

Business and Regulatory Impact Assessment

Title of Proposal

Extension of the Multi-Agency Public Protection Arrangements (MAPPA) to offenders posing a risk of serious harm through full commencement of Sections 10(1)(e), 10(2)(b), and issuing of guidance under Section 10(6) of the Management of Offenders etc. (Scotland) Act 2005

Purpose and intended effect

• Background

Multi-Agency Public Protection Arrangements (MAPPA) were established under section 10 of the Management of Offenders etc. (Scotland) Act 2005¹ (the 2005 Act) to jointly establish arrangements to assess and manage the risk posed by certain categories of offender. The purpose of MAPPA is the reduction of serious harm by ensuring agencies apply resources proportionately to manage the level of risk posed by certain offenders to the public.

MAPPA arrangements place a duty to cooperate on the responsible authorities, defined as the Police, Local Authorities, Health Boards and Scottish Prison Service (acting for the Scottish Ministers), and duty to cooperate agencies including Registered Social landlords, and the Principal Reporter, to share information for the purpose of more effectively managing the risks posed by certain categories of offender. MAPPA is therefore not a statutory body in itself but a framework through which agencies can better discharge their statutory responsibilities and protect the public in a coordinated manner.

A risk of serious harm is considered by the Risk Management Authority as a risk of harmful behaviour which is life threatening and/or traumatic, and from which the victim's recovery, whether physical or psychological, can be expected to be difficult or impossible.² This definition includes sexual or violent behaviour such as murder or serious assault, rape, sexual offences against children, kidnapping and also other harmful behaviour beyond personal violence. In terms of a risk of serious harm the likelihood of such occurring is just as important as the fact that the individual in question has caused serious harm in the past. That is to say, it must be considered that the potential exists to inflict such harm in the future.

Registered sex offenders have been included in MAPPA since 2007³ and mentally disordered restricted patients since 2009⁴, however legislative provisions relating to offenders who are convicted on indictment of a crime inferring personal violence and those who are considered to pose a risk of serious harm by reason of their conviction have not yet been commenced.

In order to extend MAPPA further, the Scottish Government considered that appropriate assessment tools should be developed to allow for the assessment of

¹ <http://www.legislation.gov.uk/asp/2005/14/section/10>

² http://www.rmascotland.gov.uk/files/9213/6213/1511/Standards_and_Guidelines_for_risk_assessment.pdf

³ <http://www.legislation.gov.uk/ssi/2006/545/contents/made>

⁴ http://www.legislation.gov.uk/ssi/2009/240/pdfs/ssi_20090240_en.pdf

violent risk before MAPPA should be extended to these groups. In addition, the Scottish Government also considered that MAPPA should not be further extended until multi-agency risk management practice had become more effectively embedded in agencies' approach to offender management.

This phased approach to extend MAPPA reflects the recommendations of the 2009 joint report⁵ by the Social Work Inspection Agency, HM Inspectorate of Constabulary in Scotland, and HM Inspectorate of Prisons that the priority in relation to such offenders was to build up the capacity of individual agencies to manage risk more effectively and consistently. The report also noted concerns that the extension of MAPPA to violent offenders generally (as opposed to the approach proposed here to focus application to those offenders considered by the responsible authorities to pose a risk of *serious harm*) could create resource and capacity issues.

A risk-based approach to the management of offenders is now well established in Scotland, supported by the work of the Risk Management Authority in the development of the national Framework for Risk Assessment, Management and Evaluation (FRAME)⁶ and the rollout of the Level of Service/Case Management Inventory (LS/CMI) risk assessment and case management tool. In addition, the experience gained by the responsible authorities in managing registered sex offenders and restricted patients has ensured that a multi-agency approach to risk is now firmly embedded within offender management practice in Scotland.

In addition, the responsible authorities in many areas across Scotland are already understood to operate some form of non-legislative arrangements to jointly manage high-risk offenders, however, these are informal and vary in composition and application.

Objective

The Scottish Government is clear that communities and people can only flourish and reach their full potential when they are protected and they feel safe. The purpose of this policy is to support this objective by extending active multi-agency management under MAPPA to include certain high risk offenders who are considered to pose a risk of serious harm, thereby enhancing protection of the public.

This will be achieved by extending the existing duty to cooperate applied to the responsible authorities in respect of an additional group of offenders, namely those who are managed in the community and considered by them to pose a risk of serious harm which requires active multi-agency management.

