Primary and Community Care Directorate
Mental Health Division

The Scottish Government

CEL 19 (2008)

21 April 2008

Dear Colleague

MULTI AGENCY PUBLIC PROTECTION ARRANGEMENTS

EXTENSION OF MANAGEMENT OF OFFENDERS ETC (SCOTLAND) ACT 2005 TO RESTRICTED PATIENTS

1. Arrangements to ensure appropriate multi-agency assessment and management of the risk posed by certain offenders introduced in April 2007 for registered sex offenders will come into effect in relation to **all restricted patients** from **30 April 2008**.

2. This guidance note:
   2.1 provides guidance on the immediate actions to be taken by NHS Boards in relation to restricted patients; and
   2.2 explains how restricted patients will be assessed and managed within the MAPPA framework and the on-going responsibilities for NHS Boards and patients' care teams

3. Teams caring for restricted patients should ensure that they are familiar with the full MAPPA guidance (NHS CEL (2007)8 Sections 10 and 11 of the Management of Offenders etc, (Scotland) Act 2005 : Implementation of the Multi Agency Public Protection Arrangements (MAPPA) in Scotland). (See paragraph 105 of the attached guidance for links to all recent guidance in relation to MAPPA and the use of CPA for restricted patients.) The attached guidance note is also included within the revised version (version 4) of the full MAPPA guidance.

4. The reverse of this letter contains an index to the guidance for ease of reference.

GEOFF HUGGINS

Addresses

For action
Chief Executives, NHS Boards
Chief Executive, The State Hospitals Board for Scotland
Medical Directors [to cascade to Senior Health Records Managers, Caldicott Guardians and Data Protection Officers]
Regional Planning Directors

For information
British Psychological Society, Scottish Division
Chairs, NHS Boards
Chief Executive, Mental Health Tribunal for Scotland
Chief Executive, NHS Education for Scotland
Chief Executive, NHS National Services Scotland
Chief Executive, NHS Quality Improvement Scotland
Crown Office
Director, Mental Welfare Commission for Scotland
Information Governance Managers
Medical Director, Forensic Network
Ministry of Justice
Northern Ireland Office
Responsible Medical Officers for restricted patients
Royal College of General Practitioners Scotland
Royal College of Nursing. Scottish Division
Royal College of Psychiatrists, Scottish Division
Scottish Commission for the Regulation of Care
Scottish Partnership Forum
Scottish Social Services Council

Enquiries to:

Mrs Rosemary Toal
Mental Health Division
Room 2N.08, St Andrew's House
EDINBURGH EH1 3DG
Tel: 0131-244 2510
Fax: 0131-244 2846

Mrs Fiona Tyrrell
Room 3ER, St Andrew's House
EDINBURGH EH1 3DG
Tel: 0131 244 2599
Fax: 0131-244 5076

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MULTI AGENCY PUBLIC PROTECTION ARRANGEMENTS

EXTENSION OF MANAGEMENT OF OFFENDERS ETC (SCOTLAND) ACT 2005 TO RESTRICTED PATIENTS

HEALTH SERVICE GUIDANCE

Introduction

1. Arrangements to ensure appropriate multi-agency assessment and management of the risk posed by certain offenders introduced in April 2007 for registered sex offenders will come into effect in relation to **all restricted patients** from **30 April 2008**.

2. This guidance note is intended to explain how restricted patients will be assessed and managed within the MAPPA framework. (See paragraph 45 for details of what the term *"restricted patient"* means in this guidance). Teams caring for restricted patients should ensure that they are familiar with the full MAPPA guidance (NHS CEL (2007)8 - Sections 10 and 11 of the Management of Offenders etc, (Scotland) Act 2005 : Implementation of the Multi Agency Public Protection Arrangements (MAPPA) in Scotland)[1].

Immediate Action to be taken when provisions commenced on 30 April 2008

NHS Health Boards

3. All NHS Boards and the State Hospitals Board for Scotland should, **by 30 April 2008**, identify a senior manager responsible for providing the assurances on the quality of the operation of the Care Programme Approach (CPA) and to provide the statistical information for contributing to the MAPPA Annual Report – see paragraphs 39 to 41 below. More generally NHS CEL(2007)13[2] provides at Annex B a Governance checklist in respect of the quality of clinical services provided to patients by their services and clinicians.

Restricted patients already in the Healthcare system

4. From **30 April 2008 all** restricted patients in the healthcare system must be managed using the CPA as set out in CEL(2007)13.

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[1] NHS CEL (2007)8 Sections 10 and 11 of the Management of Offenders etc, (Scotland) Act 2005 :- Implementation of the Multi Agency Public Protection Arrangements (MAPPA) in Scotland
http://www.scotland.gov.uk/Publications/2008/04/18144823/0

[2] CEL 2007 13 - Guidance for Forensic Services
http://www.sehd.scot.nhs.uk/mels/CEL2007_13.pdf

5. From **30 April 2008** all restricted patients (as defined at paragraph 46) are potentially subject to MAPPA. Paragraphs 6 to 14 below set out what action should be taken and when for all **current** restricted patients. Fuller guidance is set out at paragraph 15 onwards on the operation of CPA and MAPPA for restricted patients as they are managed from entry into the hospital system through to conditional and then absolute discharge (and for patients while on transfer to hospital from prison). Teams caring for restricted patients should ensure that they are familiar with all the contents of this guidance.

Immediate Referral to MAPPA Co-ordinator

6. Patients currently being tested out on overnight leave should be referred by the RMO to the MAPPA co-ordinator as soon as practicable. This will ensure that the MAPPA meeting's views on the risk assessment and management plan may be addressed and incorporated into the Position Statement which Scottish Ministers make to the Mental Health Tribunal for Scotland (Tribunal) in relation to the patient and possible conditional discharge.

7. Patients already receiving unescorted suspension of detention or on conditional discharge should be assessed as soon as practical for a provisional MAPPA level (ie do not delay this assessment until the next CPA meeting if it is still some time away). If the patient is considered to require management at MAPPA 2 level or higher an immediate MAPPA 2 (or 3) referral must be made using the Referral Form at paragraph 107. A copy of the Referral Form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government. (If the risk is assessed as MAPPA Level 1 only a notification form should be completed and sent to the MAPPA co-ordinator as set out at paragraph 9.)

Notification to MAPPA Co-ordinator

8. Unless an immediate MAPPA 2 referral is appropriate for a restricted patient the MAPPA co-ordinator should only be **notified** of restricted patients currently in hospital or on conditional discharge. This notification will alert the MAPPA co-ordinator to the restricted patient, where the patient is detained, whether the patient has an identified police link, and whether the patient is already on unescorted suspension of detention or is on conditional discharge. It will not result in the patient being considered by a MAPPA meeting.

9. A Notification Form (see paragraph 106) should be completed by the RMO and sent to the MAPPA co-ordinator as soon as practical for each patient. A copy should be sent to the Scottish Government Health Directorates' (SGHD) restricted patient casework team (contact details after paragraph 104).

10. For all restricted patients where a notification is made, the patient's MAPPA level should be discussed at the next CPA meeting and provisionally assigned. It is anticipated that most patients being managed within hospital and on conditional discharge will be a provisional MAPPA level 1. A patient can normally only be allocated a MAPPA level by the MAPPA Group when consideration is being given to the patient spending time unescorted outwith hospital or on conditional discharge.

11. CPA processes should continue to be followed and the patient should then be referred automatically as a level 2 case to the MAPPA coordinator using the Referral Form at paragraph 107 at **each** of the three stages explained later in this guidance. This will ensure the risk management plan for the patient can be ratified by the MAPPA Level 2 group (or equivalent). These stages are:

(a) before the first occasion unescorted suspension of detention or unescorted ground leave is being considered (paragraph 61);
(b) at the stage where patient is progressing towards conditional discharge AND accommodation in the community has been identified (paragraph 68); and
(c) prior to consideration of revocation of the restriction order or revocation of the compulsion order (paragraph 93).

12. When high profile patients or high risk patients are being considered for escorted suspension of detention or transfer from the State Hospital, thereby increasing the assessed level of risk, the RMO should make a MAPPA referral (at Level 2 or 3 as considered appropriate) using the MAPPA Referral Form at paragraph 107. A copy of the Referral Form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government.

13. Patients currently on unescorted suspension of detention should be formally referred to the MAPPA co-ordinator once planning for conditional discharge is underway and accommodation is the community is identified (ie stage (b) at paragraph 11 above).

14. This two stage process (notification followed by referral at the appropriate point) will ensure that the MAPPA processes and organisations are not overwhelmed by immediate referrals to MAPPA for all restricted patients.

Summary of immediate action required for current restricted patients

Patient is on unescorted suspension of detention and accommodation in the community for the patient has been identified as part of the planning for conditional discharge	Immediate MAPPA Referral required
Patient is already on unescorted suspension of detention or unescorted ground leave and the care team considers the risk presented by the patient might be at MAPPA Level 2 or above	Immediate MAPPA Referral required
Patient is on conditional discharge and the clinical team and others involved through the CPA process consider the risk presented by the patient might be at MAPPA Level 2 or above	Immediate MAPPA Referral required
Patient is detained in hospital and is not receiving unescorted or escorted suspension of detention	Notification to MAPPA co-ordinator
Patient is receiving escorted or unescorted suspension of detention and care team have no immediate concerns about risk presented	Notification to MAPPA co-ordinator
Patient is already on conditional discharge in the community and care team have no immediate concerns about risk presented	Notification to MAPPA co-ordinator

New Health Responsibilities under MAPPA

15. The Management of Offenders etc (Scotland) Act 2005 contains provisions in sections 10 and 11 which requires the Scottish Prison Service, local authorities and the police, as responsible authorities in the area of a local authority, to jointly establish arrangements for the assessment and management of risks posed by sex offenders subject to registration and violent offenders convicted on indictment and subject to a Probation Order or licence supervision.

16. In addition the legislation also provides NHS Boards with a statutory function as a responsible authority to establish joint arrangements for the assessment and management of risk posed by restricted patients within the above defined categories. These arrangements will be supported by the operation of the Care Programme Approach (CPA) for this patient group.

17. As part of this duty, these agencies are required to:

- Establish joint arrangements for the assessment and management of the risk posed by restricted patients who are violent or sexual offenders
- Cooperate with each other and other "duty to cooperate" agencies.

18. In each local authority area, agencies must draw up a memorandum setting out the ways in which they will cooperate with each other.

19. Full guidance on Multi Agency Public Protection Arrangements (MAPPA) including guidance on the NHS Roles and Responsibilities was issued in NHS CEL(2007)8: (Justice Directorate Circular 15/2006 – version 4 - as revised at April 2008).

Application to Restricted Patients

20. Arrangements to ensure appropriate multi-agency assessment and management of the risk posed by certain offenders introduced in April 2007 for registered sex offenders will include restricted patients from 30 April 2008.

21. Teams caring for restricted patients should ensure that they are familiar with the full MAPPA guidance. This guidance note is intended to explain how restricted patients will be assessed and managed within the MAPPA framework.

22. MAPPA and the CPA for restricted patients have a common purpose of maximising public safety and the reduction of serious harm. Although the same underlying principles of gathering and sharing of relevant information in relation to risk apply, CPA focuses on the care and treatment likely to minimise the risk posed, whilst MAPPA focuses on multi agency management of risk. Within the MAPPA framework, the CPA process will remain the vehicle for planning a person's care and treatment and for risk assessment and management planning.

23. The underlying concept of MAPPA is to provide systems and processes for relevant agencies to share information about individuals who represent a risk to the community. Where appropriate, the agencies will cooperate to put together plans to assess and manage these risks. It is important to emphasise that MAPPA meeting's remit is scrutiny of risk assessment, information sharing and risk management plans and **not** direct case management or an opportunity to have a case conference. MAPPA are all the processes that are in place to manage risk posed by offenders. MAPPA meetings are primarily to ensure that there is oversight of the management of the most concerning cases and that operationally risk is being assessed and managed appropriately.

24. Full details of the MAPPA processes are contained in the MAPPA guidance in NHS CEL (2007) 8.

25. In the MAPPA model, individuals are allocated into one of three risk levels, depending on the nature of the risk and how it can be managed. Cases will be managed at the lowest level consistent with assessed risk:

- **Level 1 Ordinary risk management** Cases will be managed by one agency without actively or significantly involving other agencies. Cases are notified to MAPPA but no active involvement is sought.

  It is anticipated that the majority of restricted patients in hospital or on conditional discharge will fall within this category.

- **Level 2 Local inter-agency risk management** Cases with a higher level of risk or more complex management needs. Cases will be discussed by more than one agency at regular MAPPA Group meetings.

  Restricted patients who are referred to MAPPA prior to unescorted suspension of detention, unescorted ground leave or conditional discharge

will fall within this category until consideration by the MAPPA group. The MAPPA Group may retain the patient at level 2 or may consider it more appropriate to designate the patient as Level 1 or (exceptionally) Level 3 (MAPPP).

• **Level 3 Multi-Agency Public Protection Panel** The Multi Agency Public Protection Panel (MAPPP) will deal with the critical few cases which fall into this category. These are cases where there is a high likelihood of serious harm or which are very complex. Cases with a high media profile will also fall into this group.

It is likely that very few restricted patients will fall into this category. However, it may be appropriate where, for instance, a patient is no longer assessed as having a mental disorder within the meaning of the legislation and would therefore be entitled to revocation of a compulsion order, hospital direction or transfer for treatment direction. (In anticipation of such a scenario the patient would be subject to Early Discharge Protocol arrangements – see NHS HDL(2002)85[3] - (unless the patient is caught by sex offender legislation and remains subject to MAPPA).

26. The management of restricted patients, including those managed in the community on conditional discharge, will normally be at Level 1 or 2. This is because, even though a number of agencies may be involved in the management of the patient, the power of recall to hospital exists should he or she show any significant deterioration or increase in risk. Individuals can and should be moved between MAPPA levels – either upward or downward – if their risk management level changes.

27. There are around 300 restricted patients in the health system. At any time around 45 of these will be living in the community on conditional discharge.

CPA for restricted patients

28. NHS CEL (2007)7[4] provided specific guidance to Health Boards on their role as a responsible authority and their duty to co-operate in the new arrangements to improve public protection from the risk of violent and sexual offenders.

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[3] NHS HDL(2002)85 Early Discharge Protocol for Patients in secure hospital settings http://www.sehd.scot.nhs.uk/mels/HDL2002_85.pdf

[4] NHS CEL(2007)7 - Implementation of the Multi-Agency Public Protection Arrangements (MAPPA) in Relation to Registered Sex Offenders Required by Sections 10 And 11 of The Management of Offenders etc (Scotland) Act 2005 - http://www.sehd.scot.nhs.uk/mels/CEL2007_07.pdf

29. NHS CEL (2007)13 set out new processes for the management of restricted patients through the operation of CPA which should be followed from 30 April 2008 when the appropriate sections of the Management of Offenders etc. (Scotland) