Glossary of terms

**HMPPS** – His Majesty’s Prison and Probation Service, an agency of the Ministry of Justice

**MAPPA** - Multi Agency Public Protection Arrangements

**MAPPA coordinator** - is the single point of contact for each MAPPA area and has overall responsibility for the organisation of MAPPA arrangements

**MHA** - refers to the Mental Health Act 1983

**MHCS** - is the Mental Health Casework Section in the Ministry of Justice

**NPS** – Is the National Probation Service

**COM/POM –** refers to the community or prison offender manager, either of which may be the responsible offender manager, as per the Offender Management in Custody (OMiC) guidance

**OMiC –** Offender Management in Custody Model. This will determine whether the responsible offender manager is a prison or community OM in each case.

**Responsible Clinician** or “RC” - is the clinician, usually a psychiatrist, responsible for the care of the restricted patient either while detained in hospital or under supervision in the community and may be referred to as the clinical supervisor with regard to community-based patients

**Secretary of State** - refers to the Secretary of State for Justice

**Social supervisor –** An appropriately qualified mental health professional who has a responsibility to report to the Secretary of State on a conditionally discharged restricted patient’s progress in the community.

**The Tribunal** - refers to both the First-tier Tribunal (Mental Health) in England and the Mental Health Review Tribunal for Wales.

**VLO** - is the Victim Liaison Officer

# MAPPA Categories

All MAPPA-eligible offenders fall under one of three categories, outlined below with reference to the MAPPA guidance. The majority of restricted patients are MAPPA eligible and most fall under Categories 1 and 2. The full list of MAPPA eligible offences can be found within the appendices of the MAPPA guidance {<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=11435188>}.

## Category 1

* + Patients convicted of a sexual offence where they are subject to the notification requirements of Part 2 of the Sexual Offences Act (SOA) 2003 (registered sexual offenders).

## Category 2

* + Patients convicted of murder or an offence specified in Schedule 15 or 4A of the Criminal Justice Act 2003, which are primarily offences against the person (violent offences or sexual offences without registration requirement) and sentenced to twelve months or more imprisonment or detained in hospital subject to provisions of the MHA 1983, including those found not guilty by reason of insanity or unfit to plead (having done the act).

## Category 3

* + Patients who do not qualify under Categories 1 or 2 may, however, be subject to MAPPA under Category 3 if the responsible authority considers, by reason of their offences (wherever committed), that they currently pose a risk of serious harm to the public that requires active multi-agency management.

# Levels of Management

All MAPPA-eligible restricted patients assigned as one of the three levels below. The vast majority of cases are Level 1. However, there are a small proportion of restricted patients who assigned as Level 2 or 3 whilst detained in hospital, with the greater number of Level 2 and 3 cases being those who have been conditionally discharged.

## Level 1

* + Level 1 management is where, as defined in the MAPPA Guidance “*the risks posed by the offender are manageable by the lead agency without the need for formal multi-agency meetings*”. In these cases there should still be information sharing between the relevant agencies, but regular MAPP meetings will not be routinely convened. On occasion, where there is a specific risk issue that requires multi-agency input, but the patient does not meet the criteria to be referred for Level 2 management, the lead agency may request the local MAPPA coordinator convene a professionals’ meeting to discuss the issue.
	+ The MAPPA guidance further outlines when a patient’s Level 1 status should be reviewed, noting: “*The decision to manage at Level 1 should be reviewed when there is a change in*

*circumstances, significant information is received from another agency or where there is an escalation in risk.”* The lead agency maintaining regular contact with the local MAPPA coordinator will support the swift identification of any material change in circumstances.

Points at which the lead agency must complete formal notification to the coordinator are outlined below.

## Level 2

* + Level 2 cases are those where “*formal multi-agency meetings would add value to the lead agency's management of the risk of serious harm posed*” and therefore are considered under multi-agency management. Patients at this level are usually assessed as posing high or very high risk of serious harm. Patients held at Level 2 should be routinely discussed in MAPP meetings, and a representative of their hospital Multi-Disciplinary Team (MDT) should be in attendance, regardless of which agency is lead. This would usually be the Responsible Clinician or allocated Social Worker/social supervisor.

## Level 3

* + Level 3 cases are those that *“meet the criteria for Level 2, but where management issues require senior representation from the Responsible Authority and Duty-to-Co-operate agencies”.* This means that senior managers from the relevant agencies must be involved in MAPP meetings and are often cases which are high profile or where a high level of resources are needed to manage the case effectively.

