

# **National Accommodation Strategy for Sex Offenders in Scotland**

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ISBN: 978-1-78045-599-0 (web only)

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Edinburgh  
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Produced for the Scottish Government by APS Group Scotland  
DPPAS12411 (01/12)

Published by the Scottish Government, January 2012

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# 1. INTRODUCTION

## What is the National Accommodation Strategy for Sex Offenders?

1. The National Accommodation Strategy for Sex Offenders, or NASSO for short, forms part of the Multi Agency Public Protection Arrangements (MAPPA) and explains how housing contributes to those arrangements. The NASSO sets out the arrangements for housing offenders subject to the sex offender notification requirements, also known as registered sex offenders. Throughout this document such offenders are referred to as “sex offenders under MAPPA”. In particular, the NASSO focuses on assessing and managing the risks that sex offenders under MAPPA may pose by living in a particular community, location and property.

2. The MAPPA minimise the potential risk each sex offender may pose by requiring the police, the Scottish Prison Service and local authorities to work together to assess and manage such risks. Social housing providers have a duty to co-operate with them. The arrangements for each offender will depend on their offence and the level of risk they may pose.

3. This Strategy is part of, and must be read with, the arrangements which are set out in full in the MAPPA guidance available on the Scottish Government’s website:

[www.scotland.gov.uk/mappaguidance2012](http://www.scotland.gov.uk/mappaguidance2012)

4. This Strategy covers sex offenders managed under MAPPA. Sex offenders who are not registered, because they committed an offence and had been released and completed any period of supervision before the register came into force or because the time period for which they were ordered to register as a sex offender may have passed, are not subject to MAPPA.

5. This Strategy does not cover the arrangements for housing young people who display sexually harmful behaviour dealt with through the Children’s Hearings system. Guidance on the expectations, roles and responsibilities of housing providers for such young people is available at:

<http://www.scotland.gov.uk/Publications/2008/12/22093927/0>

## Why is housing important?

6. The clear and consistent advice from experts<sup>1</sup> is that stable housing arrangements and effective monitoring make a key contribution to minimising the risks sex offenders under MAPPA may pose. Research in this area has found that:

- Support, coupled with stable accommodation, can help to address the risk factors associated with further offending, and allows individuals to benefit from supervision and other forms of treatment<sup>2</sup>; and

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<sup>1</sup> Cosgrove (2001), Glasgow and Sheffield Hallam (2005)

<sup>2</sup> Barker and Collet (2000)

- placements in stable accommodation can support on going risk management by all of the agencies involved where formal protocol arrangements are in place to allow the exchange of sensitive information about individuals<sup>3</sup>.

7. Sex offenders under MAPPA live in their own homes, the private rented sector and in affordable rented housing. This Strategy sets out the role of local authorities and Registered Social Landlords (RSLs) when such offenders seek affordable rented housing. It also sets out the roles that the Responsible Authorities (see below) have when sex offenders under MAPPA live in their own home or rent housing in the private rented sector.

### **Who assesses the risks that a sex offender under MAPPA may pose?**

8. The Management of Offenders etc. (Scotland) Act 2005 ('the 2005 Act') placed legal duties on local authorities, the police, the Scottish Ministers (in relation to functions exercised by the Scottish Prison Service) and health boards or Special Health Boards – collectively known as Responsible Authorities – to jointly set up arrangements for assessing and managing the risks certain offenders pose (see MAPPA Guidance). The 2005 Act is available here:

[http://www.opsi.gov.uk/legislation/scotland/acts2005/asp\\_20050014\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/acts2005/asp_20050014_en_1)

9. One of the Responsible Authorities is the local authority. The responsibility for carrying out the joint arrangements lies primarily with the Chief Social Work Officer. However, other local authority services, such as housing, also have responsibility to contribute to carrying out the corporate responsibility by virtue of section 10(7) of the 2005 Act.

10. Under the 2005 Act the Responsible Authorities have to co-operate with each other and with other key agencies placed under a duty to co-operate ('duty to co-operate agencies') by the Management of Offenders etc. (Scotland) Act 2005 (Specification of Persons) Order 2007. The key agencies under a duty to co-operate include Registered Social Landlords (RSLs).

[http://www.opsi.gov.uk/legislation/scotland/ssi2007/ssi\\_20070092\\_en\\_1](http://www.opsi.gov.uk/legislation/scotland/ssi2007/ssi_20070092_en_1)

11. The 2005 Act defines 'to co-operate' at section 1(2)(a):

“ 'to co-operate' may, without prejudice to the generality of that expression, include to exchange information ('co-operation' being construed accordingly).”

12. The MAPPA guidance includes more information on co-operation. In summary, the Responsible Authorities have to assess and manage the risks sex offenders under MAPPA may pose. Registered Social Landlords do not have to assess and manage the risks, but they do have to co-operate with those who do. Registered Social Landlords and the information they hold about housing and the local community are central to both the assessment and management of risk. Co-operation includes, but is not restricted to, the exchange of information.

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<sup>3</sup> Wing (1998)

13. The 2005 Act did not put a legal obligation on RSLs to provide housing for sex offenders under MAPPAs. They do have obligations, under housing law, towards homeless persons that are set out in section 2 of this Strategy. Beyond this, there is an expectation that where social landlords have identified housing, and the Responsible Authorities have agreed that it is manageable, then social landlords will make an offer of housing. Such an expectation is consistent with the generality of the expression 'co-operate' in the 2005 Act. The duty to co-operate is reciprocal and the Responsible Authorities and RSLs must work together to make sure that they are each able to satisfy this duty.

14. In exchanging information, the Responsible Authorities provide RSLs with information on sex offenders under MAPPAs and housing providers provide the Responsible Authorities with information on available housing, the location and nearby households. Information sharing between the Responsible Authorities and RSLs should be agreed in information sharing protocols.

