

**INQUESTS ARISING FROM THE DEATHS IN THE  
FISHMONGERS' HALL TERROR ATTACK OF 29 NOVEMBER 2019**

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**SUBMISSIONS ON PREVENTION OF FUTURE DEATHS**

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**Introduction**

1. These submissions are served on behalf of the Secretary of State for the Home Department (“SSHJ”) and the Secretary of State for Justice (“SSJ”). They relate to the Coroner’s duty to make a report to prevent future deaths (“the Report”)<sup>1</sup>. They address the written submissions of the family of Jack Merritt, dated 30 June 2021, and the family of Saskia Jones, dated 29 June 2021, in so far as they concern the Secretaries of State.
2. The Secretaries of State acknowledge the constructive spirit of both sets of submissions and the desire of the families to ensure that lessons are learned. The Secretaries of State share those aims. These submissions in response seek to identify where matters in the submissions are accepted and where the steps to address matters suggested in the submissions have already taken place or are anticipated. In certain narrow areas, the submissions are not accepted. Where that is the case, reasons are given. Those reasons are in no way intended to contradict the intention of the Secretaries of State that appropriate lessons are learned.

**The Submissions of the Family of Jack Merritt**

**The Security Service**

3. The Secretaries of State recognise the focused nature of the submissions and acknowledge their constructive aims. It is accepted that the Report need not be limited to matters which are causative of the deaths<sup>2</sup>. However, the submissions at §§9-12 state that the jury’s

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<sup>1</sup> Under paragraph 7, Schedule 5 of the Coroners and Justice Act 2009 and regulation 28 of the Coroners (Investigations) Regulations 2013.

<sup>2</sup> As per the Chief Coroner’s Guidance on Reports to Prevent Future Deaths at §19.

narrative findings specifically found an omission or failure on the part of the Security Service gave rise to a risk of death in Saskia's and Jack's cases and materially contributed to their deaths. These submissions do not accurately reflect the jury's findings and are, in any event, not made out on the evidence for the following reasons:

- a. Counsel to the Inquest ("CTI") circulated a draft questionnaire for jury determinations on 21 May 2021. The fourth question proposed to be asked of the jury, in so far as is relevant, was: *"Was there any omission or failure in the investigation of Usman Khan by agencies of the state which contributed to the deaths of Jack Merritt and Saskia Jones"*. It was proposed that the jury be provided with a box to provide its explanation. On the following page was a list of bullet points that the jury *"may wish to bear in mind"*. The first bullet point set out that *"Usman Khan was subject to a priority investigation by the Security Service and counter-terrorism police"* but there was no other specific reference to the Security Service in the list. The Secretaries of State made submissions in response, dated 24 May 2021. They submitted that the question must be reworded *"given that the evidence before the jury regarding covert investigations into Khan has been properly limited by PII ... There has been no evidence upon which a jury could properly conclude that there was any omission or failure in the investigation"*. The submissions were broadly accepted, and the final question put to the jury was: *"Was there any omission or failure in the sharing of information and guidance by agencies responsible for monitoring / investigation of Usman Khan which contributed to the deaths of Jack Merritt and Saskia Jones?"*. The first point on the bullet pointed list was similarly worded insofar as is relevant and that remained the only reference to the Security Service. The jury was not, therefore, invited to make any specific finding as to the adequacy of information sharing by the Security Service, and did not do so. Furthermore, the extent to which the jury was invited to consider the actions of the Security Service in relation was appropriately limited.
- b. The fact that the Security Service was the lead agency in the covert investigation into Usman Khan does not render the Security Service responsible for all acts or omissions of its partners, for example Counter-Terrorism Police ("CTP"). To the extent that the jury's conclusion identified a missed opportunity (see below), as per

Witness A, it is not the job of the Security Service to “*second-guess or quality-assure*” the work of CTP<sup>3</sup>.

The assertion that the jury’s finding that there was a “*[m]issed opportunity for those with expertise and experience to give guidance*” was a reference to the Security Service is not made out on the face of the jury’s completed questionnaire. If the jury intended to refer specifically to the Security Service then that could have been recorded. The finding may well have been (and, indeed, is more likely to have been) a reference to other evidence given in the course of the inquest. For example, DS Jon Stephenson of Staffordshire Special Branch gave a fair and frank response to questions from CTI about Usman Khan’s attendance at Fishmongers’ Hall: “*Q. Looking back on it, do you think that you and your colleagues ought to have raised a concern and given some advice about this? A. Yes*”<sup>4</sup>. By contrast, Witness A’s clear and consistent evidence was that it was not the function of the Security Service to engage in the risk management of TACT offenders in the community. If relevant intelligence was obtained in the course of an investigation then it would have been shared with the MAPPAs agencies, via CTP, for them to take into account as appropriate. There is nothing whatsoever in the jury’s conclusions which indicates any rejection of the evidence.

- c. As a matter of established fact, there was no evidence of any failure in information sharing by the Security Service. The Security Service shared all relevant strands of intelligence with CTP<sup>5</sup>. CTP were the Security Service’s bridge into MAPPAs<sup>6</sup>. The Security Service was able to raise concerns with the dumper truck course to CTP who briefed this into the MAPPAs meeting<sup>7</sup>. It is quite clear from the MAPPAs minutes (from at least August onwards) that the MAPPAs agencies were well aware of the risk that Khan might be engaging in manipulation. It is denied that there is any evidence of the issues raised at §16 of the submissions. It was accepted by all witnesses that CTP was the ‘bridge’ into MAPPAs. Again, there is nothing in the jury’s conclusions which indicates that it did not accept this evidence or that it

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<sup>3</sup> 13 May, p.224, lines 21-24.

<sup>4</sup> 17 May, p.97, lines 19-22.

<sup>5</sup> Witness A, 13 May, p.224, lines 17-20.

<sup>6</sup> Witness A, 13 May, p.224, lines 3-7.

<sup>7</sup> Witness A, 13 May, p.107, lines 3-11.

arrived at a different interpretation of the role of the Security Service than the one explained by all the relevant witnesses. Nor is there anything to indicate that the jury identified any information in the hands of the Security Service which was not appropriately shared.

- d. In any event, and for the reasons given below, the Security Service and its partners in CTP and Her Majesty's Prison and Probation Service ("HMPPS") have implemented more robust systems for the sharing of information and guidance. Accordingly, even if, contrary to the submissions set out above, it is assumed that the jury's finding in respect of 'sharing of information' did apply (at least in part) to the Security Service, it is clear that the current arrangements for information sharing in cases involving TACT offenders such as Khan are effective and fit for purpose.
4. Regardless of whether there was any material lack of information sharing on the part of the Security Service in this case – and it is submitted that there was not, for the reasons summarised above – any analysis of the information sharing arrangements between the Security Service and the MAPPA agencies must recognise that there are cogent reasons for the protection of sensitive information and that not all information can be shared. It is not desirable that all attendees at MAPPA meetings are aware of all intelligence:
- a. Not all attendees at MAPPA meetings will have the appropriate level of security clearance to receive the information that might be shared<sup>8</sup>;
  - b. Sharing of intelligence to those seeing an offender on a day-to-day basis would increase the risk of inadvertent disclosure that could compromise the investigation. ACC Matthew Ward, of West Midlands Police, stated that he would not want all MAPPA attendees (who would not be subject to higher level security vetting) to be aware of such an investigation due to the sensitivities<sup>9</sup>; and
  - c. For the same reasons, the Security Service officers attended MAPPA meetings in "receiving mode"<sup>10</sup>. If they did not, it would have been obvious to attendees that the offender in question was subject to a covert Security Service investigation.

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<sup>8</sup> Witness A, 13 May, p.224, lines 8-16.

<sup>9</sup> 21 May, p.26, lines 15-25.

<sup>10</sup> Witness A, 13 May, p.27, line 15.

5. There are clear and carefully devised systems in place for the sharing of information and guidance between the Security Service and its partners in CTP and HMPPS, all of whom have committed to closer working in order to counter national security risks with the Prisons and Probation sector. This is in the form of the Joint Counter Terrorism Prisons and Probation Hub (“the JCTPPH”), which was referred to in the witness statement of Ms Sonia Flynn, Chief Probation Officer [WS5061/22], dated 16 February 2021. At the time of that witness statement, the JCTPPH was still at a planning stage however it became fully operational on 6 April 2021. The JCTPPH was addressed in the corporate witness evidence given on behalf of the Secretaries of State:

a. Witness A: *“there is now something called the joint CT prisons and probation hub, which will be looking at ways and means by which intelligence can be shared with the right people at the right time, and I think that that will address, perhaps, some of the questions, concerns, that have been raised in the MAPPA reviewer report”*<sup>11</sup> and *“A. So I think what will happen as part of the new CT prisons and probation hub, I think there will be more sharing of information and intelligence, and I think there will be probably better education all round of how each other can contribute and support each other as part of the process. Q. Will that extend to sharing of risk assessments and opinions, rather than just specific information where it arises? A. I think it will extend to all of that, depending on the appropriate security level, the clearances of the people involved, et cetera, and to make sure that the information can be securely managed. It's absolutely the intention to share as much as possible from our perspective”*<sup>12</sup>.

b. Mr Richard Vince: *“the sharing of intelligence has been a fundamental issue in this area for as long as I've been working in it, with the very considerable funding that we've had, we've been able to really move that on, I mean very considerably move that on from what I recall in the early 2008/2009 when arguably we started to feel the initial effects of Islamist extremism coming into prisons and we now have the joint intelligence hub, which is the first time we bring together in one place all the interested intelligence, law enforcement agencies”*<sup>13</sup>.

