

## People Posing a Risk to Children

### 1. Introduction

A good indicator of future risk is past behaviour and, therefore, where persons with convictions for offences against children come into contact with children, an assessment should be made of the risk posed.

The terms '[Schedule One Offender](#)' and 'Schedule One Offence' have been commonly used for anyone convicted of an offence against a child listed in Schedule One of the Children and Young persons Act 1933. However, a conviction for an offence in Schedule One does not trigger any statutory requirement in relation to child protection issues. An inclusion on the Schedule was determined solely by the age of the victim and offence for which the offender was sentenced, and not by an assessment of future risk of harm to children.

Therefore the term Schedule One Offender is no longer used and it has been replaced with 'Persons Posing a Risk to Children'. This clearly indicates that the person has been identified as presenting a risk, or potential risk, to children.

Home Office Guidance ('[Guidance on offences against Children](#)', [Home Office Circular 16/2005](#)) explains how those offenders who present a risk to children should be identified. The circular explains that the present method of automatically identifying as a risk to children an offender who has been convicted of a Schedule One offence fails to focus on those who continue to present a risk.

The new list of offences contained in the circular (see [Section 4, List of Offences which can be used to identify those who present a risk, or potential risk, to children](#)) should operate as a trigger to a further assessment to determine if an offender should be regarded as presenting a continued risk of harm to children.

Once an individual has been sentenced and identified as presenting a risk to children, agencies have a responsibility to work collaboratively to monitor and manage the risk of harm to others. Where the offender is given a community sentence, offender managers monitor the individual's risk to others and their behaviour, and liaise with partner agencies as necessary.

Where such an offender is known to be, or is suspected of being, in contact with a child or children now, or in the immediate future, a referral should be made to Children's Services in accordance with the Referrals Procedure, and consideration should be given to the making of enquiries under these procedures to determine whether any protective action should be taken.

### 2. The MAPPA Process

An understanding of the nature of violent and predatory offenders and the potential they have for hurting children is an important element in both assessment and Child Protection Planning and managing the risk of harm to children. See [National MAPPA Guidance 2012](#).

Workers need to be aware that violent and predatory offenders typically move from relationship to relationship and from area to area and require monitoring from all the agencies involved. They will spend significant periods of time in prison and on release may move areas to live somewhere where they are not known. If there are concerns about the levels of contact of an unknown adult with children either directly or through a family member it is important to contact the police to see if they

are known and have previous cautions or convictions. It should not be assumed that the individual or family member involved will have any knowledge or any accurate knowledge of the actual offence. Violent and predatory offenders are assessed and managed on a multi agency basis through MAPPA.

Many of them will be under the supervision of the probation service (now combined with the prison service to form the National Offender Management Service (NOMS) and has protecting the public as a primary objective. MAPPA procedures are also available for use by any of the agencies involved including Children's Services. Not all violent and predatory offenders are adults; MAPPA processes also manage violent and predatory child offenders.

Although rare for the risk factors of violent and predatory offenders to be reduced sufficiently for them to become a low risk of committing serious harm, the risk they present may be reduced e.g. through:

- Cognitive behavioural programmes - provide such programmes for convicted sex offenders and convicted domestic violence perpetrators and in the future will be providing a programme for other violent offenders;
- Working with the offender through partners to control drug and alcohol abuse;
- Additional monitoring with agencies such as the police and mental health services.

**When the risk increases to an unacceptable level action on those offenders who are subject to release on licence from prison action can be taken to ensure a rapid recall to prison followed in some cases by additional actions such as a proposal to the court for a lengthy public protection sentence.**

### **3. Identified Persons Posing a Risk to Children - the Procedure**

#### **Recognition**

Indicators of people who may pose a risk to children include:

- A Person Posing a Risk to Children; previously a Schedule 1 offender, (those found guilty of an offence under schedule 1 of the Children and Young Persons Act 1933) see Home Office Circular 16/2005 for its interim 'Guidance on Offences Against Children' at [Home Office website](#) or via [Knowledge Network website](#) that indicate that the new term reflects future risk as opposed to past convictions;
- Individuals known to have been cautioned / warned / reprimanded in relation to an offence against children;
- Individuals against whom there is a previous finding in civil proceedings e.g. Sex Offender Order or care proceedings;
- Those about whom there has been a previous [Section 47 Enquiry](#) which came to the conclusion that there had been abuse;
- An individual who has admitted past abuse of a child;
- Others whose past or present behaviour gives rise to a reason to suspect that a child may be suffering or likely to suffer significant harm e.g. a history of domestic violence and other serious assaults;
- Offenders against adults who are notified to the local authority, because the prison or probation services are concerned about the possible risk to children;

- Offenders who come to the attention of the MAPPA.

### **Response**

On notification or discovery of a person who may pose a risk to children Children's Services must treat this information as a child protection referral and instigate a Section 47 Enquiry:

- If the person is living in a household with children;
- Has contact with children; or
- Is suspected of posing a risk to children in the area.

Checks (including the prison service that may hold important information) must be undertaken to establish:

- Any children believed to have been abused by the individual in the past;
- Other children who are believed to have been in contact with the individual in the past and may therefore have been at risk;
- Children with whom the individual is currently in contact in a family or work / voluntary setting;
- Children (or groups of children) with whom the individual may seek contact, such as children attending a school located near the home of an individual known to target such children.

All assessments of risk must consider the:

- Needs of the children affected;
- Level and pattern of abusing or offending behaviour, including behaviour thought to have occurred, but which has not led to a criminal conviction;
- Level of protection which is likely to be provided by other significant adults;
- Ability of the children to protect themselves.

A child protection conference must be convened if the threshold criteria are met and if any child(ren) require continuing protection, therapeutic intervention or family support services.

### **Disclosure of Information by Local Authority**

This procedure applies when disclosure to third parties of an offender / suspected offender's previous history is being considered.

Subject to the conditions set out in [Information Sharing Protocol](#), the general presumption is that information should not normally be disclosed, except if one of the following applies:

- Consent from the suspected offender / alleged offender / offender;
- Statutory requirements or other duty;
- Duty to the public.

Legal advice should be sought where doubt exists as to the lawfulness of disclosure.

Absence of a conviction for child abuse in a criminal court does not prevent a local authority from informing parents or carers of the potential risk posed by someone who is honestly believed on reasonable grounds to have abused other children.

Generally the risk assessment for disclosure of information on convicted abusers will be led by the Police and Probation service (see MAPPA), but Children's Services may need to consider the risk also of those alleged abusers who:

- Have been charged with an offence and the outcome of their case is pending;
- Were not prosecuted because the required standard of proof did not allow for a criminal case to be pursued;
- Were not prosecuted but the case 'left on file';
- Were acquitted.

In view of the possibility of legal challenge by the individual concerned or a future victim, all agencies must, in addition to seeking any legal advice required maintain a written audit trail of events, actions, discussions, decisions and the reasons for them.

The Head of Child Protection / Children's Services Manager and legal department must be consulted regarding the possibility of disclosure and the decision taken by the service manager, in consultation with Police and Probation at a [Strategy Discussion/Meeting](#).

### **Risk Assessment**

Prior to any decision by Children's Services to disclose information, a risk assessment must be undertaken, in order to establish what risks the person poses to children in the prevailing circumstances and the risks associated with disclosure.

The risk assessment and management of alleged / suspected offenders will usually be through MAPPA. Children's Services has a particular role to play when an individual is setting up home with a new partner who has children.

The risk assessment must consider both enduring and changeable factors and take account of:

- Nature and pattern of previous offending;
- Compliance with previous sentences or court orders;
- Proximity of potential victims;
- Probability that a further offence will be committed;
- The harm such behaviour will cause;
- Any behaviour indicating likelihood that (s)he will re-offend;
- Any expert opinion e.g. psychiatric;
- Any other relevant information e.g. specific vulnerability of child(ren).

The risk assessment must also consider the following risks:

- Displacing or increasing offending;
- Pushing an offender 'underground';
- Potential consequences to the offender and her/his family;

- Potential consequences in the context of law and order;
- Any other operational considerations.

Where possible, the individual should be consulted to provide information to assist the risk assessment.

The individual should be given the opportunity to challenge the information on which the decision to disclose is being made, and the response considered as part of the risk assessment.

The Head of Child Protection / Children's Services Manager and legal department must be consulted regarding the possibility of disclosure and the decision taken by the service manager, in consultation with Police and Probation at a [Strategy Discussion/Meeting](#).

If the Police do not support any planned disclosure based on the potential risk to an identified child, further legal advice must be taken.

### **Disclosure Process**

Each decision to disclose must be justified on the likelihood of harm which non-disclosure might otherwise cause and the pressing need for such a disclosure.

Consideration must be given to other, less intrusive methods that might achieve any required objectives:

- If the offender is supervised by Probation, the use of its powers may assist or obviate the need for disclosure;
- Consent to disclosure should be sought from the individual in question (unless this increases the risk to any child);
- Consideration should be given to allowing the individual to make the disclosure themselves, which may be sufficient to achieve the objective e.g. promise to move to less provocative surroundings (unless this increases the risk to any child).

Where a decision to disclose is agreed, the risk management process must consider at a Strategy Meeting:

- Nature of the information to be disclosed;
- Extent of its distribution;
- Time scales;
- Who will disclose the information and how;
- Advice and guidance to be given to the recipients regarding the use they are to make of the information;
- Identification of a contact person identified to provide further advice and guidance to the recipient.

Following disclosure, the social worker, Police or probation officer must note:

- How seriously the child / carer took the information;
- The carer's ability and plans to protect the child;
- The carer's immediate plans for protection.

#### **4. List of Offences Which can be Used to Identify Those who Present a Risk, or Potential Risk, to Children**

Taken from Home Office Circular 16/2005

- Murder;
- Manslaughter;
- Infanticide;
- Kidnapping;
- False Imprisonment;
- Assault or battery;
- Indecent exposure - Section 4 Vagrancy Act 1824;
- Indecent exposure - Section 28 Town Police Clauses Act 1847;
- Conspiring or soliciting to commit murder - Section 4 Offences Against the Person Act 1861;
- Administering poison, or wounding, with intent to murder - Section 11 Offences Against the Person Act 1861;
- Threats to kill - Section 16 Offences Against the Person Act 1861;
- Wounding and causing grievous bodily harm: Wounding with Intent - Section 18 Offences Against the Person Act 1861;
- Wounding and causing grievous bodily harm: Inflicting bodily injury - Section 20 Offences Against the Person Act 1861;
- Maliciously administering poison - Section 23 Offences Against the Person Act 1861;
- Abandonment of children under two - Section 27 Offences Against the Person Act 1861;
- Assault occasioning actual bodily harm - Section 47 Offences Against the Person Act 1861;
- Child stealing - Section 56 Offences Against the Person Act 1861;
- Drunk in charge of a child under 7 years - Section 2 Licensing Act 1902;
- Cruelty to children - Section 1 Children and Young Persons Act 1933;
- Allowing persons under 16 to be in brothels - Section 3 Children and Young Persons Act 1933;
- Causing or allowing persons under 16 to be used for begging - Section 4 Children and Young Persons Act 1933;
- Give / cause to be given intoxicating liquor to a child under 5 years - Section 5 Children and Young Persons Act 1933;
- Exposing children under seven to risk of burning - Section 11 Children and Young Persons Act 1933;
- Prohibition against persons under 16 taking part in performances endangering life and limb - Section 23 Children and Young Persons Act 1933;
- Infanticide - Section 1 Infanticide Act 1938;
- Rape - Section 1 Sexual Offences Act 1956;
- Procurement of a woman by threats - Section 2 Sexual Offences Act 1956;
- Procurement of a woman by false pretences - Section 3 Sexual Offences Act 1956;
- Administering drugs to obtain or facilitate intercourse - Section 4 Sexual Offences Act 1956;
- Intercourse with a girl under 13 - Section 5 Sexual Offences Act 1956;
- Intercourse with a girl under 16 - Section 6 Sexual Offences Act 1956;
- Intercourse with defective - Section 7 Sexual Offences Act 1956;