15. The key housing contacts under this Strategy are the Sex Offenders Liaison Officer (SOLO) in each local authority and Link Officers in every RSL. Those undertaking these roles may have a wide variety of other duties. They may also have a different job title, for example a MAPPAs Housing Liaison Officer or MAPPAs Housing Co-ordinator may have the SOLO role. For consistency, however, the terms SOLO and Link Officer are used throughout this Strategy. A detailed explanation of each of these roles is set out in section 5.

### **What are the key principles underlying the Strategy?**

16. The Strategy is founded upon the following key principles, which are based on those endorsed in the Report of the Expert Panel on Sex Offending (Cosgrove Report 2001 <http://www.scotland.gov.uk/Publications/2001/06/9284/File-1>):

- sex offenders under MAPPAs cannot be excluded from housing. Blanket exclusions of such offenders are illegal (since everyone in Scotland aged 16 or over has a legal right to be admitted to a housing list or register), while their suspension from receiving offers of housing will undermine risk management arrangements by increasing the risk of an offender going missing;
- social housing providers should not give sex offenders under MAPPAs priority for housing merely because they are such offenders. But sex offenders may be allocated housing where they have been assessed as in need of housing and where the Responsible Authorities have assessed them as being a risk to the community and providing housing would minimise that risk. Any decision to provide housing for a sex offender is in the context of managing risk and improving public safety;
- sex offenders under MAPPAs should normally be housed in mainstream housing within the local authority area from which they originate, although exceptional circumstances may occasionally mean that arrangements are made to house an offender in other local authority areas (see paragraphs 61-65).

## **Who should read this Strategy?**

17. This Strategy replaces earlier versions of the Strategy and accompanying practice guidance. So, the Strategy is essential reading for the Responsible Authorities as well as RSLs as duty to co-operate agencies.



## 2. HOUSING CONTEXT

### Background

18. This Strategy is aimed at local authorities, the police, the Scottish Prison Service and health boards as Responsible Authorities, as well as housing professionals. In working together to minimise the potential risk each sex offender may pose it is important that there is a common understanding about the housing context in Scotland.

19. The range of housing for sex offenders under MAPPA includes the:

- private rented sector;
- owner-occupied sector;
- specialist housing; and
- affordable rented housing.

20. **Sex offenders under MAPPA live in all housing tenures and there is no presumption that such offenders will be housed in the affordable rented sector.** Social landlords will provide applicants with advice on their housing options and this may include having to direct those seeking housing towards the private rented sector or low - cost home ownership options.

### Private rented sector

21. Some sex offenders under MAPPA may choose, or may need, to rent housing from a private landlord. There are around 273,000 properties in the private rented sector. The registration of all private sector landlords under Part 8 of the Antisocial Behaviour etc. (Scotland) Act 2004 provides local authorities with comprehensive information on the private rented sector for the first time.

22. The provision of information to private sector landlords is a matter for the police, who have discretion on disclosure on a case-by- case basis.

### Owner-occupied sector

23. The majority of homes in Scotland are owner occupied. Some sex offenders will return to housing they own and in such cases the Responsible Authorities will assess and manage the risks to public safety. The MAPPA guidance provides more information on supervision strategies available to the Responsible Authorities.

### Specialist housing

24. Most experts consider that high-profile/high-risk offenders are better managed in lower-profile housing out of the public eye, that is normal housing stock, with access to local programmes. However, temporary housing available through specialist support providers such as Safeguarding Communities Reducing Offending (SACRO) may be suitable for offenders who have been institutionalised for long periods of time. Requests for such accommodation need to be made at an early stage to give adequate time for the sharing of relevant information.

25. Where a local authority or RSL leases a property to a specialist provider such as SACRO for the housing of sex offenders under MAPPA, the local authority or RSL will agree protocols with the specialist provider covering information sharing and any special or particular arrangements for managing the tenancy.

### **Affordable rented housing**

26. Affordable rented or social housing is housing owned and managed by local authorities and Registered Social Landlords (collectively known as 'social landlords'). Across Scotland there are 26 local authorities and around 160 RSLs who have such housing. In most areas there are several RSLs with housing. A few RSLs have housing in different areas across the country, but the majority are relatively small locally-based landlords. This brings particular challenges to meeting the housing needs of sex offenders.

27. There are around 600,000 homes in the affordable rented sector in Scotland. Only around 10% of these homes become available for letting each year. A percentage of these will go to existing social tenants who move home and to applicants who are homeless. Only some of the vacant properties are therefore available for new applicants. Scottish Government statistics suggest there are around 130,000 applicants for affordable rented housing across Scotland. So, the availability and demand for housing may mean that there is less flexibility to address the particular needs of sex offenders.

### ***Obligations on social landlords***

28. The shortage of housing means that social landlords have to have rules about how they will allocate their housing. These are set out in their allocation policy. There is legislation that governs what local authorities and RSLs must and must not do. The practice guide for social landlords, published by the Scottish Government in March 2011, provides more details on the constraints on social landlords. It is available online at [www.scotland.gov.uk/allocations](http://www.scotland.gov.uk/allocations) and key points to note are:

- anyone aged 16 or over has the right to be admitted to a housing list, sometimes called a housing register. However, the right to be admitted to the list is not a right to be allocated a house;
- after a social landlord has admitted an applicant to their housing list or register they have to decide on the priority of their application;
- reasonable preference has to be given to persons who:
  - a) (i) are occupying houses which do not meet the tolerable standard; or
  - (ii) are occupying overcrowded houses; or
  - (iii) have large families; or
  - (iv) are living under unsatisfactory housing conditions; and
  - b) to homeless persons and persons threatened with homelessness;

- reasonable preference means that persons in the above groups are given preference for available housing over and above other applicants; and
- social landlords must allocate their housing in line with their allocation policy. That policy can, however, set out situations where the landlord may exceptionally allocate outwith normal practice. So for example, one local authority's allocation policy allows for discretionary allocations in situations where released prisoners are returning to the area and the police and the Criminal Justice Service have identified these individuals as a serious threat to the public. Another's allocation policy allows for exceptions where immediate housing is required or cannot otherwise be dealt with under the policy.