6. The JCTPPH is a new tri-agency unit comprising staff from the intelligence functions of all three agencies. Its core function is, on behalf of the Security Service, CTP and HMPPS,

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<sup>11</sup> 13 May, p.176 lines 3-8.

<sup>12</sup> 13 May, p.202-203, lines 24-13.

<sup>13</sup> 11 May, p.9-10, lines 22-25, 1-7.

to co-ordinate quicker, and to ensure better, exchange of information and intelligence between operational partners. It does this by providing a range of capabilities and services that enable more effective management of individuals of national security concern in prison or under probation supervision in the community. The focus is upon placing the right intelligence, appropriately protected, into the right forums, to ensure the most effective risk management decisions. Working with partners, the JCTPPH will ensure that there is a shared understanding of who poses a risk, and why, and to enable management of those individuals through multi-agency partnerships and engagement with the appropriate statutory bodies and functions.

7. In direct response to Jonathan Hall QC's MAPPAs Review,<sup>14</sup> the key piece of work that is being undertaken to achieve this is "the Covert / Overt Bridge". The Bridge will facilitate the sharing of sensitive intelligence into the MAPPAs process and, importantly, other key forums. It will create a mechanism for directly sharing sensitive intelligence with those within the MAPPAs process, most notably the MAPPAs Chair, as well as others (see below) who hold appropriate clearances, regarding individuals subject to MAPPAs. Use of the Bridge will support MAPPAs in making informed decisions but will also ensure that the intelligence is shared in a way which ensures that the Security Service complies with the requirements set out in the Security Service Act 1989.
8. It is intended that the process will be finalised by September 2021, but in the meantime the JCTPPH is already sharing sensitive intelligence on a number of test cases. This is primarily through the Regional Heads of the Probation National Security Division ("RH/NSD"), the CTP Nominal Management Lead Responsible Officer ("CTPNM LRO") and the MAPPAs Chair (who, in most circumstances, will be the RH/NSD or the CTPNM LRO) who will work with the JCTPPH to determine what further disclosure is necessary, to whom, and in what format.
9. The JCTPPH is also working with other forums in the case management of those of counter terrorism interest in the Prisons and Probation sector to enable further co-ordination of overt and covert risk management, such as the Parole Board and the Prison Separation

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<sup>14</sup> Terrorist Risk Offenders: Independent Review of Statutory Multi-Agency Public Protection Arrangements, May 2020: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/913983/supervision-terrorism-and-terrorism-risk-offenders-review.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/913983/supervision-terrorism-and-terrorism-risk-offenders-review.pdf).

Centre Management Committee. This will include sharing intelligence with HMPPS from the moment an individual enters the Prison estate, meaning that case management decisions will be able to take into account the entirety of what is known about the individual rather than a part of the picture. These services will be put into place over the course of the project, which continues to December 2021. Once in place, this means that towards the end of a prisoner's sentence, when the individual is managed by MAPPA, there will be a full and detailed narrative that draws on all sources of information and intelligence to inform decision-making.

#### Learning Together ("LT")

10. Although these submissions are addressed to Cambridge University, the issues raised relate to the relationship between HMPPS and Learning Together. The Ministry of Justice ("MOJ") has engaged in preliminary discussions with Learning Together about the areas it will need to review before any decisions are taken with regard to restarting any Learning Together programme or activity within the Prison estate.
11. To undertake this work, an HMPPS working group consisting of education, security and policy leads is being established to assess the additional safeguards that might be required to enable schemes like Learning Together to resume work. The intention is to develop a framework for Governors and universities/partners that will set out expectations and the responsibilities of each party in delivering this type of work. The Lord Chancellor gave agreement to the scope of this work on 26 July 2021. HMPPS will now re-establish a working group with first meeting planned in August 2020. Key areas to review will include:
  - a. What protocols should be in place regarding contact between universities and prisoners when they are released;
  - b. The extent to which the commissioning of programmes should be subject to stronger central scrutiny and guidance; and
  - c. The risk-assessment process that should underpin decisions to enable prisoner participation.
12. As part of this work the MOJ has spoken to and will consult with partners like Learning Together over the next three months.

*The Submissions of the Family of Saskia Jones*

13. The Secretaries of State recognise, again, the constructive spirit of the submissions.

Recommendation proposed (“R”1): that the prison estate and facilities, and processes be reviewed and assessed against the needs for fulfilment of the policy of de-radicalisation and risk reduction that dispersal is designed to achieve.

14. This recommendation raises issues of resourcing and policy, given that it is dependent on the amount of prison space and the number of prisoners. The number of prisoners in custody for terrorism connected offences increased year on year from 87 on 31 March 2013 to 238 on 31 March 2020. By 31 March 2021 the numbers had reduced to 215 (due to a change in the definition and terminology, from Terrorist Related Offenders to Terrorist Connected Offenders). Of those, 73% were categorised as holding Islamist-extremist views. A further 20% were categorised as holding Extreme right-wing views. 89% were convicted. 11% were held on remand. It is, however, an ever-changing cohort. This issue is not suitable for exploration through the medium of a Prevention of Future Deaths Report. The matters raised are likely to be considered by Jonathan Hall QC’s report into Terrorism in Prisons<sup>15</sup> and the Secretaries of State will respond accordingly.

15. There are mixed opinions on the appropriate course of action, for example the Intelligence and Security Committee of Parliament noted concerns with separation centres on the basis that they might encourage contact between TACT offenders [DC7556/107]. If TACT offenders are too widely dispersed, then expertise on their management could be diluted or lost. The potential for TACT offenders to become isolated is also a risk consideration.

16. Finally, it should be noted that there is national oversight of the movement of prisoners around the prison system through the Population Management Process. This has been strengthened by additional resources funded by the CT Step Up Programme. A document summarising the progress of this programme is attached as Exhibit 1.

Recommendations (R2): (i) All prisons within which LT operate should be advised of the potential for ongoing contact between LT and the offender post-release, and security

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<https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2021/01/Terrorism-in-Prisons-Announcement.pdf>

sifting should be carried out with the possibility of post-release contact in mind. (ii) In any case where an educational project, such as LT, proposes to maintain contact with a prisoner being released on licence, HMPPS should conduct a risk assessment to assess the suitability of ongoing contact in principle (NB. See further below in relation to risk assessment of specific events if in principle there should continue to be contact in the community). The risk assessment should be carried out with input from the prison security department, having regard to category of offence, formal risk-level, and any relevant intelligence. The assessment and decision should be documented and recorded.

### HMPPS' Approach to Risk Assessment

17. HMPPS mandates that staff managing eligible people in prison or in the community must undertake a risk assessment using an approved risk assessment tool, currently the Offender Assessment System ("OASys"), at various points in an individual's sentence.

These include:

- at commencement of sentence;
- prior to release;
- on release into the community;
- at termination of sentence; and,
- whenever there is a change in the individual's circumstances that may impact upon their risk.

18. HMPPS assesses risk to:

- identify those who may potentially cause serious harm;
- provide a framework for a plan to manage that risk; and
- protect identified victims and potential victims.

19. OASys provides a structured professional approach to risk assessment, taking into consideration the analysis of the lifestyle, behaviour and offending of an individual to make a judgement about the level of risk they present. The tool, when used with integrity and in line with guidance, enables assessors to consider the relevance of each risk factor to the individual case and the interplay between those factors, in order to formulate an individualised risk assessment and management plan.

20. HMPPS currently uses the Four Pillars Approach to Risk Management. This includes:

- Supervision;
- Monitoring and Control;
- Interventions and Treatment; and
- Victim Safety Planning.

21. Risk management must take into consideration each of these elements in order to produce plans that focus on protecting people at risk. A strong Risk Management Plan (“RMP”) will not only identify all agencies involved but also prescribe the service they provide and the nature and frequency of contact. It will also include the steps to be taken by agencies (i) to restrict the individual’s ability to offend and (ii) to monitor the emergence of acute risk factors.

#### New Guidance

22. HMPPS published new Risk of Serious Harm Guidance in July 2020. The guidance document:

- aims to promote greater consistency in HMPPS’ approach to risk assessment and management
- draws together knowledge from recent Serious Further Offence and Domestic Homicide Reviews
- emphasises the importance of actuarial risk assessment tools
- provides guidance for writing risk management plans using the four pillars structure
- provides desk aides to support operational staff undertaking risk assessment and creating risk management plans
- encourages staff to think about the impact of personal bias.

23. The guidance sets out a structured approach to risk assessment which will encourage staff to make reflective, logical and informed decisions about risk and help them use best practice in assessment. The ‘Four Pillars of Risk Management’ structure was developed by Professor Hazel Kemshall of De Montfort University and supports assessors to create robust Risk Management Plans. The interventions ‘pillar’ is where they should set out any

engagement with an education provider. The risk management plan is completed within OASys and is expected to be based on the risk assessment which precedes the plan in OASys. This means that an overarching assessment should have been undertaken, which will have considered the nature of offending and also other factors known to be relevant to the risk of an individual causing serious harm, in order to inform the decision as to whether an offender will be involved with a project.