# Lead Agency

The lead agency is the one responsible for the primary management of the patient’s risk. MAPPA is a mechanism for managing risk in the community and therefore the lead agency is that which would have the greater ability to manage this risk when the patient is community-based.

This means that for the vast majority of patients who are detained solely under a restricted hospital order, including those found unfit to plead or not guilty by reason of insanity, mental health is the lead agency (considered to be the relevant Mental Health Trust). The primary oversight of conditionally discharged patients is the responsibility of the Trust, and the liability to recall a patient to hospital is the greatest control mechanism in these cases.

For cases detained under ss. 47/49 and 45a of the MHA the National Probation Service (NPS) are usually the lead agency. Cases may have both a prison offender manager (POM) and a community offender manager (COM); whoever is the responsible offender manager will be the individual in charge of managing the case. This is determined by the Offender Manager in Custody model (OMiC) on behalf of HMPPS. For some sexual or terror-related offenders, the police will have a joint responsibility. The lead agency for transferred prisoners remains the NPS whilst the patient is detained in hospital, as they will have the primary responsibility for risk management when the offender is released on licence.

For patients dually detained under restricted hospital order and transfer direction, the lead agency will depend on the nature and length of the sentence/disposal made. For example, if a life- sentenced prisoner committed a further offence whilst detained in hospital under ss. 47/49 and received a 37/41 hospital order for this offence, NPS would remain lead agency as on release. This is because there are wider powers to manage the patient via release on licence, than on conditional discharge, though the patient would remain subject to both. For a patient convicted of a short determinate prison sentence whilst subject to 37/41, the lead agency would usually remain the Mental Health Trust, as the conditional discharge is likely to outlast any period of release on licence.

With regard to these more complex cases it is advised that the hospital contact the local MAPPA coordinator to confirm the lead agency when the initial notification is completed.

# Admission/Initial notification

On admission to hospital following a disposal by the Court, or transfer from prison, the hospital should confirm within three days whether the patient is MAPPA-eligible. For all patients convicted of a MAPPA-eligible offence, the initial MAPPA notification must be done as soon as possible by completing Part 1 of the MAPPA I form

{<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectId=23779621>}, and sending this to the MAPPA coordinator of the patient’s home area. If the patient is detained in a Trust away from their home area, it is best practice to also inform the local MAPPA coordinator, as if the patient is to utilise community leave or be resettled in this area, a handover may be required.

Similarly, for those with MAPPA-eligible offences on conditional discharge in the community, a notification should have been done to the relevant MAPPA area, whether or not the offence pre- dates MAPPA legislation. If this was not completed during the patient’s detention in hospital, community and social supervisors have a responsibility to submit a notification to the relevant MAPPA coordinator to ensure they are aware of the case.

The MAPPA guidance highlights that in response *“[t]he MAPPA Co-ordinator will use Part 3 of the MAPPA I to inform the Responsible Clinician of any information held by other agencies that is relevant to the management of the offender’s risk”.*

# Community Leave

For all Level 1 hospital order cases, MHCS expects that the Responsible Clinician or other member of the patient’s Multi-Disciplinary Team (MDT) will inform the MAPPA coordinator when they intend to submit an application to MHCS for community leave.

If the patient is managed at Level 1 and is a transferred prisoner or is dually detained, then in addition to the above action MHCS expects that the patient’s offender manager is informed sufficiently in advance of any application for community leave so that they are provided with the opportunity to feed into any risk assessment or management, as the representative of the lead agency. Their feedback should then be incorporated into the relevant section of the application form. This is particularly important where unescorted community leave is being requested (including unescorted overnight leave) given NPS will be responsible for the patient’s eventual community management.

MHCS will not hold up consideration of community leave applications for Level 1 patients so long as the MAPPA coordinator (and where relevant, the Prison or Community Offender Manager) has been informed of the application in advance; a formal response is not required to progress these applications.

For cases managed at Level 2 or 3 any application for community leave should be discussed at one of the regular MAPP meetings for the offender, before being submitted to MHCS for consideration on behalf of the Secretary of State. As meetings should be held routinely for all cases managed at this level, it is not anticipated that a separate meeting to discuss a plan for leave would be required. MHCS will be unable to proceed with applications for patients managed at Level 2 or 3 without

confirmation that this discussion has taken place, with any risk concerns identified by MAPPA agencies disclosed in the application form.

If MHCS approve the request for leave, the hospital should then update Part 2 of the MAPPA I form and send this to the coordinator for their records. This must be done if the approval is for unescorted leave, or where escorted leave is approved for high profile or Level 2/3 cases.

If victims are participating in the Victim Contact Scheme (VCS), where possible it is good practice for the victim/s, via the VLO, to be informed by the hospital about new applications for community leave prior to application to the MOJ to allow time for the VLO to inform the victim/s. MHCS will contact the VLO to confirm that they are aware of the application and to discuss it in more depth if required. MHCS will take any victim representations submitted through the VLO around non-contact and exclusion zones into account when setting conditions for community leave. MHCS inform both the VLO and the local police force of any approval of community leave and would expect the MAPPA coordinator to keep the other relevant agencies informed of any significant changes to the patient’s status.

# Hospital Transfers

For requests to transfer Level 1 patients within the same security level (level transfers) or to a higher level of security (upgrade transfers), MHCS expects that where possible the MAPPA coordinator is informed in advance of any application. This is particularly important in cases where there is active engagement by or on behalf of victim and/or the transfer will move the patient closer to the victim; if these concerns are not easily resolvable, a professionals’ meeting with the other MAPPA agencies may be required. If, for any reason, this is not possible, MHCS expects that the MAPPA coordinator is informed as soon as possible following transfer. If the patient is moving areas both area coordinators must be informed.

For requests to move a Level 1 patient to a lower level of security (downgrade transfer), particularly if the patient is moving out of secure services, MHCS expects that the relevant MAPPA coordinator is informed in advance of the application to provide the opportunity for information sharing if necessary. Failure to confirm this on the application form may result in delays to the application being considered. Following any approval for transfer the MAPPA coordinator/s should be informed as noted in the previous paragraph.

As for community leave, with regard to transferred prisoners, offender managers should be consulted and provided with the opportunity to input into any application for transfer, particularly where the request is for a downgrade transfer or level move to a different area.

For cases managed at Level 2/3, MHCS would anticipate that any downgrade transfer, or level transfer where there are victim issues or concerns about a potential area move (such as concerns about retaliation or re-engagement with a criminal peer network) are discussed in advance at a regular MAPP meeting. Failure to confirm this discussion has taken place on the application form may result in delays to the application being considered. For upgrade transfers or level transfers without such concerns, the expected actions would be as stated for Level 1 cases.

# Pre-discharge/Remission

For all hospital order patients the Responsible Clinician (RC) should, where possible, further update Part 2 of the MAPPA I form to notify the MAPPA coordinator approximately six months in advance

of discharge. It is acknowledged that due to the fact that the patient may be discharged only by the Tribunal or MHCS (on behalf of the Secretary of State) and not by the RC, that this date may not be fixed in time. It is expected that the notification is completed when discharge is being planned, and this must be done before any application for conditional discharge is submitted to MHCS. MHCS will be unable to consider an application for conditional discharge without confirmation on the application form that notification has taken place.

For transferred prisoners who are to be remitted more than six months prior to their release date/tariff expiry, it is anticipated that the RC will inform the MAPPA coordinator when they are intending to convene a s117 aftercare meeting, in advance of an application for remission being submitted to MHCS. This will ensure that if a representative of MAPPA is required to attend the s117 meeting they are provided with the opportunity to do so. This may not be possible where remission is done on an emergency basis.

For determinate sentenced transferred prisoners with less than six months until their automatic release date, or for parole eligible cases (including recalled offenders or those with indeterminate sentences) it is expected that the MAPPA coordinator is informed/the MAPPA I notification updated as soon as either remission, or a recommendation to the Tribunal for discharge, are being considered by the RC. This is to allow sufficient time for release planning. Where the Tribunal makes a recommendation for discharge against the clinical opinion of the RC, the MAPPA coordinator must be notified as soon as the hospital is aware of this decision.

# Referral to Level 2 or 3

Where a specific a risk issue requires multi-agency discussion the first action should be to request a professionals’ meeting. Referral to Level 2 or 3 must only be done where the lead agency is no longer confident that Level 1 management is sufficient to manage the patient’s risk.

For clinicians seeking to refer hospital order patients to Level 2/3, it is advised that they read Chapter 7 of the full MAPPA guidance

{<https://mappa.justice.gov.uk/connect.ti/MAPPA/view?objectID=10939028>}, but it is recommended that RCs consider whether a referral is necessary both in advance of any application for unescorted leave and in advance of consideration of conditional discharge.