29. There are also particular obligations on local authorities to provide housing for those who are homeless and also for children where they require it or where it would safeguard or promote their welfare. These obligations will impact on decisions about allocating affordable rented housing.

30. All social landlords must also take into account data protection, equalities and human rights legislation when allocating their housing.

### ***Applying for housing***

31. Sex offenders under MAPPA may apply for housing direct by completing an application form. This puts their name on a housing list or register. This is a list of applicants for affordable rented housing kept by local authorities and RSLs or set up jointly by a local authority and some or all RSLs in a specific area.

32. Under the terms of the [Sexual Offences Act 2003](#), sex offenders under MAPPA have to tell the police of a change of home address within three days. The Responsible Authorities should tell the SOLO of known sex offenders. Applicants may also voluntarily declare on an application form or in discussions with housing officers that he or she is a sex offender and their applications should be referred to the SOLO in local authorities or Link Officer in RSLs. Landlords should, as soon as possible, tell the Responsible Authorities about any such applications and should seek advice on the housing that may be manageable and for details of any restrictions on where the sex offender can live.

### ***Different approaches to allocating housing***

33. The allocation system is the way in which social landlords hold applicants on a housing list or register, prioritising applicants to reflect their aims and priorities. Not all social landlords allocate their housing in the same way, the traditional method of allocating housing has been by a points-based housing list. Under this approach social landlords assess each application for housing, and award points on the housing needs of the applicant. When a property becomes available, the social landlord assesses applicants on the list for a match with the type and size of property available.

34. Some landlords are moving away from a points based housing list in favour of a choice-based lettings system. Under this approach the social landlord categorises the applicant according to their housing need, usually using a banding system with categories such as gold, silver and bronze. Landlords advertise vacant properties and applicants make a bid for those that they consider meet their preferences and needs. The social landlord makes a list of all bids received for each advertised property and an offer is made to the applicant with the highest level of priority who will make best use of the property and who has the earliest date of registration. Such an approach gives more choice to tenants, but may result in a need to restrict choice for some applicants, such as sex offenders returning to the community.

35. RSLs should contact the SOLO before they allow a bid from a sex offender under a choice-based letting scheme. A housing provider should restrict choice of housing if consultation with the Responsible Authorities suggests that it is reasonable to do so in the interests of public safety.

36. Whatever approach is used, the allocation policy should contain sufficient flexibility to allow for allocations outwith normal practice in exceptional circumstances.

### ***Working together***

37. Social landlords do not manage their housing in isolation. Many local authorities and RSLs have agreements under which local authorities can refer applicants to RSLs for housing. This is on top of more formal arrangements under Section 5 of the Housing (Scotland) Act 2001.

38. The Housing (Scotland) Act 2001<sup>4</sup> and Homelessness etc. (Scotland) Act 2003 introduced rights for homeless persons to temporary and settled accommodation, and these rights apply to homeless offenders, including homeless sex offenders. Local agreements between local authorities and RSLs may mean that referrals under Section 5 no longer operate. Whatever the referral arrangements, social landlords should treat applications from homeless sex offenders under MAPPA as a priority given the increased risks associated with the lack of housing for effective monitoring and management of the offender.

39. In recent years there has been a drive towards further collaboration between social landlords to make it easier for applicants to access affordable rented housing. As a result many landlords now form part of a Common Housing Register (CHR). CHRs generally operate in local authority areas and many have a single register of applicants, a common application form and a common source of advice and assistance for applicants. Within this broad framework individual landlords may however retain their separate allocation policies.

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<sup>4</sup> Section 5

## ***Tenants rights***

40. Once a social landlord has allocated an applicant affordable rented housing they will, in most cases, be granted a Scottish Secure Tenancy. This may not be possible immediately on release from prison and a period of accommodation in temporary housing may be necessary. A focus on permanent housing helps the Responsible Authorities in their support, supervision and management of the offender.

41. A Scottish Secure Tenancy gives the tenant certain rights:

- to sublet their tenancy, exchange their house or take in a lodger. They can also assign (sign over) their tenancy to anyone who has lived in their house as their only home for at least six months. The tenant must get written permission from their landlord, who can refuse permission if there are good reasons for doing so. RSLs should, on receipt of a request from a sex offender under MAPPa to transfer, exchange or assign their home or to take in a lodger, contact the SOLO before they give consent. A housing provider should consider withholding consent, if consultation with the Responsible Authorities suggests that it is reasonable to do so in the interests of public safety;
- to pass on their home to a spouse, civil partner or cohabitee; or family member or carer living in the property; and
- to security:
  - a social landlord cannot evict a tenant from their home without a court order. The grounds for a court to grant an order are set out in Schedule 2 of the Housing (Scotland) Act 2001 and are limited in scope. Outwith these grounds the social landlord cannot force a tenant to leave the property. Where the Responsible Authorities assess that public safety is being compromised and cannot be managed safely discussions should take place about possible actions (see Chapter 3 of this Strategy), including discussions with the offender about a voluntary move of housing;
  - the eviction of sex offenders under MAPPa can lead to the heightening of risk, through offenders being lost from the system or not finishing rehabilitation programmes. Eviction of a tenant on conviction of a registered sex offence should not then be a matter of course, but the social housing provider should take into account both the individual's circumstances and wider community safety considerations. Landlords should talk to the Responsible Authorities via the SOLO if they are contemplating eviction. In the event that eviction is necessary, the Responsible Authorities will need early notification to make plans for the future housing arrangements for that offender;

- SOLOs should be aware that section 11 of the Homelessness etc (Scotland) Act 2003 gives a duty to all landlords to give the local authority notice of proceedings of possession (other than where the landlord is the local authority). While section 11 does not give a duty to local authorities themselves, they will want to make sure that any planned evictions of sex offenders following grant of a court order are notified effectively within their organisations and to SOLOs;
- a tenant who is convicted of an offence may keep their tenancy when they are in prison. If, however, they are in receipt of Housing Benefit, this would stop after 13 weeks, at which time they could opt to terminate the tenancy, pay for the tenancy by other means or they would then accrue arrears (which could lead to eviction). The manageability of the tenancy upon their release would need to be considered and managed.