This will be achieved by passage of a commencement order which will fully commence sections 10(1)(e) and 10(2)(b) of the 2005 Act, which applies the duty to cooperate on the responsible authorities in respect of any person who:

"has been convicted of an offence if, by reason of that conviction, the person is considered by the responsible authorities to be a person who may cause serious harm to the public at large" (for the purposes of this provision, section 10(2)(b)

⁵ <http://www.scotland.gov.uk/Resource/Doc/275852/0082871.pdf>

⁶ http://www.rmascotland.gov.uk/files/5713/0943/0052/FRAME_Policy_Paper_-_July_2011.pdf

makes it immaterial where the offence was committed).

An order will also make provision for an amendment to the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007 to ensure that those providing services to the responsible authorities share information with them in the assessment and management of relevant offenders under section 10(1)(e) of the 2005 Act.

In addition to legislation, the MAPPA extension will be achieved by the issuing of revised guidance under section 10(6) of the 2005 Act. It is this guidance that details the MAPPA process. This revised guidance will aim to ensure focused application to those offenders posing a risk of serious harm, are subject to supervision by criminal justice social work (CJSW) in the community, and are assessed by the responsible authorities as requiring active multi-agency management to more effectively manage the risk they pose. This supports a core principle of MAPPA to ensure a defensible approach which considers specific evidence of individual risk, and then ensures resources are applied proportionately to manage this risk.

- **Rationale for Government intervention**

The Framework for Risk Assessment and Management (FRAME) highlights the importance of a consistent, evidence based approach to the management of risk. There is broad stakeholder agreement that informal joint-management arrangements for high risk offenders lack consistency in application and scope. This can therefore lead to variations in practice and effectiveness.

The sharing of information held by agencies to better inform the consideration of the risk, and the management of such risk, is therefore an expression of common sense. A statutory approach to the multi-agency management of such offenders will enhance existing inter-agency cooperation, and aim to reduce serious reoffending by ensuring that the established MAPPA approach is applied consistently to high risk offenders across Scotland. This will be supported by guidance which will help agencies deliver a defensible, evidenced-based approach to the multi-agency management of high-risk offenders.

The MAPPA process is now firmly embedded across Scotland. In recognition of the effectiveness of MAPPA in the management of the risks posed by registered sex offenders and restricted patients, the Scottish Government believes that the responsible authorities should have the ability to extend formal multi-agency management to offenders subject to statutory supervision where they have assessed that a risk of serious harm to the public exists. This will ensure that agencies can focus resources where they are needed the most, and demonstrates the Scottish Government's commitment to reduce reoffending by focusing on prevention.

In order to assist agencies to make effective, evidence-based determinations regarding an offenders risk – and therefore their need for multi-agency management, the Scottish Government has provided £159,000 funding to the Risk Management Authority and £35,000 to Police Scotland to provide additional training to Criminal Justice Social Work practitioners, Police offender managers, MAPPA chairs, and coordinators over 2015-17. This training will help ensure a robust process is

followed in considering offenders for MAPPA entry under the new provision, while also improving the quality and consistency of risk management for all offenders managed in the community.

The enhancement of public protection arrangements contributes to the Scottish Government's strategic commitments to ensure our public services are high quality, continually improving, efficient and responsive to local people's needs, which will help keep people safe from crime, disorder and danger. This forms an important part of its purpose to focus Government and public services on creating a more successful country, with opportunities for all of Scotland to flourish, through sustainable economic growth.

Consultation

- **Within Government**

In addition to the Responsible Authorities, engagement has taken place over 2013-15 across the Scottish Government, with discussions to inform policy options and to develop of an approach to extend MAPPA. This has included contributions from colleagues across justice and community safety policy including criminal law, prisons, equalities, mental health, adult and child protection, youth justice, counter-terrorism, serious organised crime, parole and better regulation. Justice analytical specialists also contributed valuable research to help assess the effect of options considered.

Alongside expert advice from the Risk Management Authority, NHS Forensic Network and Violence Reduction Unit, engagement helped ensure the approach to extend MAPPA focused on those posing the greatest risk to the public.

Officials have also learned from approaches taken in other jurisdictions by considering research, advice and the experiences of colleagues in the UK Ministry of Justice, Home Office, Probation Service and the Northern Ireland Executive.

- **Public Consultation**

The then Scottish Executive's consultation on reoffending which led to the 2005 Act, *Reduce, Rehabilitate and Reform – A Consultation on Reducing Reoffending in Scotland*,⁷ ran from 2 March – 25 May 2004. This sought responses from stakeholder organisations and the general public on the criminal justice system and how this could be improved, so that offenders are managed more effectively in both prison and the community so that their likelihood of reoffending is minimised.

An analysis of responses⁸ was published on 18 October 2004. This revealed a consensus among those with experience of the criminal justice system around a number of weaknesses in the management of offenders likely to contribute to high rates of reoffending. These included a lack of communication and integration between those delivering criminal justice, and inconsistency in provision across

⁷ <http://www.scotland.gov.uk/Publications/2004/03/19026/34013>

⁸ <http://www.scotland.gov.uk/Publications/2004/10/20034/44428>

Scotland.

In response the then Scottish Executive introduced the Management of Offenders etc (Scotland) Bill, which aimed to address these issues. In terms of the management of high-risk offenders this included the aim to:

“give the police, local authorities and the Scottish Ministers (through the Scottish Prison Service) a statutory function to establish joint arrangements for assessing and managing the risk posed by serious and sex offenders, including the sharing of information.”⁹

Phased commencement, reflecting the maturity of multi-agency risk assessment and management practice, has then since taken place to include certain groups of high-risk offenders beginning with registered sex offenders in 2007 and restricted mentally disordered restricted patients in 2009.

- **Business**

As the 2005 Act places a duty to cooperate on the responsible authorities, engagement with these agencies was of critical importance in developing options and a process of implementing an extension to the multi-agency public protection arrangements.

In February 2014 an advisory group, comprising the responsible authorities (including Police Service of Scotland, Scottish Prison Service and Social Work Scotland) was established under a remit to advise the Scottish Government on options to extend the MAPPAs to those offenders posing a risk of serious harm, and to support planning for future implementation. The Risk Management Authority, MAPPAs coordinators and the NHS Forensic Network/NHS Lothian Serious Offender Liaison Service were also represented on this group. Its deliberations were supported by the work of Scottish Government analysts.

Regular meetings of the advisory group took place over 2014 and early 2015 to discuss how, once the relevant legislative provision had been commenced, the MAPPAs extension could be applied through guidance to ensure that application was focused proportionately to those posing a risk of serious harm to the public.

Meetings also sought to help the responsible authorities in considering what preparations could be required to ensure that practitioners would be ready to apply the new MAPPAs category, and to help them plan for its future implementation. Similar discussions also took place with local area MAPPAs strategic oversight group chairs in the MAPPAs National Strategy Group and with MAPPAs Coordinators.

A number of individual face to face meetings were also held with MAPPAs partners from across Scotland, in particular members of local MAPPAs Strategic Oversight Groups comprising criminal justice social work managers, MAPPAs coordinators and local Police representatives. Meetings also took place over the engagement period

⁹[http://www.scottish.parliament.uk/S2/Bills/Management%20of%20Offenders%20etc.%20\(Scotland\)%20Bill/b39s2-introd-en.pdf](http://www.scottish.parliament.uk/S2/Bills/Management%20of%20Offenders%20etc.%20(Scotland)%20Bill/b39s2-introd-en.pdf)

with the national Violence Reduction Unit, COSLA, the Care Inspectorate, Her Majesty's Inspectorate of Constabulary in Scotland, Strathclyde University Centre for Youth Justice and members of the NHS Scotland Forensic Network.

Options

- **Option 1: Status Quo**

A number of non-statutory arrangements are already in place across Scotland to address the risk posed by offenders that are not formally subject to multi-agency risk management under the 2005 Act. Data supplied by Police Scotland estimated that some 100 or so offenders across the country were being managed through one of these local processes, the creation of which predated the reform of Scotland's police into a single force in April 2013.

These arrangements vary in approach and operation. The then Scottish Executive's 2004 consultation noted consensus amongst those with experience of the criminal justice system that a lack of consistency in how offender services were delivered across Scotland was likely to contribute to high rates of reoffending. The experience of MAPPA's operation for sex offenders since 2007 has suggested that a consistent approach to multi-agency management is effective in tackling risk of serious harm to the public.

In addition, the inclusion of provisions for additional high risk offenders in the 2005 Act means that an option which maintains the current informal approach to multi-agency management is undesirable in the long-term.