- Procurement of defective - Section 9 Sexual Offences Act 1956;
- Incest by a man - Section 10 Sexual Offences Act 1956;
- Incest by a woman - Section 11 Sexual Offences Act 1956;
- Buggery where the victim is under 16\* - Section 12 Sexual Offences Act 1956;
- Indecency between men (gross indecency) - Section 13 Sexual Offences Act 1956;
- Indecent assault on a woman - Section 14 Sexual Offences Act 1956;
- Indecent assault on a man - Section 15 Sexual Offences Act 1956;
- Assault with intent to commit buggery - Section 16 Sexual Offences Act 1956;
- Abduction of a woman by force or for the sake of her property - Section 17 Sexual Offences Act 1956;
- Abduction of unmarried girl under 18 from parent or guardian - Section 19 Sexual Offences Act 1956;
- Abduction of unmarried girl under 16 from parent or guardian - Section 20 Sexual Offences Act 1956;
- Abduction of defective from parent or guardian Section 21 Sexual Offences Act 1956;
- Causing prostitution of women - Section 22 Sexual Offences Act 1956;
- Procuration of girl under 21 - Section 23 Sexual Offences Act 1956;
- Detention of a woman in a brothel or other premises - Section 24 Sexual Offences Act 1956;
- Permitting a girl under 13 to use premises for intercourse - Section 25 Sexual Offences Act 1956;
- Permitting a girl between 13 and 16 to use premises for intercourse - Section 26 Sexual Offences Act 1956;
- Permitting defective to use premises for intercourse - Section 27 Sexual Offences Act 1956;
- Causing or encouraging prostitution of, or intercourse with, or indecent assault on, girl under 16 - Section 28 Sexual Offences Act 1956;
- Causing or encouraging prostitution of defective - Section 29 Sexual Offences Act 1956;
- Man living on earnings of prostitution - Section 30 Sexual Offences Act 1956;
- Women exercising control over prostitute - Section 31 Sexual Offences Act 1956;
- Sexual intercourse with patients - Section 128 Mental Health Act 1959;
- Indecent conduct towards young child - Section 1 Indecency with Children Act 1960;
- Aiding, abetting, counselling or procuring the suicide of a child or young person - Section 2 Suicide Act 1961;
- Procuring others to commit homosexual acts (by procuring a child to commit an act of buggery with any person, or procuring any person to commit an act of buggery with a child) - Section 4 Sexual Offences Act 1967;
- Living on earnings of male prostitution - Section 5 Sexual Offences Act 1967;
- Burglary (by entering a building or part of a building with intent to rape a child) - Section 9 Theft Act 1968;
- Supplying or offering to supply a Class A drug to a child, being concerned in the supplying of such a drug to a child, or being concerned in the making to a child of an offer to supply such a drug - Section 4 Misuse of Drugs Act 1971;
- Inciting girl under 16 to have incestuous sexual intercourse - Section 54 Criminal Law Act 1977;
- Indecent photographs of children - Section 1 Protection of Children Act 1978;

- Offence of abduction of a child by parent - Section 1 Child Abduction Act 1984;
- Offence of abduction of child by other persons - Section 2 Child Abduction Act 1984;
- Possession of indecent photographs of children - Section 160 Criminal Justice Act 1988;
- Abduction of Child in Care/ Police Protection - take away/induce away/assist to run away/keep away - Section 49 Children Act 1989;
- Recovery of missing or unlawfully held children - Section 50 Children Act 1989;
- Abuse of Trust - Section 3 Sexual Offences (Amendment) Act 2000;
- Traffic in prostitution - Section 145 Nationality, Immigration and Asylum Act 2002;
- Rape - Section 1 Sexual Offences Act 2003;
- Assault by penetration - Section 2 Sexual Offences Act 2003;
- Sexual assault - Section 3 Sexual Offences Act 2003;
- Causing a person to engage in sexual activity without consent - Section 4 Sexual Offences Act 2003;
- Rape of a child under 13 - Section 5 Sexual Offences Act 2003;
- Assault of a child under 13 by penetration - Section 6 Sexual Offences Act 2003;
- Sexual assault of a child under 13 - Section 7 Sexual Offences Act 2003;
- Causing or inciting a child under 13 to engage in sexual activity - Section 8 Sexual Offences Act 2003;
- Sexual Activity with a Child - Section 9 Sexual Offences Act 2003;
- Causing or inciting a child to engage in sexual activity - Section 10 Sexual Offences Act 2003;
- Engaging in sexual activity in the presence of a child - Section 11 Sexual Offences Act 2003;
- Causing a child to watch a sexual act - Section 12 Sexual Offences Act 2003;
- Child sex offences committed by a children or young persons - Section 13 Sexual Offences Act 2003;
- Arranging or facilitating commission of a child sex offence - Section 14 Sexual Offences Act 2003;
- Meeting a child following sexual grooming etc. - Section 15 Sexual Offences Act 2003;
- Abuse of position of trust: sexual activity with a child - Section 16 Sexual Offences Act 2003;
- Abuse of position of trust: causing or inciting a child to engage in sexual activity - Section 17 Sexual Offences Act 2003;
- Abuse of position of trust: sexual activity in the presence of a child - Section 18 Sexual Offences Act 2003;
- Abuse of position of trust: causing a child to watch a sexual act - Section 19 Sexual Offences Act 2003;
- Sexual activity with a child family member - Section 25 Sexual Offences Act 2003;
- Inciting a child family member to engage in sexual activity - Section 26 Sexual Offences Act 2003;
- Sexual activity with a person with a mental disorder impeding choice - Section 30 Sexual Offences Act 2003;
- Causing or inciting a person, with a mental disorder impeding choice, to engage in sexual activity - Section 31 Sexual Offences Act 2003;
- Engaging in sexual activity in the presence of a person with a mental disorder impeding choice - Section 32 Sexual Offences Act 2003;