42. In limited circumstances social landlords may grant tenants a Short Scottish Secure Tenancy, these are situations where the property is to be let on an expressly temporary basis or where an order for eviction has previously been granted against the tenant because of their antisocial behaviour, or where they are currently subject to an Antisocial Behaviour Order. The Short Scottish Secure Tenancy has many of the same rights as a full Scottish Secure Tenancy but the tenancy cannot be succeeded to when the tenant dies and the right to stay in the property is more limited than with a full Scottish Secure Tenancy.

### 3. ASSESSING AND MANAGING HOUSING-RELATED RISK UNDER MAPPA

#### How does assessing and managing risk under NASSO relate to that under MAPPA?

43. The Responsible Authorities have the legal and operational responsibility for assessing, managing and monitoring risk. You will find further information on how the Responsible Authorities assess and manage the risks that sex offenders under MAPPA may pose in the MAPPA guidance.

44. This strategy sets out:

- the Responsible Authorities' role in assessing and managing **housing-related risk**, that is the risks that a sex offender under MAPPA may pose by living in a particular community, location and property; and
- RSLs' role, as duty to co-operate agencies, in contributing to the Responsible Authorities' assessment and management of risk.

#### What is an environmental risk assessment?

45. An environmental risk assessment is used to identify housing-related risk and informs decisions on manageable housing for each offender that will minimise the risks to the community. The assessment brings together information on the offender, proposed property and location and nearby households to enable a decision on housing an offender to be made that will minimise the risks to the community.

46. It involves various checks by the Responsible Authorities, local authority housing services and RSLs. Each agency is responsible for identifying the information databases that they should research and undertaking its own checks. There may be several areas within local authorities who can contribute to the risk assessment alongside criminal justice social work and housing, for example local authority children's services in social work and education.

47. The checks undertaken will depend on the offender, but could include information on:

- the offender:
  - the System for Tasking and Operational Resource Management (STORM);
  - the Scottish Intelligence Database (SID);
  - the Violent and Sex Offenders Register (VISOR);
  - Local Police Systems;
  - Police National Computer (PNC);
  - Criminal History System (CHS);
  - Vulnerable Persons Database (VPD);
  - Crime Management System;
  - Community Police information;

- any restrictions placed on the offender; and
  - any other relevant information.
- the proposed property and location:
    - landlord information on the type, size and entry arrangements of the property and information on its location;
    - a physical check of the property and its location (which may include play parks, community centres, libraries, schools, nurseries, shops etc.); and
    - any other relevant information.
- nearby households, including:
    - landlord tenancy records;
    - relevant criminal justice cases in the area;
    - sex offenders coming out of jail soon to the same area;
    - the location of victims;
    - vulnerable adults/children and families cases in the area;
    - information from the integrated management information system for schools (SEEMIS);
    - Council Tax data;
    - Housing Benefit data;
    - Voters Roll; and
    - any other relevant information.

48. How far information is sought on nearby households will depend on a number of factors, including the offender, the risks they may pose and the layout of the area. Some Responsible Authorities use a rule of thumb that requires information to be collected on the make up of households in properties where the proposed property can see to / be seen from. That is those properties which have a clear view of the property under consideration – adjacent, front and rear. Where the proposed property is in a block of flats, then information on who shares the communal access / drying area etc. would also be checked.

49. Properties around the proposed property may be affordable rented housing, private rented housing or home ownership. Collecting information on the make up of households therefore may be difficult. SOLOs will need to use all available resources to collect information on the make up of relevant households, including liaising with colleagues in other departments and social landlords as well as using available information from existing data sources such as the voters roll, council tax records and benefits systems. The purpose of collecting this information is to inform the environmental risk assessment and minimise the risk to communities.



## **When should the Responsible Authorities do an environmental risk assessment?**

50. The Responsible Authorities should do an environmental risk assessment for all offenders managed at MAPPA Levels 2 and 3<sup>5</sup>. The lead Responsible Authority managing an offender<sup>6</sup> at MAPPA Level 1 should also consider the need for an environmental risk assessment for such offenders, taking into account the risks the offender may pose, public protection issues or the high profile nature of the case. This could include undertaking an assessment for an existing tenant who is convicted of a sexual offence. The Responsible Authorities should also consider the need for an assessment for housing for prisoners on temporary home leave.

51. An environmental risk assessment is accurate at the time it is undertaken, but the changing nature of communities mean that the Responsible Authorities must keep risk management arrangements under constant review. Social housing providers should make sure that the Responsible Authorities routinely receive, on a case by case basis, relevant information on changing household composition in the area. Updates should be supplied within the timescales agreed with the Responsible Authorities.

52. When the circumstances of the offender change, the Responsible Authorities may trigger the need for a review of an environmental risk assessment. The Responsible Authorities should agree how often they will review the environmental risk assessment where it is not otherwise triggered. The frequency should be in line with the level of risk the sex offender may pose, and as a minimum the Responsible Authorities should review the risk assessment on an annual basis.

## **Making a decision on housing**

53. The Responsible Authorities will discuss the risk assessment and reach an agreement on whether the property is manageable for the offender. Social landlords will need to be satisfied that it is reasonable for them to make an offer of housing. Certain housing is less manageable than others:

- The risk the offender poses and to whom this risk applies may limit the type of housing that will be manageable.
- The location of housing to the likes of schools, parks, community centres etc. that may increase the offender's likelihood of re-offending must be considered.
- It is essential that the offender is not housed in accommodation which puts the offender unnecessarily in conflict with a prohibition or an obligation within a Sexual Offences Prevention Order (SOPO). These civil orders are designed to protect the public from serious harm and any conditions should be examined when considering the manageability of a property.

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<sup>5</sup> See MAPPA Guidance for information on the levels at which offenders are managed.