- **Option 2: Commencement of Section 10(1)(e) of the 2005 Act**

The extension of MAPPA by commencement of section 10(1)(e) of the 2005 Act, supported by guidance, provides a mechanism to include those offenders managed by the responsible authorities who pose a significant risk of **serious harm** by reason of their conviction, and who are assessed as requiring active multi-agency management.

Such an approach is considered to represent a focused application of available resources to those posing the greatest risk, where the responsible authorities consider that evidence indicates that multi-agency management is a necessary and proportionate allocation of their resources to protect the public from serious harm.

In developing this option consideration was also given to commencement of section 10(1)(b) of the 2005 Act, which would include within MAPPA offenders who are convicted on indictment of a crime inferring personal violence and are subject to statutory supervision.

Based on criminal proceedings statistics, some 1650 offenders were estimated to be subject to MAPPA in the community at any one time if section 10(1)(b) were commenced. Early discussions with key stakeholders and offender management practitioners highlighted that such a provision would capture offenders irrespective of the individual level of risk they posed.

Although MAPPA ensures proportionality in applying multi-agency management, considerable numbers of single-agency managed cases could enter arrangements under section 10(1)(b), which could create a cumulative burden on the administration of MAPPA and reduce the effectiveness of arrangements to manage existing high-risk offenders. Discussions with the UK Ministry of Justice National Offender Management Service confirmed that the vast majority of violent offenders included in MAPPA in England and Wales by means of a similarly focused legislative definition were lower risk and managed by a single agency.

In contrast the option presented to extend MAPPA by commencement of section 10(1)(e) of the 2005 Act provides a focused mechanism to ensure that resource follows risk, by allowing for the inclusion only of those offenders who pose a risk of serious harm, and who are assessed as requiring active multi-agency management by the responsible authorities.

Sectors and groups affected

The main organisations affected by each option are the Responsible Authorities (Local Authorities - specifically Criminal Justice Social Work departments, Police, and Scottish Prison Service in particular) as these are the focus of the relevant sections of the 2005 Act. It is not considered that there will be a significant impact on the other duty to cooperate agencies (Registered Social landlords and the Principal Reporter), to share information as this will already be considered, where appropriate, for these offenders by reason of their supervision in the community under statutory supervision.

Funding is provided to Local Authorities via Community Justice Authorities by the Scottish Government through section 27A of the Social Work (Scotland) Act 1968 to deliver criminal justice social work services, including assessment and management of offenders subject to statutory supervision. As part of this funding in 2014-15 £1.47 million was provided to fund the employment of 11 MAPPA coordinators, administrative support staff and the inputting of data by Criminal Justice Social Work staff to the multi-agency Violent and Sex Offender Register (ViSOR). This funding was base-lined and rolled forward into 2015-16.

Notwithstanding that MAPPA is a process that aims to ensure resources follow risk in a proportionate manner, statistics suggest a clear reduction year on year of the number of offenders subject to active multi-agency management within MAPPA since its introduction in 2007, whereas the level of resourcing has remained comparatively constant.

Whilst the extension of MAPPA does not aim to create direct savings in expenditure, it will aim to more effectively manage the proportionate application of resources to reduce the risk of serious harm to the public. The standardisation of an evidence-based approach to manage the risk presented by those offenders posing a risk of serious harm will also support greater efficiency, closer integration and help achieve consistency in delivery of services across the country.

More effective management will have an expected positive impact on the reoffending

rate of those made subject to multi-agency management. This approach will focus the application of resources on prevention, and savings may then be realised by a reduction in the cost to agencies incurred by providing services aimed at those who go on to reoffend. These savings can then be reinvested by agencies to further improve services.

There will be a limited requirement by the responsible authorities to invest time in ensuring practitioners are familiar with the updated MAPPA guidance. This is expected to be minimal as the process of managing an offender within the new MAPPA category reflects the current process for sex offenders, and the offenders entering arrangements will already be subject to a formal risk-management approach in the community under statutory supervision.

To support this process and improve risk practice, and in particular the identification, assessment and management of risk of serious harm, comprehensive training for practitioners has been developed by the Risk Management Authority, the delivery of which will strengthen practice for all high risk offenders managed in the community. This supports core social work practice as well as the standardised MAPPA risk management planning process introduced in 2014 which is consistent with the procedures and processes already used to manage high-risk offenders subject to statutory criminal justice social work supervision.