24. Separately, in June 2021, HMPPS launched a new digital Refer and Monitor Service to refer individuals to external service providers in the community. When completing a referral for a provider of a service, risk information is automatically drawn from the OASys risk assessment system to ensure that the risk of harm level is visible to the practitioner referring into any service / intervention. When referring to interventions or services the practitioner should consider the risks identified and ensure that the RMP considers how significant changes will be managed (i.e. release from custody with reduced support and monitoring, or the end of supervision where formal supervision and oversight will be reduced).
25. In short, decisions about an offender engaging with an activity should be informed by a risk assessment. In addition, the MOJ's ongoing engagement with LT, and the MOJ's working group, is described above.

#### Offender Management in Custody

26. The changes made by the Offender Management in Custody ("OMIC") project mean that the Offender Manager will be based within the prison Offender Management Unit ("OMU") until 10 months before release<sup>16</sup>. Offenders have always required the approval of the OMU before being admitted onto LT<sup>17</sup>. OMIC means that this approval will now be given by an Offender Manager, rather than an Offender Supervisor. In most cases, the Offender Manager will have completed the OASys assessment. In addition, the Offender Manager will have a greater knowledge of intervention courses, such as LT, given that they are based within the prison.

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<sup>16</sup> See witness statement of Sonia Flynn WS5061/3.

<sup>17</sup> Georgina Butler, 29 April, p.166-167, lines 15-13.

## MAPPA

27. The issue is also substantially considered through the MAPPA process for offenders that require management at MAPPA level 2 or 3. As at the time of Usman Khan's release, the prison provided MAPPA with a summary of the offender which included their involvement in education, as well as any relevant intelligence through a written report, the MAPPA F. In the case of Usman Khan, all of the relevant prison intelligence was passed onto the MAPPA panel. It is the responsibility of MAPPA to support the lead agency to manage the offender in the community and risk assess their proposed involvement with any educational project.
28. MAPPA Guidance requires the relevant prison to complete a MAPPA F for level 2/3 MAPPA meetings and this requires information to come from a range of staff from within the prison. HMPPS is currently reviewing this document to ensure that it includes the relevant information to enable a thorough risk assessment and robust risk management plan to be formulated. HMPPS issued a Public Protection Assurance Tool for Governors in April 2021 to support more effective oversight in relation to their public protection responsibilities, including those under MAPPA.
29. The national MAPPA team based in MOJ has updated the MAPPA Guidance in relation to the risk assessment of terrorist offenders (Exhibit 2). The new Guidance states:

### Risk Assessment

#### **Standard - All TACT and TACT related offenders will be risk-assessed using relevant risk assessment guidance and approaches**

24.21 As with other MAPPA cases, it is crucial that relevant information from all partner agencies informs the assessment and management of TACT and TACT connected offenders. Any risks known to any agency engaged in working with the offender should be identified.

24.22 Where NPS is the lead agency the Probation Practitioner will complete an OASys assessment supplemented and enhanced by a specialist risk formulation, the

Extremism Risk Guidance (ERG.) The ERG must be completed by a suitably trained and experienced member of staff and the outcome should be recorded on the MAPPA minutes as well as feeding into the risk management plan.

24.23 As with other high or very high risk of serious harm offenders with few previous convictions, the Offender Group Reconviction Scale (OGRS) within OASys is likely to be low. There were not significant numbers of this type of offence within the cohort of cases on which OGRS scores have been devised and so its predictions should be treated with caution and not relied on without other evidence. MAPPA meeting Chairs should be aware of the limitations of the tools and the fact that assessing risk is not the function of one particular tool (such as OASys or ERG 22+). Risk assessment depends on pulling together all that is known, and can be inferred, about the individual offender as their case progresses. Nevertheless formal assessments and risk formulations should be available to and inform the first MAPPA meeting (while the majority of offenders will still be in custody) and meetings thereafter. An ongoing focus on risk assessment is essential and OASys and ERG 22+ should both be reviewed regularly.

Recommendation (R3): LT to work with HMPPS to devise a structured information sharing system to share intelligence and other risk-related information on prisoners working with LT (or other organisations) in the community. (Such information to be fed into an activity-related risk assessment that LT shall undertake – see below concerns and recommendations in that respect).

30. HMPPS' risk assessment, and MAPPA processes, including changes that have been made, are outlined above. In addition, it is set out above that MOJ continues to engage with Learning Together and has set up a working group to consider these issues.
31. The JCTPPH will also allow for a more considered approach to sharing intelligence with other organisations. However, it must be recognised that not all intelligence can be shared with all organisations (for reasons analogous to those given above). The MAPPA panel is required to consider disclosure, as per the MAPPA minutes in place at the relevant time (see for example DC6409/8). Furthermore, the role of risk assessing offenders is primarily one for the Probation Service. In order to do so, the Probation Service should obtain all

relevant information from third party organisations. It is recognised that third parties should also carry out their own risk assessment of events that they are hosting.

Recommendation (R4): that consideration is given to ensuring that only qualified psychologists undertake ERG22+ assessments, in light of their greater expertise and training, and often experience, in undertaking detailed psychological assessments and risk analyses of this nature. Alternatively, that there is a formal, documented involvement of psychologists in such assessments.

Recommendation (R5): That it be made a clear stipulation and requirement in the management of TACT offenders in the community that any ERG22+ be completed by an appropriate person not otherwise involved in the management and supervision of the TACT offender.

32. Ms Flynn stated in evidence: *“So we've introduced five national security hubs<sup>18</sup> around the country. They are -- they have been staffed with probation officers who have been specially selected to go through higher security vetting. They're working together as teams, because it's not just about training, I think when you work with other specialists, you develop your knowledge and understanding because you're sharing ideas all the time between yourselves as officers in terms of how best to manage somebody, and each of those new five teams has a dedicated forensic psychologist, who is on hand to give that more objective overview of the work being undertaken”<sup>19</sup>.* She confirmed that an ERG assessment would be carried out by a probation officer with specialist skills and experience, sufficient time and with support from a psychologist<sup>20</sup>. The Counter-Terrorism Probation Officers from JEXU (“CTPOs”) will conduct the ERG rather than the Offender Manager<sup>21</sup>.
33. The new Counter-Terrorism Assessment and Rehabilitation Centre (“C-TARC”) is developing a comprehensive ERG delivery strategy for delivery as soon as possible. However, as this may take some months, a set of principles have been agreed which will inform the delivery of ERG in the meantime:

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<sup>18</sup> Note this is a reference to the five Hubs of the Probation Service’s National Security Division, not the JCTPPH referred to above.

<sup>19</sup> 10 May, p.25, lines 10-21.

<sup>20</sup> 10 May, p.26, lines 1-11.

<sup>21</sup> 10 May, p.27, lines 2-5.

- All ERGs will be completed by an appropriately trained qualified professional, this means either a qualified CTPO in the community or a psychologist who has completed ERG training.
- All ERGs will be completed by a professional independent of any treatment/therapeutic work.
- ERGs will be completed at all progression / transition points such as parole/ release/ move from approved premises.
- All ERGs completed to inform progression / transition will be subject to 'gatekeeping / quality assurance' arrangements to ensure that the report is evidence driven, provides a statement on risk and informs risk management.

34. Additional training and quality assurance measures are to be introduced to ensure that the ERG 22+ assessments completed by CTPOs are of a high standard. The National Security Division ("NSD") has dedicated psychologists who will support the implementation of the ERG formulation.

35. Offender Managers will not be completing ERG 22+ assessments. CTPOs or, for cases pre-release, psychologists not directly involved in the management and supervision of the case will complete the assessments.

Recommendation (R6): Clear guidance should be issued to probation to the effect that risk re-categorisation should not be decided in isolation from the OASys process, but should only ever follow the completion of that process. Consideration should be given to any further training required for probation staff to ensure that any alteration of risk level is properly undertaken and is reported to MAPPA so that any concerns may be discussed.

36. Ms Flynn noted that the OASys must be updated to provide the evidence for any change in risk<sup>22</sup>.

37. The 2020 HMPPS Risk of Serious Harm guidance makes it clear that risk is changeable and that a structured approach to risk assessment is not intended purely for the formal completion of risk assessment tools and setting of risk levels, but also the continual

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<sup>22</sup> 10 May, p.64, lines 3-5.

assessment of dynamic risk factors. However, when it comes to setting or reviewing a risk level (referred to here as re-categorisation), there is a specific section in the guidance on 'forming and recording a rationale' which clarifies that the judgement about the level of risk posed should be recorded using the agency's approved risk assessment platform (currently OASys), along with the rationale for the decision and the evidence for it.

38. The guidance also provides some assistance on how to record this. It further sets out that assessors should not make assessments in isolation, that multi-agency communication is key, and that they should record reasons for their decision-making. It explains that recording why a decision has been made (e.g. regarding enforcement, risk level, licence condition removal/addition, etc.) makes decision-making transparent. It enables others to look back and understand why decisions were made and the evidence upon which decisions were based. It also gives an immediate opportunity to reflect on why the individual practitioner made the decision.
39. This guidance was issued during the Covid-19 pandemic. It is intended that further steps will be taken as the restrictions of the pandemic ease to ensure that all assessors are fully aware of the guidance and know how to make use of it. To this end, a range of activity is underway, including the provision of a video and an activities pack for managers or Quality Development staff to use in order to improve understanding of the application of the Risk of Serious Harm Guidance.

Recommendation (R7): That steps be taken (by guidance or training) in order to ensure it is made clear to Offender Managers that on each occasion that a decision is required to grant permission to depart from licence conditions there is a clear and sufficient record made of the decision to grant permission and the officer's reasons for doing so.

40. Additional licence conditions are deliberately not absolute. The recording of a clear, reasonable and defensible rationale for a decision to permit the temporary suspension of a licence condition is essential. The Risk of Serious Harm Guidance, published in July 2020 and referred to above, already encourages the general recording of decision making. This extends to any decision to depart from or relax licence conditions. More specific reference will be made to this in the Compliance and Engagement on Licence Guidance due to be

issued by the end of August 2021, to make absolutely clear the need to record all decisions to suspend a licence condition temporarily.

41. Any changes to licence conditions should be agreed by MAPPA, or where this is not possible due to the need to make a change quickly, by the MAPPA Chair outside the MAPPA meeting. Decisions made outside MAPPA will be recorded on the case management system. The new model introduced by the NSD will enable greater oversight of cases and decision-making by Senior Managers. Management oversight will be monitored through performance and quality assurance measures.

Recommendation (R8): That guidance and training to Offender Managers emphasise the need to remain vigilant and to review any decision to allow a relaxation of licence conditions to enable a TACT offender to attend any (public) event shortly before and at the time of the event to ensure all relevant risk factors are given full consideration at the time that the event is to occur (and thus the risk to crystallise at such an event).

42. The expectations for Probation staff will be reinforced through new guidance which is due in October 2021 and will be communicated to all staff. The guidance will set out that decisions to vary or relax licence conditions may be agreed in principle in advance but must always be subject to an up to date and reviewed assessment of the risk at the time that the relaxation comes into force. In addition, the current expectation is that these issues will routinely be considered in MAPPA meetings as part of the review of the risk management plan. For TACT offenders, the process for sharing information has been strengthened by the JCTPPH and a more co-ordinated approach to managing offenders has been implemented as part of the CT Step Up Programme (see Exhibit 1).

Recommendation (R9): Ensure that legislative and practical provision is made to enable effective polygraph use in the management of TACT offenders without delay.

43. The use of polygraph testing of TACT offenders has been enabled by legislation which came into force on 29 June 2021 (see section 32, Counter-Terrorism and Sentencing Act 2021). NSD is now implementing the legislation and examinations are due to commence imminently.

Recommendation (R10): That guidance and training be reviewed to ensure that Offender Managers of TACT offenders are reminded or made aware of the need to remain vigilant against deceptive compliance or manipulation and adopt appropriate strategies and systems of testing compliance with the licence conditions, for example requiring the offender to visit the office on occasions at least, and to ask searching, probing and challenging questions in supervision regarding attitudes and beliefs, not only to monitor progress in steps such as obtaining work or pro-social activities.

44. The OASys Guidance for TACT and TACT related offenders [DC7447/19], dated April 2018 stated: *“Extremist offenders can have a well-rehearsed script in relation to their offending and may not be open or candid about their thinking, associations and affiliations. They may also have been advised by extremist associates how to respond to professionals”*.
45. This guidance has recently been reinforced by specific training and strengthened by further guidance. Training in relation to ‘Safeguarding Against Conditioning and Manipulation’ for Offender Managers took place on 15 and 29 March 2021. NSD guidance has been provided to staff setting out expectations for supervision, highlighting the importance of “Professional Curiosity” and the need to explore key risk issues. The introduction of Core groups provides a multi-disciplinary, psychologically informed approach to case discussion and case formulation which help to reduce bias and the manipulation of individual professionals. In addition, MAPPA meetings will be co-chaired by CTP, bringing a Police perspective to decision making. Current Probation Service policy is a blended supervision model which includes both office visits and home visits.

Recommendation (R11): Consideration should be given to establishing a detailed review to identify what further steps can be taken in order to maximise the chances of TACT offenders who seek to rehabilitate being able to obtain employment.

46. This recommendation plainly invokes the intensely difficult balance between promoting rehabilitation and guarding against risk. However, the NSD Reducing Re-offending Strategy sets out plans to strengthen the employment offer for TACT offenders.

Employment for this category of offender will always be a challenge, due to the serious nature of offences, threat and risk, as well as the stigma attached to the offences and the fact that the Probation Service and other agencies are required to consider disclosure issues and the public protection implications of any work placements. It goes without saying that many employers will simply not be prepared to employ terrorist offenders (or indeed offenders who fall into several other categories).

Recommendation (R12): There be investigation and consideration of the means of communication and recording of mentoring need, and priority allocations, between CT Probation and managing Probation officers to ensure a system is in operation that is clear and avoids any such miscommunication or error.

47. In order to respond to MC12 text and recommendation 12, the Home Office seeks to correct a number of factually inaccurate assertions and provide additional information about changes to the Desistance and Disengagement Programme (“DDP”) since 2019:

- a. Concern (i) states that ‘practical mentoring was delayed in its provision commencement for Khan’. In fact, the position was that practical mentoring started before Khan left prison. There was, however, some delay in the provision of theologian support, in part because of pressure at the time on resourcing for this specialist support. This has since changed, and there are currently no waiting lists for theological support. Recruitment has been ongoing since 2019 and there is now a diverse pool of theological and ideological specialists for DDP.
- b. As to concern (ii), it is accepted that ending sessions unexpectedly should be avoided, if possible. Since 2019, DDP has diversified its supplier base for practical mentoring under new contractual arrangements, reducing the likelihood of this happening again. The Home Office is keeping under review how individuals’ exits from the programme are managed.
- c. Concern (iii) also requires clarification. It was, in fact, the Joint Extremism Unit and Home Office who believed mentoring was not going to be rearranged. The Probation Counter-Terrorism Lead believed that a mentor would be arranged, but

not as a priority. While agreement had been reached by partners to exit Khan from DDP based on there being no identified need, it is acknowledged that there was miscommunication as to whether Khan should be offered a new mentor. Since the incident at Fishmongers' Hall, the Joint Extremism Unit has brought additional resources into the HQ team managing DDP operations, supported by the CT Step Up programme. This includes full-time probation specialists, which has improved lines of communication.

- d. Additionally, the Joint Extremism Unit has introduced a monthly multi-agency operational meeting, which provides supplementary oversight of the probation delivery of DDP, with opportunity to discuss all active and future cases and providing partners with another platform to feed in their views and requirements.

48. The matters set out above are the matters to which Ms Ellsmore referred when she said that action had been taken to put these issues right by simplifying processes and improving audit trails<sup>23</sup>.

Recommendation (R13): (i) Procedures at APs should be reviewed and improved to ensure that individuals' management plans are being adhered to, particularly in relation to drug testing. (ii) Consideration should be given to implementing or increasing drug testing of TACT offenders in the community under supervision when living independently.

49. Whilst there is no evidence to suggest that Usman Khan used drugs while at the AP, nor that there was any failure in the AP's procedures, work is currently ongoing to increase drug testing for those residing in Approved Premises. This will require residents to be tested at least twice during their stay - once on arrival and at least once more. This will be in addition to risk and suspicion testing which will remain as standard. Work is also ongoing on widening the suite of substances in respect of which tests can be undertaken and ensuring that legislative power is in place to enable this. A regional pilot is scheduled to begin in November 2021 which will enable staff to test for additional substances such as Psychoactive Substances and prescribed medication which may be being used illicitly.

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<sup>23</sup> 14 May, p.197, lines 116-20.

50. As to the testing of TACT offenders, drug testing is currently available to the Probation Service and NSD staff are expected to implement testing as indicated by the offender profile. NSD will consider extending drug testing for TACT offenders where there is evidence of drug use or increased risk and consider testing prior to approved attendance at events.

Recommendation (R14): (i) MAPPA processes should be urgently reviewed to ensure that it is clear to all attendees at a meeting, and to those attending subsequent meetings, what approvals for departure from the licence restrictions have been agreed and approved by MAPPA; and what or whether risk assessments have been undertaken in relation to such events or activities. (ii) The process for varying licence conditions should be formalised, including the need to record rationale and show specific and positive approval from MAPPA.

51. Recommendation 14(i): as was made clear in the evidence given at the inquests, MAPPA is not a statutory body in itself but a mechanism through which agencies are required to discharge their statutory responsibilities and protect the public in a co-ordinated manner. All level 2 and 3 offenders have a MAPPA Risk Management Plan (“RMP”). The purpose of level 2 and level 3 MAPPA meetings is to share information to support multi-agency risk assessments and to formulate effective MAPPA RMPs, in order to ensure that action is taken to manage the risk of serious harm posed. The MAPPA risk assessment identifies all areas of risk of serious harm and the MAPPA RMP sets out the single and multi-agency actions agreed at the MAPPA meeting to manage those risks. The guidance requires that licence conditions be set out in the plan. The guidance for the Chair makes clear that risk management plans should be reviewed at each meeting, which will include the review of licence conditions. The Probation Service should therefore have a clear understanding of the view of the MAPPA meeting of a proposal to allow activity that would, without specific approval, be prohibited by a licence condition. Chairing MAPPA meetings involves combining the roles of facilitator and leader, however the final decision as to whether an agency agrees to a course of action rests with that agency and explanations should be recorded in the minutes. While the final decision to vary or depart from licence conditions lies with Probation Service as the Lead Agency (or in certain cases the Parole Board) the MAPPA Guidance is clear that the MAPPA meeting has a crucial role in informing the decision making and ensuring that it is based on a strong rationale.

52. The updated MAPPA Guidance on managing terrorist and terrorist connected offenders makes clear that Probation and police need to adopt a detailed coordinated approach to the development and management of licence conditions.
53. Notwithstanding the above, the national MAPPA Team is currently reviewing the document set that supports the implementation of the statutory guidance, including the template for meetings and the MAPPA Guidance. The review is focussing on how the documentation can better support the making and recording of decisions. The documents will be available for formal consultation by October 2021.
54. Recommendation 14(ii): in 2017, responsibility for the process by which licence conditions are removed or changed was moved from prisons to probation providers (now the unified Probation Service). This process has already been formalised and ensures that all sign-off procedures are now conducted by an Assistant Chief Officer (“ACO”) in the local probation delivery unit.
55. In order to vary a licence condition, the Probation Practitioner must document and explain the rationale behind the proposed variation, including information from other agencies (including via MAPPA), in sufficient terms for the ACO to review and make a decision. It would not be appropriate to require a formal discussion at a MAPPA meeting in the case of all licence variations, as, in some cases, these will need to be conducted rapidly, e.g. where there is a need to add a condition where the only alternative would otherwise be recall to custody, and the goal is for any variation to be conducted within 24 hours where possible.
56. While in some instances it may be possible proactively to discuss potential variations at MAPPA meetings, this will not always be the case. However, where required due to the nature of the variation, discussions are held with partner agencies who may be involved in the management of that condition or are likely to hold relevant information for the Probation Practitioner to consider, such as the MAPPA Chair.
57. Following a licence variation, in time-limited situations the Probation Practitioner is expected to update MAPPA partners formally as part of normal information sharing

processes. Partner agencies may be able to offer further advice once the initial variation is imposed.

58. As set out in the response to R7 above, a guidance document will be produced in order to assist probation staff as to the steps they should take when considering whether to vary licence conditions. This is to ensure that (i) any changes are made in an informed manner with appropriate agreement from the agencies involved, (ii) the changes are formally documented with a clear rationale for the decision-making and (iii) it is made clear what action should be taken following a variation / departure from licence conditions.

Recommendations (R15): (i) That it be made a specific requirement that before relaxation of a licence prohibition the OM undertake an appropriate risk assessment of the specific proposed event or activity and steps which should be taken to mitigate risk (ii) That consideration be given to specific training for those probation and police officers involved in managing TACT offenders to enable guarding against feigned engagement and averting the risk of manipulation and deceptive compliance. (iii) Risk management training, and guidance, for probation staff and CT police should be reviewed to establish whether it sufficiently covers ways to manage risk by implementing measures short of rejecting requests, particularly in relation to the management of TACT offenders.

59. The proposed recommendations have been addressed in response to recommendations made above.

Recommendation (R16): (i) A reliable means of distribution of minutes of MAPPAs meetings to all participating and attending organisations and individuals should be identified to ensure all persons have the ability to review and reflect on the same in the interval; (ii) a review of the format of the Minutes for MAPPAs meetings should identify the best means to ensure that key intelligence and risk factors remain in the iterative document each month to ensure that it is not overlooked and that it is available to attendees of subsequent meetings.

Recommendation (R17): That the format of MAPPAs minutes which remain in circulation and consideration at meetings as management occurs should contain a list of the factors

identified to be relevant by the ERG22+ assessment so that these remain front and centre in the mind of the MAPPA panel and attendees.

60. The Secretaries of State address R16 and R17 together.
61. Recommendation 16(i): current statutory MAPPA Guidance sets out that: MAPPA meeting minutes will normally be sent via secure email to those who attended the meeting and to those who were invited but did not attend. Minutes should be sent to prisons where they have sent a MAPPA F but not attended. Any decision not to send the minutes to any of these individuals or to send them to any other party must be made by the meeting Chair and recorded in the minutes. Where another person who is not party to the Information Sharing Agreement (“ISA”) attends part of the meeting only, they may be sent agreed action points rather than the full minutes. The minutes of a level 2 MAPPA meeting should be agreed for distribution within 10 working days and minutes of a level 3 MAPPA meeting within 5 working days. If attendees wish to ask for amendments and corrections to be made, they must notify the Chair promptly. The Chair should also confirm that the minutes are correct at the next meeting. The minutes must be stored on ViSOR (the national secure database developed to support MAPPA). Any amendments and corrections should be approved by the Chair before the ViSOR record is updated.
62. Therefore, there is a reliable process for distributing minutes. Although there is an expectation that minutes be stored on ViSOR, it is expected that they be emailed securely to all relevant parties in a timely manner to support actions and for any corrections to be made.
63. Recommendation 16(ii): the action underway to review the format of the minutes is set out below. The updated MAPPA Guidance on managing terrorist offenders states:

24.30 As for all MAPPA meetings, at every meeting:

- the risk assessment and risk management plan must be considered and agreed by the meeting to be up to date and accurate;
- the minutes must be clear and concise and reflect that consideration and not rely on information pulled through from earlier meetings;

- any uncertainties or missing information should be set out in the minutes; and
- significant decisions should be clearly recorded, along with the rationale underpinning them.

64. Recommendation 17: The National MAPPA Team is reviewing the MAPPA document set, in particular the template used for recording key risk information and MAPPA minutes. The intention is to have a much sharper focus on the risk assessment, the risk management plan, and to provide a record of actions and decisions with clear rationale. The document set will also provide a structure that ensures that all key information, including that from ERG 22+, is available for reference at the meeting. It is expected that a draft will be ready for consultation by October 2021.

Recommendation (R18): Jonathan Hall QC's recommendation to concentrate decision-making in a core group of security-cleared professionals, and to use wider meetings to provide oversight, should be considered for adoption to ensure a better sharing of intelligence amongst those responsible for making decisions on the licence supervision and management of the offender.

65. This recommendation has been accepted and implemented. The updated MAPPA Statutory Guidance includes a section on Core Groups<sup>24</sup>, which states that MAPPA management is not limited to formal meetings but is the totality of the action conducted between agencies. This is brought together in a dynamic risk management plan which responds to changing risk and is informed by relevant information from all available sources. For this group of offenders, formal level 3 meetings should be supported by the ongoing active management of the case and by meetings between a concentrated Core Group of professionals. The Core Group will, where necessary, include professionals who have the relevant security clearance in order to facilitate the effective management of offenders based on access to the necessary sensitive information. The Core Group should be joined, when necessary, by Duty To Cooperate agencies. Where a licence is due to expire or absolute discharge from hospital is being considered, the Core Group should develop a plan to mitigate terrorist risk when the licence comes to an end. This will include signposting or referral to other agencies and referral into other multi agency processes or

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<sup>24</sup> MAPPA Guidance Chapter 24.31

MAPPAs Category 3 as appropriate. Officials are developing more detailed processes and procedures for Core Groups; this work is ongoing and will be reviewed routinely by CTP and Probation.

Recommendation (R21): (i) A review be conducted of the computer systems in use for information sharing to ensure that the police and probation and prison staff who require specific access to terminals, and specific database systems, to contribute effectively to the appropriate sharing of intelligence are enabled to do so. (ii) A review to ensure that there is (where appropriate) streamlining of the use of IT systems so that these are correctly used for common sharing of intelligence between different organisations as appropriate, and with appropriate access for all relevant personnel. (iii) A review to identify the correct location of a sterile corridor between overt and covert investigations and management, so that there is the correct line drawn for the sharing of intelligence to those who require it for decision-making to manage risk.

66. These recommendations have been addressed above:

- a. There are cogent reasons for the protection of sensitive information and not all information can be shared (§4);
- b. The JCTPPH's core function is, on behalf of the Security Service, CTP and HMPPS, to co-ordinate quicker and to ensure better exchange of information and intelligence between operational partners (§5-6). The JCTPPH will also allow for a more considered approach to sharing intelligence with other organisations (§31); and
- c. The purpose of the 'sterile corridor' is to ensure that those with direct contact with a Subject of Interest are not placed in a position whereby they might inadvertently disclose sensitive information. It can also be used to ensure that those without appropriate security clearances are not given access to sensitive information. However, appropriately sanitised versions of the sensitive information can be provided. In the case of Usman Khan, it was accepted that the "attack planning" strand of intelligence would have been shared if that had been requested<sup>25</sup>. In direct response to Jonathan Hall QC's MAPPAs Review, the key piece of work that is being undertaken is "the Covert / Overt Bridge". The Bridge will enable the

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<sup>25</sup> DCI Dan Brown, 21 May, p.57, lines 13-16.

sharing of sensitive intelligence into the MAPPA process and, importantly, other key forums (§7-9).

67. In addition, the Home Office is leading work on a new Multi-Agency Public Protection System (“MAPPS”), in consultation with CTP. MAPPS is an offender management system for high-threat offenders, which will be piloted from next year. It will enable more efficient and effective management of high-threat offenders, including TACT offenders, and improve information sharing between frontline agencies.

Recommendation (R22): (i) That procedures be reviewed to identify the appropriate speed with which JOT meetings should convene. (ii) That procedures for handling and responding to requests for BSU involvement be reviewed to identify if they remain appropriate or can be improved with a view to informing CT police of the consideration, reasoning or criteria applied to processing such a request.

68. Recommendation 22(i): a JOT is the name given to a meeting between the Security Service and CTP in the which the management of risk in an investigation is discussed. A JOT can take place in person, via video conferencing or even by telephone. A JOT can be called at any time by either the Security Service or CTP. An urgent JOT can take place if it is required. The document cited in the submissions, DS Stephenson’s Major Incident Disclosure Book 2 of 2 [DC7490-T/16], simply states “*consideration for JOT*”. It does not suggest that there was any urgency for the JOT or any delay in it taking place.

69. Recommendation 22(ii): Witness A could not find a record of a response from the Security Service to DS Stephenson’s request for an assessment by the Behavioural Science Unit (“BSU”), however she was “*absolutely sure that it was discussed with police colleagues because we would definitely have seen a follow-up request in writing had it not been*”<sup>26</sup>. She explained that a number of potential lone actor assessments were undertaken of Usman Khan<sup>27</sup>. However, Usman Khan did not meet the criteria at stage 1 of those assessments for a full BSU assessment. The BSU is a finite resource and it is not possible nor proportionate for there to be a BSU assessment of every Subject of Interest.

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<sup>26</sup> 13 May, p.96, lines 16-20.

<sup>27</sup> 13 May, p.96-97, lines 20-17.

Recommendation (R27): Whenever a TACT offender is to be permitted to attend at a venue or event where the public are present the Probation and Police officers responsible for the risk management of the offender ought to make contact with the organisation concerned to discuss and ascertain the specific security measures in place for the event and venue, and offer appropriate advice and guidance to strengthen the same where appropriate, and to assist in the safety of those working at or attending the event to which the offender is to be permitted to attend.

70. Probation Officers should gather as much information as possible about any event that an offender requests to attend. This may include information regarding the security arrangements which will then inform risk assessment and decisions on offenders taking part in activities and events<sup>28</sup>. This is part of the process of risk assessment set out above in response to recommendations 2, 6 and 14.

71. Probation Officers are not trained in protective security measures and should not be advising event organisers about the security of their venues. There is provision for such advice to be given to event organisers and those responsible for crowded places through the delivery of free, impartial, independent and threat-informed advice and guidance regarding terrorist threat and appropriate and proportionate mitigations, via the National Counter Terrorism Security Office (“NACTSO”) and its network of police Counter Terrorism Security Advisors (“CTSAs”) who are funded by the Home Office. CTSAs provide proactive advice to places identified as crowded places according to either secure national criteria or their own judgment and more generic local advice in meetings and outreach programmes. In addition, the government is consulting on a mandatory Protect duty which would place a duty on the owners publicly accessible locations to protect people using those areas from terrorist attacks<sup>29</sup>.

**SAMANTHA LEEK QC**

**NEIL SHELDON QC**

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<sup>28</sup> This was accepted, in the case of the LT event, by Sonia Flynn (10 May, p.52, lines 7-11 and p.71-74, lines 5-5).

<sup>29</sup> Cathryn Ellsmore, 14 May, p.182-186.

**FRANCESCA WHITELAW**

**RICHARD BOYLE**

**28 July 2021**

# The Counter Terrorism Step Up Programme

The CT Step Up Programme was initiated following three terrorist attacks (November 2019 – Fishmongers’ Hall; January 2020 - HMP Whitemoor; and February 2020 - Streatham).

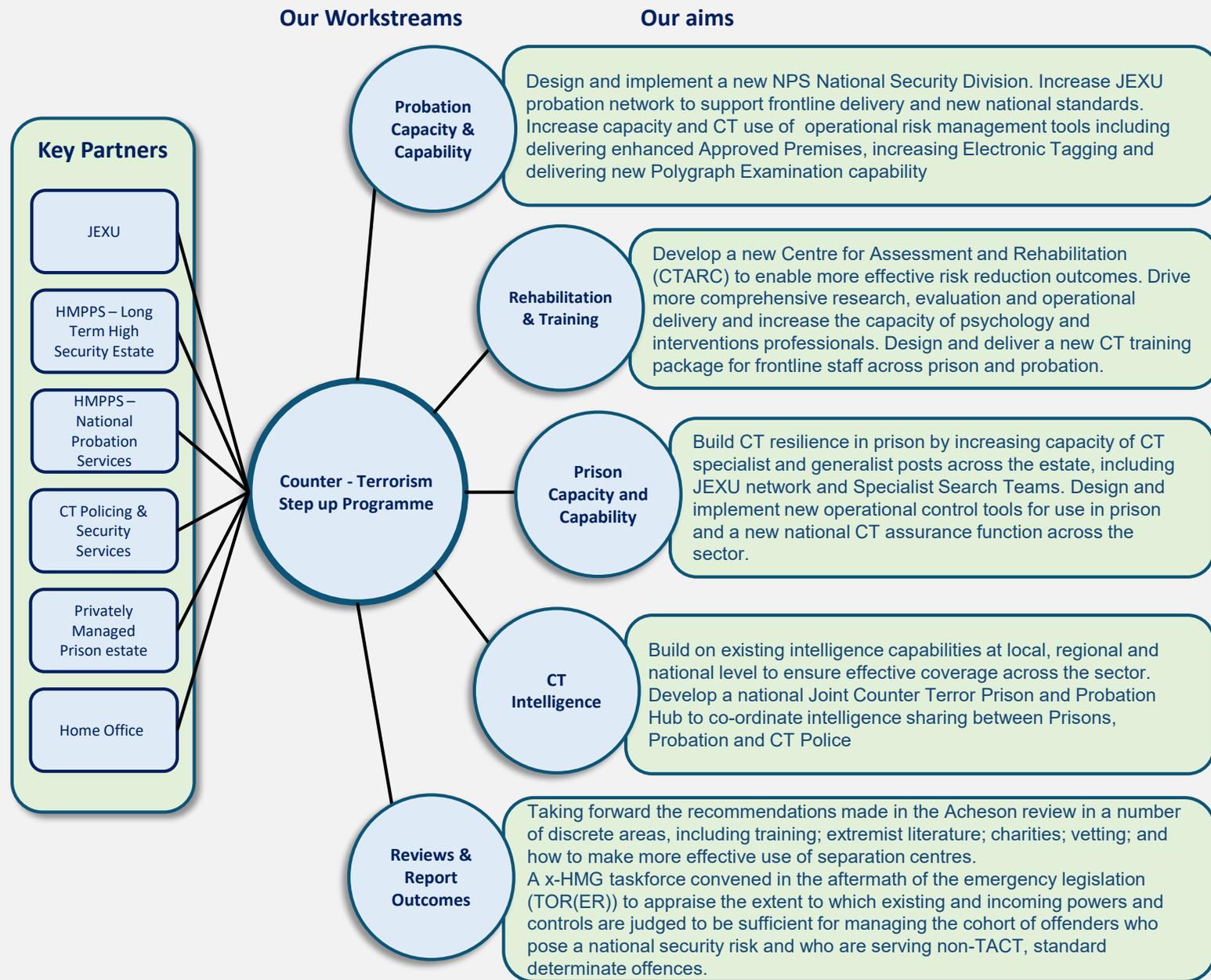
The Programme will raise the level of our counter-terrorism capabilities in prisons and probation, delivering at pace and scale a strengthened set of controls and interventions for terrorist offenders, and provide assurance that extremist and terrorist risk is identified and dealt with.

It is led by HMPPS, but the new controls, changes and activity involve partners from across the CT landscape.

Its Vision is to :

Reduce the risk of terrorism in prison and probation by:

- Robustly managing the risk posed by terrorist offenders, potential terrorist offenders and those at risk of radicalisation.
- Strengthening partnership working and maximising intelligence capabilities,
- Equipping our staff with the knowledge, confidence and support to manage terrorist risk.



# The Counter Terrorism Step Up Programme

## What we have delivered so far:



Capability



Capacity



Collaboration

- ✓ A new National Security Division (NSD) to provide an enhanced level of intelligence led monitoring, case management and intervention for the most high-risk, complex and high-profile offenders in the community. Every terrorist offender on licence will be managed in one of five specialist regional hubs. The NSD also provides accountability through Deputy Director level reporting to the Chief Probation Officer and a multidisciplinary workforce, including specialist probation officers and psychologists;
- ✓ Security enhancements have been delivered to Approved Premises sites, including body worn video cameras, CCTV, biometrics, and solar glare film. In addition the first phase of staff training has been rolled out; 60 staff in the first instance, across 12 modules, via virtual learning sessions by a range of subject matter experts. ;
- ✓ Polygraph Examinations went live from 29th June 2021. All the Polygraph examiners are now in post within the NSD and available to undertake examinations. The first Polygraph examinations have been booked in for July and August 21.
- ✓ All terrorist offenders on licence will be subject to electronic monitoring, and new analytical capacity will enable timely decisions to be made;
- ✓ A new, c50-strong Joint Counter-Terrorism Prisons and Probation Hub, which became fully operational in April 2021. Bringing together experts from the security service, prison, probation and police. The hub will coordinate quicker and better information and intelligence exchange between partner agencies to counter risk in prisons and probation. It will seek to provide a shared understanding of the threat presented by those in custody and on licence.
- ✓ Delivered enhanced CT training to 4000 additional frontline prison officers, to date;
- ✓ Recruitment bringing additional analytical capacity into the National Intelligence Unit is in its final phases.
- ✓ Established and deployed specialist search teams, comprised of 38 staff, into LTHSE establishments to disrupt terrorist activity. Increased specialist capacity and capability to deliver more operational controls in prison targeted at prisoners who present a terrorism risk, and better coordination of interrogation of prisoner communications for extremist content
- ✓ Recruited over 50 frontline staff to JEXU to carry out CT specialist roles across the prison estate. And a further c30 roles to LTHSE to carry out CT intelligence gathering and analysis roles, as well as increasing capacity to manage the risk posed by this cohort.
- ✓ Recruitment of support staff to enable MAPPA meetings to take place monthly rather than bi monthly, and increased JEXU policy development resource to effectively coordinate and manage the impact of terror attacks.

## Our next steps:



- In FY21-22, we aim to establish the new CT Assessment and Rehabilitation Centre (CT ARC) - The CT ARC will use highly-trained psychologists, probation officers and specialist staff to deliver a comprehensive assessment and rehabilitation strategy for those convicted of terrorism offences, and those at risk of being drawn into terrorism, both in custody and on licence. Once operational, our ambition is to become a world leader in this space, led by the latest national and international evidence and academic thinking.
- We aim to deliver enhanced CT training to a further 8000 prison officers. Equipping our staff with the knowledge, confidence and support to manage terrorist risk.
- We will continue to deliver security enhancements and staff training to Approved Premises.
- We will develop and deliver a new comprehensive bespoke CT specialist training programme for frontline staff.
- Establish a Central Communications Control centre, set to launch in December 2021, which will better coordinate the interrogation of prisoner communications (letters, phone calls etc) for extremist content.
- The first stage in the design and implementation of a new national assurance process has been carried out, and first line discovery work is now complete; the next steps are to deliver and embed the new first and second line assurance framework throughout the offender journey.
- Implement a new enhanced Population Management Process including; an improved risk assessment, new standard operating procedures and clearly defined roles and responsibilities, so that all staff understand the role they need to play.
- In partnership with the Home Office, the CT Step Up-funded Desistance and Disengagement Programme will continue to provide rehabilitative interventions to terrorist offenders across the sector.
- We will put in place performance, quality and evaluation measures to track the benefit of the increased staffing to see how this affects our management of CT offenders, and ensure that the programme realises its benefits and has the intended impact

## **MAPPA GUIDANCE**

### **24. Managing Terrorism and Extremism**

#### **Introduction**

24.1 This section explains how MAPPA arrangements should apply to the management of offenders convicted under terrorism legislation (TACT) or whose offences are motivated by extremism.

#### **Background**

24.2 The current UK Government definition of extremism is set out in the UK Government Counter Extremism Strategy 2015:

'The vocal or active opposition to our fundamental values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs. We also regard calls for the death of members of our armed forces as extremist.'

24.3 The Strategy 2015 draws all forms of extremism into scope, violent and non-violent, Islamist and extreme far right/left. It indicates that 'whilst the growth of violent Islamist extremism and the terrorist threat it poses is the greatest risk our country faces from extremism, the evidence...demonstrates the breadth of the challenge we face. Neo Nazi extremism promotes violence beyond terrorism, with appalling levels of hate crime carried out against minority communities. Extremists who are careful to avoid directly supporting violence nevertheless create an environment in which division and hatred is propagated'.

24.4 Offenders motivated by extremism may therefore be convicted of a range of offences in different contexts, which are driven by ideologies that run contrary to the values stated above, causing harm to individuals and communities. Some, but not all, will be convicted under specific terrorism legislation i.e. an offence under the Terrorism Act 2000, the Anti-Terrorism Crime and Security Act 2001, the Terrorism Act 2006 or the Counter Terrorism Act 2008, or an offence of conspiring, attempting, aiding, abetting, counselling, procuring or inciting a terrorism legislation offence (known as **TACT offenders or terrorism offenders**).

24.5 The Sentencing Act 2020 for offenders sentenced in England and Wales, or the Counter Terrorism Act 2008 for offenders sentenced before 29 June 2021, offenders sentenced in other parts of the UK, or service offenders, require courts to determine whether non-terrorist offences have a terrorist connection, and, where the court decides that they do, to treat this as an aggravating factor for the purposes of sentencing the offender (**TACT connected or terrorism connected offenders**). Before 29 June 2021 the courts could only determine there was a terrorist connection where the offence was specified in the relevant Schedule. After 29 June 2021, any non-terrorist offence with a maximum penalty of more than 2 years' imprisonment may receive such an aggravation.

24.6 Other offenders may not be convicted of TACT or TACT connected offences, but their beliefs and engagement with distorted ideologies may drive their offending behaviour and consequent risk to the public (**terrorism risk cases**).

24.7 The **Joint Extremism Unit (JEXU)**, jointly run by HMPPS and the Office for Security and Counter Terrorism operational function, provides specialist counter terrorism teams to support the National Probation Service (NPS) and Prison Service in managing the risks associated with this group of offenders. These staff networks work closely with relevant police colleagues and provide specialist advice and guidance to HMPPS and other colleagues on a local basis with information sharing and offender and risk management. They also provide a briefing and training function. HMPPS staff and partner agencies (such as Youth Offending Teams and mental health services) may consult with colleagues in these specialist teams for advice about all aspects of the management of terrorist and extremist offenders through Probation Counter-Terrorism Leads (PCTLs) as required. The national operational leads for extremism for probation and prisons may also be contacted for advice via PCTLs.

24.8 The National Probation Service manages TACT and TACT connected offenders, and the most concerning terrorism risk cases, within the National Security Division, a specialist directorate, which will provide an enhanced level of management and intervention for the most high-risk, complex and high-profile offenders in the community. Probation staff will work closely with Counter Terrorism Policing (CTP), including with MAPPA nominals who are subject to Part 4 notification requirements. Under Project Semper, CTP is working to create a national effective and efficient service for the overt multi-agency management of individuals of CT interest, balancing control and change pathways, aiming to produce long term desistance and disengagement.

## **Identification**

### **Standard - Arrangements are in place for the identification and management of all TACT/Terrorism and TACT/Terrorism related offenders**

24.9 Offenders convicted of terrorism offences listed within Part 3 of Schedule 15 and sentenced to a term of imprisonment of 12 months or more will be MAPPA eligible under Category 2. Offenders convicted under terrorism legislation whose offences are not listed in Part 3 of Schedule 15 or who receive sentences of less than 12 months must be considered for discretionary management under Category 3. Terrorism connected offenders and, where appropriate, terrorism risk offenders should also be considered for Category 3. For further details see Chapter 6 – Identification and Notification of MAPPA Offenders.

24.10 Offenders who have committed non-violent offences, such as downloading, adding or distributing prohibited material from the internet, may present a risk of serious harm by virtue of their involvement in that activity or their membership of a group committed to terrorist or extremist acts.

24.11 The lead agency may also consider calling a professionals' meeting (as described in 13a.37) and sharing information under Section 115 of the Crime and Disorder Act 1998 where lawfully permitted, for cases that do not qualify for MAPPA.

24.12 Agencies should be mindful of any vulnerability to extremist messaging among other groups of MAPPA eligible offenders. This should be addressed as required by the Prevent Duty (section 26 of the Counter-Terrorism and Security Act 2015), which requires specified authorities to have due regard to the need to prevent people from being drawn into terrorism, and includes prisons and probation by virtue of paragraph 1 of Schedule 6.

24.13 JEXU provide advice on managing those subject to probation supervision who require support because of vulnerability to extremist messaging, but who do not meet the criteria for MAPPA management, and provision exists with Prevent for referral to bodies such as Channel, so that individuals can be assessed and supported appropriately outside of the MAPPA framework.

24.14 Given the nature and sensitivity of cases involving terrorism or terrorism risk, decisions on how risk is best managed will always benefit from a multi-agency response, whether or not they are subject to MAPPA.

24.15 In exceptional cases NPS should consider referring the case for CPPC registration. Further information can be found in Chapter 19 – Critical Public Protection Case Registration.

### **Screening and Level Setting**

#### **Standard - Multi-agency information will be used to consider the most appropriate level of management for terrorism, terrorism connected and terrorism risk offenders**

24.16 TACT and TACT connected prisoners qualify for the NPS early allocation process under the Offender Management in Custody (OMiC) model and cases can be handed over to Community Offender Managers (COM) as early as 15 months prior to release. Release planning, including MAPPA level setting, should begin as soon as possible following allocation to the COM.

24.17 TACT cases are also reviewed in custody 8 months prior to parole review or release or on licence as part of specialist arrangements to inform parole reports, share information and identify all risk factors. This review should include a review of the MAPPA level and confirmation that the case is being managed at the correct MAPPA level (or a change of level if required) and feed into the release planning process.

24.18 There are relatively few terrorist and extremist offenders in the Criminal Justice System. However, the threats that they pose to the community are significant and serious. The profile of these offences and the need to maintain confidence in the Criminal Justice System should be considered when the MAPPA level is set. The majority of cases subject to MAPPA for TACT and TACT connected offences will require initial management at Level 2 or 3.

## **Information Sharing**

### **Standard - All agencies involved in the management of the case must share relevant information**

24.19 It is essential that all Responsible Authority and Duty to Cooperate (DTC) agencies share all relevant, appropriate information at their disposal in a timely manner so that the lead agency can manage the case in a defensible manner. All agencies managing or in receipt of sensitive information must share and handle it appropriately. This might include the use of handling codes (instructions on the handling of sensitive information), information sanitising, and specific storage facilities according to agency information management policies. For more information see Chapter 9 – Information Sharing.