<sup>6</sup> See MAPPA Guidance for definition of the lead responsible authority.

- The Cosgrove Report did not recommend a specialist residential facility for the treatment of sex offenders because of the risk of networking by offenders.
- If permanent housing is not available, for example on release from prison, then the Responsible Authorities may consider temporary housing. They may also consider it if they have rejected the permanent housing options that have been identified or the offender has rejected housing offers. Social landlords must discuss the temporary housing solutions with the Responsible Authorities.
- Any hostel-style accommodation within the mainstream of the affordable rented sector (as distinct from hostels which are specifically intended for offenders and funded for delivery of Criminal Justice Social Work services), poses the risk of bringing together a group of sex offenders in one location. In particular, hostels are not suitable housing for high-risk offenders as there are often vulnerable people, including children, in such accommodation who may be placed at risk.
- In some areas, where the Responsible Authorities have assessed the risks, landlords have used Bed and Breakfast (B&B) accommodation where there is no other housing. Landlords should avoid this wherever possible because of the problems of managing risk in a B&B establishment. Where landlords can remove such risks by booking the entire establishment then B&B accommodation may be manageable. But, this must be a housing of last resort and the Responsible Authorities should examine alternatives in other areas before reaching a decision.
- The Scottish Government has put in place regulations that prevent the routine use of “unsuitable” temporary housing for homeless households with children and pregnant women (the Homeless Persons (Unsuitable Accommodation) (Scotland) Order 2004 - SSI 2004/489). As part of the assessment of whether temporary housing is suitable for use, local authorities must assess whether it is “suitable for occupation by children”. The statutory guidance requires that the local authority is satisfied that overall, the housing does not pose significant risk to children. If a local authority places a sex offender under MAPPA in temporary housing where there are households with children, this could be a significant risk to them, or other vulnerable groups, who may also be housed in that accommodation. The main purpose of the 2004 Order is to prevent children being placed in housing that is not safe for them or conducive to their development. Such placements of sex offenders might mean that the housing would not meet the standards of the Order and the local authority will not be able to use it to fulfil its duties under the Housing (Scotland) Act 1987.
- Houses in Multiple Occupation (HMOs) are also generally not manageable for sex offenders under MAPPA because of the close contact with other tenants. From 1 January 2012 Housing Benefit claimants in the private rented sector under 35 will receive only the shared room rate. Because of the risks associated with high-risk offenders under MAPPA, an exemption to the new arrangements means that offenders managed at Level 2 and 3 of MAPPA in the private rented sector will continue to receive the single room rate of

Housing Benefit. Arrangements should be made at local level to identify any affected tenants/applicants who are in receipt of or applying for Housing Benefit and a process put in place whereby confirmation that the tenant/applicant qualifies for the exemption is shared with a nominated Housing Benefit contact.

- The private rented sector presents particular challenges and each case needs to be risk assessed and agreed by the Responsible Authorities. Where sex offenders live in the private rented sector the Responsible Authorities have to make sure that supervision, support and monitoring arrangements will be robust enough to minimise risk.

54. In considering the manageability of a property for a particular offender it is important for the Responsible Authorities to recognise that:

- there are issues and constraints in providing the most manageable type and location of housing;
- there is no ideal solution and no ideal location;
- where sex offenders under MAPPA are to be housed in affordable rented housing, housing decisions can only be made on the basis of what housing is, or can be made, available;
- there may be cost and community implications associated with holding properties empty and it may not be possible or feasible for landlords to do so. The risk assessment process needs to minimise any delay in allocations and take account of any such implications in reaching a decision on a manageable housing solution. Where there are costs, discussions should take place at local level as to where those costs should be met from or agreement that the property cannot be held vacant;
- landlords have responsibilities to maintain equality of access to housing as far as possible and it may not be reasonable, practical or feasible for housing providers to limit the nature of allocations to houses in the areas surrounding a sex offender under MAPPA; and
- a housing provider cannot give any guarantee that existing households around the identified housing will not change.

55. Decisions on where to house a sex offender under MAPPA will always be based on the most manageable housing that minimises the risk an offender may pose to the community. If the housing on offer from a housing provider is not ideal, it is a requirement on the Responsible Authorities to adjust the monitoring and supervision arrangements to minimise and manage any risk.

56. Housing a sex offender under MAPPA in the community may have implications for landlords on future allocations in the neighbourhood. Whether there are implications, and what they may be, depends on the offender and the ongoing risks they may pose. The Responsible Authorities should identify any such implications as part of the environmental risk assessment process. Landlords have to meet legal requirements around allocating affordable rented housing and therefore the Responsible Authorities should make sure that any restrictions they identify are necessary to minimise risk to the community.

57. Where there are implications the Responsible Authorities should disclose sufficient information to the social housing provider(s) in the neighbourhood to allow them to make appropriate allocations. Landlords need to identify the affected properties and take a sensitive lettings approach to these allocations and keep records of the decisions taken. The Allocations Practice Guide for Social Landlords published in March 2011 says that:

*“A sensitive let essentially means that you depart from your routine allocation practice. So instead of allocating a property to the applicant at the top of the list (the person with the most housing need, as defined by your allocation policy) you consider the suitability of the applicant for the vacancy, on the basis of the information you have about the applicant and the knowledge you have about the property, its location or neighbours.”<sup>7</sup>*

58. If landlords have any concerns about allocations in the neighbourhood then they should raise those with the Responsible Authorities, via the SOLO. The Responsible Authorities may then consider the ongoing need for restrictions and/or the need for an update to the environmental risk assessment.

59. There is no expectation landlords would be aware of every change of household, or community facilities, in the area around a sex offender. This is about minimising risk so expectations of the frequency of information on stock/profile should be agreed locally and will depend on levels of risk and manageability of housing.

60. Where there has been a review of the environmental risk assessment and the risk has increased then the Responsible Authorities need to consider their options. The increase in risk may be for many reasons and does not automatically mean that a change in housing is indicated, but that risks require to be managed or community unrest needs to be tackled. The Responsible Authorities could consider:

- the need for a Sexual Offences Prevention Order (see MAPPA guidance);
- the offender moving to more manageable housing (see section 2 of this strategy); or
- disclosure of the offender (see MAPPA guidance).

### **Out-of-area placements**

61. In some cases the local authority may need to consider placing a sex offender in another local authority's area under MAPPA. The responsibility for making the necessary arrangements for that placement lies with the placing local authority. Out-of-area placements may be right for a sex offender where, for example:

- such a placement would provide manageable housing which is not available in the placing local authority's area; or
- the offender or others might be at risk if the sex offender under MAPPA was to be housed in the placing local authority's area.

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<sup>7</sup> [www.scotland.gov.uk/allocations](http://www.scotland.gov.uk/allocations)

62. Out-of-area placements present a potentially complex set of challenges. When considering an out-of-area placement, it is crucial that the placing local authority discusses and agrees the placement with the local authority in whose area they are considering placing the offender. All parties should be in agreement on the arrangements before any placement goes ahead.

63. Under no circumstances should a sex offender be placed in another local authority's area under MAPPA without the knowledge and consent of that authority and without a plan in place to manage any associated risk. To do so would be to put others at risk, particularly if other vulnerable households are housed by the receiving landlord in the same temporary accommodation as the sex offender.

64. Local authorities should make sure monitoring arrangements are in place to track the incidence of out-of-area placements. These arrangements will need to show that where a local authority has placed a sex offender in another local authority area under MAPPA that proper discussion between the relevant local authorities has taken place and agreement has been reached.

65. Guidance on the transfer of cases is set out in the MAPPA guidance.

**How should sex offenders whose period of registration has ended be dealt with in terms of housing?**

66. The MAPPA guidance sets out what happens when a sex offender exits from MAPPA.

## **4. INFORMATION SHARING UNDER MAPPA**

### **Why is sharing information important?**

67. If sex offenders are to be successfully managed in the community under MAPPA then it is vital that agencies, including social housing providers, can and do share information. Detailed guidance on information sharing, the National Concordat on Sharing Information on Sex Offenders, protocols and issues such as the Data Protection Act 1998, information security and protective markings are set out in the MAPPA guidance.

68. The risk assessment process will identify any risks the offender presents and the Responsible Authorities will pass these on to the Link Officer where there is a need to know. If the Responsible Authorities decide there is not a need to know then they should recognise that the landlord cannot contribute to the Responsible Authorities' assessment and management of risk.

69. Local authorities and RSLs deal with confidential information on a day-to-day basis and should have in place processes which are sensitive to the privacy rights of all tenants. However, the offender may pose a risk to people working for, or contracted by, the local authority or RSL. This may include housing officers, maintenance officers, community wardens, concierges, sheltered housing staff, housing support staff, repair and maintenance contractors etc.

70. The passing on of relevant information will allow the Link Officer, with advice from the Responsible Authorities, to make sure that any meetings involving staff and the sex offender under MAPPA are conducted in a way that minimises risk. This may mean visiting the offender's house in pairs or only meeting in the office. This also has implications for repairs and maintenance services and these must be considered when minimising risk to staff. Housing officers, maintenance people etc. may be required to go through the SOLO in local authorities and Link Officers in RSLs to arrange access to the person or the property.

71. The MAPPA's fundamental purpose is public safety and the reduction of serious harm. The Responsible Authorities will be monitoring and managing the risks sex offenders under MAPPA may pose, with the protection of children, adults at risk of harm and others paramount. Social landlords must make sure that they do not tell other tenants about the offences. The police have the principal discretion on disclosure, although local authority social work can make disclosures in cases of child protection. Concerns should be discussed with the Responsible Authorities, including (if you're an RSL) the SOLO.

### **What is the National Concordat on Sharing Information on Sex Offenders?**

72. To support the requirements under the 2005 Act for effective information sharing and inter-agency working, key agencies launched and signed a National Concordat on Sharing Information on Sex Offenders in March 2005:

<http://www.scotland.gov.uk/Publications/2005/10/27174205/42063>

73. The Concordat is a set of overarching principles supported by standards on information sharing between key agencies involved in the management of sex offenders under MAPPA to maximise public safety. Agencies must use agreed definitions and follow agreed standards to develop detailed information sharing protocols.

### **What is a Memorandum of Understanding?**

74. Section 10(5) of the 2005 Act says that the Responsible Authorities and the duty to co-operate agencies in each local authority area must together draw up “a memorandum setting out the ways in which they are to co-operate with each other”. The MAPPA guidance sets out what each memorandum should cover, including issues such as disclosure of information and media handling strategies. The MAPPA guidance also provides a model form of memorandum for use locally.

75. The Memorandum sets out the fundamental principles of co-operation and is therefore the basis on which the Responsible Authorities and RSLs will work together. Each local authority area should then make sure that they have fulfilled this legal requirement and have in place agreed Memoranda of Understanding.

### **What are Information Sharing Protocols?**

76. Information sharing protocols should be developed as part of the Memorandum of Understanding. Protocols set out in detail what information will be shared with whom. Guidance on the development and content of protocols is appended to the Concordat and discussions should take place with every RSL in the area to agree information sharing protocols. Guidance on the development and content of information sharing protocols can be found in the [Scottish Executive Justice Department Circular 15/2005](#) issued in November 2005 to those agencies and bodies who signed the Concordat. The MAPPA also includes guidance on information sharing.

77. In the interests of confidentiality and public safety, including the safety of the sex offender, information sharing should always be carried out on a need to know basis. Formal protocol arrangements must be put in place for exchange of sensitive information under the National Concordat on sharing information and local arrangements. **In the end, decisions on the sharing of information on sex offenders under MAPPA are a matter for the Responsible Authorities.**

78. In order to deliver successful information sharing protocols the Responsible Authorities and RSLs in each area will have to enter into a dialogue. Every information sharing protocol has to take into account the needs of each of the parties to it and will therefore reflect local circumstances. An important part of the role of the SOLO is to take the lead in liaising with RSL colleagues.