The Scottish Government has allocated £159,000 over two years to fund delivery of this training to CJSW staff, MAPPA chairs and coordinators. In addition, the Scottish Government has also provided £35,000 to Police Scotland to support the development of a bespoke version of this training for Police Offender Managers. Rollout of this training is being provided in two phases, the first which is focused on a core cohort of CJSW staff, identified in collaboration with Social Work Scotland and local Training and Development Officers. Training will also focus on MAPPA coordinators, chairs and Police offender managers and this phase is expected to be completed in late March 2016. Subsequent training over 2016-17 will continue rollout of the course to additional CJSW staff and will consider future provision of training, taking into account the proposed redesign of the model for community justice.

As detailed previously the key consideration in applying MAPPA is to ensure that resources are allocated proportionately to follow the level of risk posed by a particular offender, and that active multi-agency management is only applied where the responsible authorities consider that evidence suggests this is required to protect the public. It is therefore a matter for individual MAPPA areas to consider appropriate thresholds in allocating resources to active multi-agency management.

Any allocation of resources in implementing and applying the MAPPA extension locally will however be offset by expected savings realised by reducing reoffending. It is also expected that as the new provisions become embedded in local practice this will create further indirect savings as a result of agencies improving their joint working arrangements.

The approach of giving the responsible authorities the decision to apply MAPPA to additional offenders if they consider this as proportionate has received the broad

support of stakeholders including the Scottish Prison Service, Police Scotland, Risk Management Authority, Social Work Scotland, COSLA and Violence Reduction Unit. The approach proposed reflects feedback from the responsible authorities and others which has been critical in developing clear guidance to help ensure that the new category is applied proportionately and effectively.

In addition to the general resourcing considerations above, for each option detailed the following specific benefits and costs are identified:

- **Option 1: Status Quo**

Under the status quo option, offenders posing a risk of serious harm and subject to statutory supervision will continue to be single-agency managed by local authority criminal justice social work as a result of their licence conditions or an order to which they are subject. Any local multi-agency management could then take place through existing informal, non-legislative processes where this is considered necessary.

This approach would continue the current application of resources towards informal multi-agency arrangements that lack consistency across the country.

Benefits

There are no significant benefits identified with the maintenance of the status quo.

Costs

The maintenance of the current informal approach to multi-agency management would continue the inconstant approach taken to address the risk of serious harm posed by certain high-risk offenders. The lack of integration in approach currently fails to coordinate approaches to multi-agency offender management which could realise savings over time through the application of the proven MAPPA process, resulting in an expected reduction in serious offending. This option also does nothing to address the significant economic and social costs serious reoffending represents to Scotland's communities, including the increased costs to the agencies who must manage the consequences of such acts.

- **Option 2: Commencement of Section 10(1)(e) of the 2005 Act**

The commencement of section 10(1)(e) grants the responsible authorities the ability to formally multi-agency manage offenders posing a risk of serious harm within the MAPPA, if they assess such offenders as requiring active multi-agency management. Identification would be as a result of a responsible authority considering that evidence exists which suggests a risk of serious harm, and that this justifies multi-agency management as a proportionate application of resources to manage this risk.

Benefits

The approach allows the responsible authorities to bring into the arrangements only those offenders who are being managed under supervision and who are assessed

as posing a risk of serious harm. This allows the responsible authorities to focus application of resources on prevention in proportion to the level of risk posed.

Costs

There will be a requirement by the responsible authorities to ensure practitioners are familiar with the updated MAPPA guidance, however the impact in terms of resources is expected to be minimal as the process of applying MAPPA for those included under section 10(1)(e) of the 2005 Act does not vary significantly from the current arrangements for sex offenders. In addition, resources are already being expended on offenders who are considered to pose a risk of serious harm by virtue of their statutory supervision and, potentially, their inclusion in an informal local multi-agency management process.

In consideration of section 10(1)(e) and the underpinning MAPPA guidance developed to support its application, scoping was undertaken to identify a possible cohort of offenders which could be considered as requiring entry to MAPPA under section 10(1)(e) of the 2005 Act. This included consideration of Criminal Proceedings Database statistics with input from the advisory group on the number of offenders which could require consideration from the new category.