- Causing a person, with a mental disorder impeding choice, to watch a sexual act - Section 33 Sexual Offences Act 2003;
- Inducement, threat or deception to procure sexual activity with a person with a mental disorder - Section 34 Sexual Offences Act 2003;
- Causing a person with a mental disorder to engage in or agree to engage in sexual activity by inducement, threat or deception - Section 35 Sexual Offences Act 2003;
- Engaging in sexual activity in the presence, procured by inducement, threat or deception, of a person with a mental disorder - Section 36 Sexual Offences Act 2003;
- Causing a person with a mental disorder to watch a sexual act by inducement, threat or deception - Section 37 Sexual Offences Act 2003;
- Care workers: sexual activity with a person with a mental disorder - Section 38 Sexual Offences Act 2003;
- Care workers: causing or inciting sexual activity - Section 39 Sexual Offences Act 2003;
- Care workers: sexual activity in the presence of a person with a mental disorder - Section 40 Sexual Offences Act 2003;
- Care workers: causing a person with a mental disorder to watch a sexual act - Section 41 Sexual Offences Act 2003;
- Paying for the sexual services of a child - Section 47 Sexual Offences Act 2003;
- Causing or inciting child prostitution or pornography - Section 48 Sexual Offences Act 2003;
- Controlling a child prostitute or a child involved in pornography - Section 49 Sexual Offences Act 2003;
- Arranging or facilitating child prostitution or pornography - Section 50 Sexual Offences Act 2003;
- Causing or inciting prostitution for gain - Section 52 Sexual Offences Act 2003;
- Controlling prostitution for gain - Section 53 Sexual Offences Act 2003;
- Trafficking into the UK for sexual exploitation - Section 57 Sexual Offences Act 2003;
- Trafficking within the UK for sexual exploitation - Section 58 Sexual Offences Act 2003;
- Trafficking out of the UK for sexual exploitation - Section 59 Sexual Offences Act 2003;
- Administering a substance with intent - Section 61 Sexual Offences Act 2003;
- Committing an offence with intent to commit a sexual offence (in a case where the intended offence was an offence against Section 62 Sexual Offences Act 2003);
- Trespass with intent to commit a sexual offence (in a case where the intended offence was an offence against a child) - Section 63 Sexual Offences Act 2003;
- Exposure - Section 66 Sexual Offences Act 2003;
- Voyeurism - Section 67 Sexual Offences Act 2003;
- Trafficking people for exploitation - Section 4 Asylum and Immigration (Treatment of Claimants, etc.) 2004;
- Causing or allowing the death of a child or vulnerable adult - Section 5 Domestic Violence, Crime and Victims Act 2004.

**A reference to an offence in this list includes:**

A reference to an attempt, conspiracy or incitement to commit that offence, and a reference to aiding, abetting, counselling or procuring the commission of that offence.

Unless stated otherwise, the victim of the offences listed above will be under 18.

Cautions for the offences listed above will apply.