## **5. HOUSING ROLES AND RESPONSIBILITIES UNDER NASSO**

79. As set out in paragraph 15 the key housing contacts under this Strategy are the SOLO in each local authority and Link Officers in every RSL. This section provides more detail about the responsibilities of these key roles. It is important that housing providers support the Responsible Authorities' assessment and management of risks. This section also considers the wider strategic functions of local authority housing services.

### **What are the strategic functions of local authority housing services?**

80. The local authority (including a local authority which has transferred its housing stock to an RSL) is responsible for the development of a strategic response to the housing of sex offenders under MAPPA. To do so they must involve and talk to RSLs in their area. This should include an assessment of local need and provision for the range of housing and support for sex offenders under MAPPA and should clarify the contribution by RSLs in their area.

### **What is the role of the SOLO?**

#### Main Aim:

81. The main aim of the Sex Offender Liaison Officer (SOLO) role is to be the initial point of contact for housing enquiries for sex offenders under MAPPA, to be the link between the Responsible Authorities and social housing providers under a duty to co-operate. In this role, the SOLO will:

- Identify housing providers using information about the sex offender from the Responsible Authorities.
- Make sure that the liaison arrangements for identifying manageable housing and supporting the management of risk by the Responsible Authorities includes the housing provider.
- Liaise pro-actively with the Responsible Authorities and housing providers on ongoing risk management and community safety issues.

#### Main Responsibilities:

82. The main responsibilities of the SOLO before housing a sex offender are to:

- assist with drawing-up and revising a Memorandum of Understanding and Information Sharing Protocols;
- set up and maintain good working relationships with RSLs;
- be the first point of contact for housing a sex offender;
- give sex offenders advice on housing and their housing options;



- liaise with Link Officers to help identify manageable housing;
- contribute to environmental risk assessments;
- take part in discussions and decisions on manageable housing for sex offenders under MAPPA; and
- process and hold securely information on sex offenders to assist with future allocation issues and ongoing tenancy management.

83. The main responsibilities of the SOLO after housing a sex offender are to:

- help the Responsible Authorities to make sure that where a sex offender needs to move to another local authority area, the transfer operates smoothly;
- liaise with Community Justice Authorities and any multi-agency groups the Responsible Authorities set up;
- make sure that the local housing strategy and operational plans consider the need for housing sex offenders under MAPPA;
- contribute to the review of the local authority's and RSLs' housing policies; and
- monitor, with the Responsible Authorities, where sex offenders under MAPPA are housed and identify any issues about the over-concentration of such offenders in particular areas.

### **What is the role of an RSL Link Officer?**

84. RSLs have a duty to co-operate under the MAPPA arrangements and their role is to contribute to the Responsible Authorities' management of risk by:

- exchanging information on housing with the Responsible Authorities;
- allocating housing that has been assessed as manageable by the Responsible Authorities;
- liaising with the Responsible Authorities on their ongoing management and monitoring of the risks the offender may pose;
- having in place arrangements with the SOLO and the other Responsible Authorities to deal with situations where a property is no longer manageable.

85. Individual social housing providers should have in place a Link Officer (or staff who will undertake the duties of a Link Officer) to liaise with the SOLO and Responsible Authorities. They should:

- take part in the development of, and agree, Memorandum of Understanding and information sharing protocols with the Responsible Authorities;
- give information on housing stock and voids to the SOLO at agreed intervals (under a negotiated agreement);
- respond to specific requests by the SOLO about the availability of housing for sex offenders under MAPPA;
- have in place processes for responding to requests from the SOLO to house sex offenders under MAPPA;
- have in place arrangements within their organisation for the security and management of information;
- provide information for the environmental risk assessments;
- keep the SOLO advised of any proposed house moves by sex offenders under MAPPA;
- keep the SOLO advised of any information which comes to light about the offender which may affect community safety;
- keep the SOLO advised of applications for housing made direct to the RSL by sex offenders where this is disclosed during the application process;
- keep the SOLO advised of any potential legal action / Section 11 notifications / tenancy complaints etc. involving sex offenders;
- take part in relevant case conferences and multi agency arrangements;
- make sure processes are in place within the organisation to protect staff dealing with the sex offender under MAPPA, for example, for home visits.

### **Dealing with queries**

86. The local housing office is often the first port of call for tenants or community members who wish to tell someone about their concerns about sex offenders. Their position at the heart of communities makes housing providers ideally placed to alert the Responsible Authorities to concerns.

87. Depending on the nature of questions or concerns the SOLO (local authorities) or Link Officer (RSL) may take one or more of actions:

- If there are concerns about the behaviour of a tenant or other person living in the community these should be reported to the police for further investigation and possible action;

- If there may be a risk to children it should also be reported to the local social work service;
- If it is a general question about housing policies and procedures these should be made available and discussed with the person. They should also be given an opportunity to talk about concerns or issues with the Responsible Authorities.

88. Details about who sex offenders are, or where they are housed, must not be divulged. The SOLO or Link Officer should only confirm that they have passed on concerns for investigation.

89. So, housing agencies should:

- make sure housing officers know who in the Responsible Authorities they should refer community queries to;
- know who the Responsible Authorities' community or media points of contact are and make sure that all staff know to refer all media queries to them for liaison and action;
- be open and transparent about the organisation's protocols for housing sex offenders under MAPPA;
- liaise with the Responsible Authorities where a tenant is involved in any incident reported in the media;
- make sure that sensitive information on sex offenders under MAPPA is stored, flagged and managed in line with MAPPA guidance; and
- make sure that elected members and committee members are aware of the local multi agency public protection arrangements.

### **What is the role of councillors and management committees?**

90. Section 20(3) of the 1987 Act (as inserted by section 154 of the Leasehold Reform, Housing and Urban Development Act 1993) excludes councillors from decisions on certain allocations. It excludes the local councillors from a decision on allocating a house (or a house where the local authority has nomination rights) where the house in question is situated, or the applicant for the house in question lives, in the electoral division or ward for which those members are elected. This does not prevent councillors from making factual information known to the local authority or from making representations to the local authority on behalf of a constituent.