24.20 Specialist arrangements to address vulnerability to extremism and to share information on the offender may assist with initial and ongoing sentence planning. Such arrangements may be implemented during the custodial period or in the community and would include police, prison and probation staff, as well as the responsible clinician/care team for mental health patients. It is essential that any arrangements feed into MAPPA and that silos and duplication are avoided.

## **Risk Assessment**

### **Standard - All TACT and TACT related offenders will be risk-assessed using relevant risk assessment guidance and approaches**

24.21 As with other MAPPA cases, it is crucial that relevant information from all partner agencies informs the assessment and management of TACT and TACT connected offenders. Any risks known to any agency engaged in working with the offender should be identified.

24.22 Where NPS is the lead agency the Probation Practitioner will complete an OASys assessment supplemented and enhanced by a specialist risk formulation, the Extremism Risk Guidance (ERG.) The ERG must be completed by a suitably trained and experienced member of staff and the outcome should be recorded on the MAPPA minutes as well as feeding into the risk management plan.

24.23 As with other high or very high risk of serious harm offenders with few previous convictions, the Offender Group Reconviction Scale (OGRS) within OASys is likely to be low. There were not significant numbers of this type of offence within the cohort of cases on which OGRS scores have been devised and so its predictions should be treated with caution and not relied on without other evidence. MAPPA meeting Chairs should be aware of the limitations of the tools and the fact that assessing risk is not the function of one particular tool (such as OASys or ERG 22+). Risk assessment depends on pulling together all that is known, and can be inferred, about the individual offender as their case progresses. Nevertheless formal assessments and risk formulations should be available to and inform the first MAPPA meeting (while the majority of offenders will still be in custody) and meetings thereafter. An ongoing focus on risk assessment is essential and OASys and ERG 22+ should both be reviewed regularly.

24.24 The assessment of risk should be informed by information from Police SIOs for the index offending and any relevant comments about future risk made by Judges in summing up. Ensuring continuity of information flows is important over the period an offender is being managed so that key information is not lost over the long term.

24.25 An intervention package known as the Healthy Identities Intervention (HII) should be considered for all TACT and TACT connected cases. The ERG assessment will inform this decision. Some offenders serving longer sentences may have commenced or completed HII in custody and the reports from these interventions should inform the OASys assessment and be available to MAPPA meetings. MAPPA meetings should have access to specialist advisers, probably forensic psychologists, when assessing the impact of interventions or concerning offender behaviour.

24.26 Where the offender is a child, the Youth Offending Team (YOT) will complete an Asset Plus assessment taking into account the issues and additional information outlined in paragraphs 24.21 – 24.25 above and any additional vulnerability factors.

### **MAPPA Meetings**

24.27 It is essential for NPS and CT policing to take a shared leadership role in specialist MAPPA meetings for this group of offenders, whether or not this is achieved through having a formal designation of joint Chairs. NPS Chairs should be vetted to at least SC level. The MAPPA meeting Chair(s), MAPPA Coordinator, members of Counter Terrorist Policing at national and/or local levels and the Probation Counter Terrorism (PCT) Lead (for offenders under probation supervision) may meet before the MAPPA meeting to ensure that the Chair is fully briefed. Such meetings provide an opportunity to agree levels of intelligence or information-sharing and to discuss disclosure and any specific issues relating to the management of the offender. MAPPA meeting Chairs should be aware of specific sentencing and release provisions as they apply to those convicted of TACT and TACT connected offending.

24.28 Information-sharing between agencies and security management are likely to be more prominent in TACT and TACT connected cases because of the national security aspect and the sensitivity of the information involved. Invitations to MAPPA meetings for TACT and TACT related offenders should be carefully considered, and will need to include Counter-Terrorism Policing. The MAPPA meeting Chair should agree appropriate attendees with Counter Terrorism Police colleagues on a case-by-case basis. DTC agencies (or others) should be invited to attend Level 2 or 3 meetings where there is an identified benefit from their presence at the meeting. Meetings provide formal oversight at the right level of seniority (2 or 3) by the agencies responsible for managing risk or contributing the risk management plan and, where necessary, facilitate explanations and assistance from senior representatives of DTC agencies.

24.29 Given the oversight role and the focus on achieving outcomes beyond active case management, agencies must prioritise attendance. Representation from all invited agencies, including the Prison Service (see Chapter 15 - Custody), is

essential to ensure the optimum exchange of information. MAPPA meeting Chairs should satisfy themselves that information flows between prison, police, and NPS (and care teams where applicable) are agreed by all to be satisfactory for offenders still in custody or hospital. Specialist advice can be obtained from NPS/HMPS Counter Terrorism teams. Unresolved concerns should be escalated to the SMB Chair who can contact the national MAPPA team for advice.

24.30 As for all MAPPA meetings, at every meeting

- the risk assessment and risk management plan must be considered and agreed by the meeting to be up to date and accurate;
- the minutes must be clear and concise and reflect that consideration and not rely on information pulled through from earlier meetings;
- any uncertainties or missing information should be set out in the minutes and
- significant decisions should be clearly recorded, along with the rationale underpinning them.

### **Core Groups**

24.31 MAPPA management is not limited to formal meetings but is the totality of action between agencies - brought together in a dynamic risk management plan responsive to changing risk and informed by relevant information from all available sources. For this group of offenders, formal Level 3 meetings should be underpinned by the ongoing active management of the case and by meetings between a concentrated Core Group of professionals involved in the management of the case. The Core Group may include appropriately security-cleared professionals to allow the effective management of offenders based on access to the necessary sensitive information in real time. The Core Group should be joined when necessary by DTC agencies. Where a licence is due to expire or absolute discharge from hospital is being considered, the Core Group should develop a plan to mitigate terrorist risk after expiry, including signposting or referral to other agencies and referral into other relevant multi agency processes or MAPPA Category 3 as appropriate.

### **Licence Conditions**

24.32 The responsibility for requesting licence conditions rests with the NPS, but should be informed by consultation with MAPPA colleagues. Licence conditions must be set in line with HMPPS policy or Parole Board direction as applicable. The Regional Probation Counter Terrorism Lead and Counter Terrorism Police Offender Manager must be consulted to inform decisions on applying additional conditions. Further advice on the suitability of these and bespoke license conditions can be obtained from the Senior Caseworker (Licence Variations), Public Protection Casework Section (PPCS) in the HMPPS Public Protection Group, or the NPS Extremism lead in JEXU. Probation and police need to adopt a detailed coordinated approach to the development and management of licence conditions.

24.33 GPS enabled location monitoring can be included as a licence condition where this would enhance the management of specific, identifiable risks. It can be used to monitor whereabouts (trail monitoring) or to monitor compliance with specific

conditions, such as exclusion zones etc. The tags can also monitor curfew. Terrorism risk cases serving determinate sentences need to be a Critical Public Protection Case (CPPC) in order to qualify for GPS tagging. If registered and a tag applied then the full service range including trail monitoring would be available. Where it is used, a viable, credible contingency plan must be established and recorded to ensure that a response to any violation is acted upon swiftly and appropriately. Electronic monitoring staff are vetted to manage this work and share information only with those that are listed on the protocol for each case. All such cases are flagged with the suppliers of EM and treated as special cases using special cases protocols, which should be completed by probation staff in conjunction with police colleagues and forwarded to the relevant unit prior to release.

### **Legal Advice**

24.34 Advice on and legal questions relating to HMPS or NPS management of a case can be obtained from Government Legal Department by contacting the national MAPPA Team. Police should access their own legal advice where they have uncertainty about the application of their powers. Legal advice should be shared at the MAPPA meeting to inform decision making.

### **Media**

24.35 Given the level of public interest in terrorism and extremism, there is potential media interest in all TACT and TACT related cases. A media handling plan must be established where there are particular issues that make significant media interest in the case probable and measures should be considered to manage any issues of notoriety. The Press Office of the lead agency and the national MAPPA team should be notified. In other cases, contingency plans should include a reactive media plan to be used if interest becomes active.

24.36 In the event of active press enquiries, MoJ Press Officers should be informed at the earliest opportunity and will provide advice and press lines in all NPS managed cases or where the offender is in prison. Where initial enquiries are directed to Police or Duty to Cooperate agencies they should also contact MoJ Press Office, who will issue press lines about any NPS supervised cases. The national MAPPA team, the National Probation and Prison Extremism Leads in HMPPS, will provide advice and support where needed. The Home Office press office will deal with wider press queries about CT issues. All press releases must be cleared by the Government Legal Department.

### **Terrorism Prevention and Investigation Measures**

24.37 There are rare occasions where offenders released on license for MAPPA eligible offences are also made subject to Terrorism Prevention and Investigation Measures (TPIM). Advice should be sought from CT Police and PCT team colleagues in these cases. Offenders subject to TPIM are not automatically eligible for MAPPA and should be considered for Category 3. Where an offender is subject to both licence conditions and a TPIM, each set of conditions will exist simultaneously and close liaison between police and probation case managers is vital. These cases may also be made subject to Anonymity Orders in Court. These

orders are granted to protect an individual from press intrusion. This should not prevent the necessary sharing of information between relevant agencies to manage risk appropriately. However, it is essential all agencies comply with terms of anonymity orders or risk contempt of court. If any concerns exist in relation to anonymity orders and the sharing of information seek legal advice via the National MAPPA Team.