This suggested that a potential number of 460 offenders nationally which could be subject to MAPPA under the scoped definition at any one time. MAPPA guidance is clear however that risk assessment must be specific to the individual and based on factors which evidence shows are linked to a risk of reoffending and serious harm, as a consequence it is not possible to determine how many of these offenders would be individually assessed as requiring management under the extended MAPPA arrangements. Data from Police Scotland in 2013 suggested that there were some 100 offenders managed across Scotland through a local multi-agency process, so this number may give a limited indication of the proportion of scoped high-risk offenders who could enter arrangements. A lower estimate is supported by recent data from the Risk Management Authority which considered the number of risk assessed offenders managed in the community over 2011-15. This suggested that, at any one time, some 100 or so additional offenders could meet the definition of posing a risk of serious harm, of which some of this number could be considered for entry to MAPPA.

The responsible authorities in some areas may consider that there is a need to increase the length or number of MAPPA management meetings to help manage the critical few high-risk offenders brought into the process. Again this would be part of the responsible authorities consideration of proportionality in applying resources to multi-agency manage risk, and these offenders could already be subject to an informal local multi-agency process where the responsible authorities are already applying resources to manage them.

As detailed above the Scottish Government has allocated £194,000 over two years to fund Risk of Serious Harm training to CJSW staff, MAPPA chairs, coordinators, and Police Offender Managers to support the effective identification and management of offenders who pose a risk of serious harm.

Any limited costs incurred in the short term are therefore expected to be minimal, and represent a potential saving compared to the cost of maintaining the current informal, inconstant approach to the management of certain high-risk offenders across the country.

Scottish Firms Impact Test

Focused engagement initially took place over 2013 with key stakeholders including Police Scotland, Risk Management Authority, Scottish Prison Service, Violence Reduction Unit, MAPPA coordinators and representatives of a number of MAPPA areas across Scotland. This aimed to better understand the current operation of MAPPA and non-legislative processes that were in place to multi-agency manage high risk offenders that were not subject to the sex offender notification requirements.

Stakeholders highlighted that a process which identified offenders based solely on a ridged, sentence-based definition of personal violence could exclude other types of offenders which none the less posed a risk of serious harm. Although varying in operation, the non-legislative multi-agency processes in operation around Scotland identified by Police Scotland all share an element of professional consideration of risk and proportionality in deciding to include an offender in informal multi-agency management arrangements.

These discussions suggested that an offence and risk-based approach to extending MAPPA to additional offenders would represent a focused application of resources, as this would be based on evidence and professional assessment.

Over 2014 and early 2015 the MAPPA extension advisory group provided the main forum for engagement with stakeholders. This group was asked to consider options to extend MAPPA and to contribute views as to how application could be focused through guidance to those offenders posing a risk of serious harm to the public.

These discussions confirmed that a targeted application of MAPPA was the desirable approach and helped produce the guidance criteria aimed to focused application to those offenders who, by posing a risk of serious harm by reason of their conviction under section 10(1)(e), should also be subject to statutory supervision and pose a risk of serious harm that is assessed as requiring active multi-agency management.

The MAPPA extension advisory group also discussed the likely practicalities of implementing the new MAPPA category in each of the responsible authorities, and a further stakeholder implementation group will continue to do so following commencement of the relevant legislation.

Discussions also suggested a need for additional training for CJSW and Police staff to identify and manage risk of serious harm. Training developed by the Risk Management Authority is therefore being funded by the Scottish Government totalling £194,000 over 2015-17.

In addition, discussions also highlighted the need for improved information sharing practice between the responsible authorities, therefore a number of work-streams

are being progressed by the Scottish Government and the responsible authorities to improve access to the Violent and Sex Offender Register (ViSOR) in respect of all offenders subject to MAPPA. This includes a review of the physical security arrangements of the IT system to improve access, exploring options for future connectivity with existing local authority IT systems and updated data standards for ViSOR users in Scotland.

Competition Assessment

Using the Competition & Markets Authority Competition Filter questions we have concluded that the proposals will neither directly or indirectly limit the number or range of suppliers, limit the ability of suppliers to compete or reduce suppliers' incentives to compete vigorously.

Test run of business forms

The development of MAPPA to extend multi-agency management to additional groups of offenders will not introduce new forms for businesses. Any changes to the existing MAPPA document set used by partner agencies will be developed in consultation with them and, in particular, with practitioners.

Legal Aid Impact Test

The Scottish Government considers that this policy will have a negligible impact on the Legal Aid Fund.

Enforcement, sanctions and monitoring

The on-going operation of the MAPPA guidance and legislative provisions to protect the public from offenders posing a risk of serious harm are the responsibility of the Scottish Government. As a result implementation of the new MAPPA category and the effectiveness of guidance will be kept under review by the Scottish Government through a stakeholder implementation and development group.

This will include representatives of the responsible authorities and others and will continue to meet following the legislative provisions entering into force to provide a forum for feedback, identification and sharing of best practice, and discussion of future improvements which could be made to the extension category. Feedback will also be sought from responsible authorities through the quarterly MAPPA National Strategy Group (NSG) and from meetings of the MAPPA Coordinators.

Statistical trends will also continue to be monitored by the Scottish Government through monthly data supplied by Police Scotland from the Violent and Sex Offender Database (ViSOR).

Implementation and delivery plan

Implementation will take place through commencement of section 10(1)(e) and section 10(2)(b) of the Management of Offenders etc (Scotland) Act, and amendment to the Management of Offenders etc. (Scotland) Act 2005 (Specification

of Persons) Order 2007 as detailed above. These orders stipulate that the stated provisions will enter into force on 31 March 2016.

Updated MAPPA guidance issued under section 10(6) of the 2005 Act reflecting the contributions and feedback from stakeholders regarding how the responsible authorities should apply the new arrangements will also be finalised and shared with the responsible authorities prior to the new provisions coming into force on 31 March 2016.

A series of engagements will also take place with the responsible authorities around Scotland to explain the new provision and draft guidance, answer queries and provide help and support to practitioners in familiarising themselves with the new MAPPA offender category.

- **Post-implementation review**

The forums detailed above will provide feedback and help to identify any issues, areas for improvement and provide on-going advice and support to practitioners.

Consideration will also be given to the commissioning of research and analysis to assess the effectiveness of MAPPA in reducing the risk posed by offenders managed under the new provisions.

This information and feedback will contribute to the on-going development of the MAPPA guidance. Future review of the criteria used to apply the MAPPA extension category will consider how it has been implemented and if revision is necessary to ensure that it effectively focuses resources on the highest risk offenders.

Summary and recommendation

• Summary costs and benefits table

| Option | Total benefit per annum: - economic, environmental, social | Total cost per annum: - economic, environmental, social - policy and administrative |
|--------|---|--|
| 1 | <p>Status Quo – limited short-term benefit in that agencies do not require to familiarise themselves with a new MAPPA category. Informal inter-agency risk management processes could continue to provide for management of some high-risk offenders locally.</p> | <p>Negative economic impact as informal inter-agency risk management processes operate inconsistently across Scotland, suggesting a negative impact on reoffending and potential for serious harm to be less effectively managed. Results in potential negative economic and social impact on communities caused by serious reoffending, and on public agencies charged with management of offenders.</p> |
| 2 | <p>Commencement of section 10(1)(e) of the 2005 Act – those offenders who are considered to pose a risk of serious harm by reason of their conviction, are subject to statutory supervision and require active multi-agency management are included in MAPPA.</p> <p>This ensures that only those offenders who are considered by the responsible authorities themselves as posing the highest risk of serious harm – and thereby considered to warrant the proportionate application of resources to provide multi-agency management - are brought into MAPPA.</p> <p>This option ensures that resources already being expended on informal multi-agency management will be focused more effectively by the consistent approach provided by MAPPA. This option therefore builds on MAPPA’s existing principle of proportionality, by providing a targeted extension of MAPPA to the most serious offenders.</p> <p>This would bring an expected reduction in serious reoffending in time as agencies more effectively share information and cooperate to more effectively manage the risk posed by the most serious high-risk offenders managed under statutory supervision.</p> | <p>Where there may be some limited investment by partner agencies in terms of time to ensure practitioners are aware of the new MAPPA provision, this will provide the responsible authorities with the ability to apply MAPPA where there is an evidenced need. This aims to create savings in the long-term by the effective targeting of multi-agency resources.</p> <p>This option is considered to create less of an impact in terms of cost than potential commencement of section 10(1)(b) of the 2005 Act, as experience of the operation of the similar MAPPA for violence arrangements in England and Wales suggests many additional low-risk offenders could be brought into arrangements who would then not be subject to active multi-agency management.</p> <p>The commencement of section 10(1)(e) however would create an expected reduction in serious reoffending by the most serious offenders managed under statutory supervision, therefore resulting in a lower expected cost over time in terms of resources than the status quo.</p> |

Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date: 15 December, 2015

**MICHAEL MATHESON MSP
Cabinet Secretary for Justice**

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