91. In general, management committee members decide on the allocations policy and should monitor general outcomes of that policy. Management committees must have no involvement in discussions or decisions about individual allocations, which should stay the responsibility of officers of the RSL. This applies also to the housing of sex offenders under MAPPA.

## **6. THE ROLES AND RESPONSIBILITIES OF THE RESPONSIBLE AUTHORITIES UNDER NASSO**

92. The MAPPA guidance sets out the roles and responsibilities of the Responsible Authorities under MAPPA. This section focuses on their roles and responsibilities in assessing and managing housing-related risk under this strategy.

93. Responsible Authorities and RSLs must have a clear understanding of their respective roles and responsibilities in the housing of sex offenders under MAPPA. They must also appreciate the interdependence of their respective roles. Social housing providers depend on an agreed Memorandum of Understanding, effective information protocols and a co-ordinated approach by the Responsible Authorities. Responsible Authorities must therefore make sure that:

- they have effective liaison arrangements in place with the SOLO;
- housing providers receive (through the protocols for information sharing) enough information to manage tenancies that sex offenders under MAPPA occupy;
- they consider the size and stock profile of landlords when making decisions about housing; and
- they respond effectively to ongoing issues of community safety that housing providers identify.

### **What is the role of local authorities?**

94. The MAPPA guidance sets out the role of local authorities. In relation to housing, the primary role of the Criminal Justice Social Work supervising officer is to:

- work with the Scottish Prison Service in arranging housing for the prisoner on temporary home leave;
- contribute to environmental risk assessments;
- take part in discussions and decisions on the manageability of housing options;
- keep housing providers informed, through the SOLO, of changes to the risk assessment and management arrangements for the offender;
- collaborate with the police and housing providers over whether to act on information, for example by talking to the offender about moving housing;
- share information with the SOLO and social housing providers;

- consider whether to instruct an offender to reside somewhere as part of a licence condition or as part of a Community Payback Order which can have a residence requirement;
- give the offender advice and help with issues raised during the tenancy; and
- play a leading role alongside other Responsible Authorities in the media handling strategy as set out in the MAPPA guidance, by dealing with routine and emergency enquiries or concerns that are referred by housing providers.

### **What is the role of the police?**

95. The primary role of the police under the NASSO is to:

- agree protocols for sharing information with housing providers;
- contribute to environmental risk assessments;
- take part in discussions and decisions on the manageability of housing options;
- keep housing providers informed, through the SOLO, of changes to the risk assessment and management arrangements for the offender;
- collaborate with Criminal Justice Social Work and housing providers over whether to act on information, for example by talking to the offender about moving housing;
- liaise with partners on supervision orders and licensing conditions (see MAPPA guidance);
- work with housing providers on any moves in and out of housing by the offender;
- play a leading role alongside other Responsible Authorities in the media handling strategy set out in the MAPPA guidance, by dealing with routine and emergency enquiries or concerns that are referred by housing providers; and
- enforce offenders' obligations under the Sexual Offences Act 2003.

### **What is the role of the Scottish Prison Service?**

96. For all prisoners, the Scottish Prison Service is responsible for carrying out risk and needs assessments to manage the prisoner during sentence and in preparation for pre-release planning and release. Their role is set out in full in the MAPPA guidance.

97. Under the NASSO the primary role of the Scottish Prison Service is to:

- have responsible person(s) within the Scottish Prison Service, either nationally or at the local prison level;
- work with the Responsible Authorities and SOLOs to make arrangements for the housing needs of the offender to be addressed at the earliest stage of the custodial sentence, where there is any indication that housing is a potential issue. This is likely to be needed, for example, in the cases of offenders:
  - who cannot return to their home address or home area (in some cases this will be because the Prison Governor will not allow it or because the police, social work and/or housing provider advise against it);
  - who are disowned by their family;
  - who are returning to an area near to their victims (especially serious cases);
  - whose offence has acquired public notoriety/media attention;
  - who are homeless or have no approved address for temporary home leave or whose home leave address may be outwith Scotland;
  - where there are concerns about child protection, domestic abuse or vulnerable adults; and
  - who need housing with support, which is not yet available;
- identify, in partnership with the Responsible Authorities and social housing providers, housing for the prisoner on temporary home leave from custody. The Scottish Government has published guidance on home leave for prisoners, “*Integrated Practice Guidance For Staff Involved In The Home Leave Process*”:  
<http://www.scotland.gov.uk/Publications/2010/07/09112100/0>
- fund temporary home leave accommodation under the above practice guidance on home leave.

### **What is the role of the NHS?**

98. In relation to housing, health boards (and Special Health Boards) work in partnership with housing providers and other agencies in providing services for sex offenders and restricted patients under MAPPA. The MAPPA guidance sets out their role in more detail.

### **What is the role of Strategic Oversight Groups?**

99. Section 11 of the 2005 Act requires the Responsible Authorities to monitor the operation of MAPPA, making changes to improve effectiveness where required. The Responsible Authorities in each MAPPA area also have to jointly publish an annual report on the discharge of their MAPPA functions, and submit the report to the Community Justice Authority who will present it to Scottish Ministers.

100. The role of the Strategic Oversight Group in each MAPPA area is set out in the MAPPA guidance. In relation to housing the role of the Strategic Oversight Group is to:

- provide a forum where issues between and among Responsible Authorities and duty to co-operate agencies can be discussed and resolved; and
- address any issues around the concentration in particular locations of sex offenders under MAPPA.

101. Under MAPPA, Strategic Oversight Groups are also responsible for liaison and communication, both within MAPPA and with other local multi-agency structures designed to protect the public and raising public awareness of the management of offenders subject to MAPPA processes.



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ISBN: 978-1-78045-599-0 (web only)

APS Group Scotland  
DPPAS12411 (01/12)

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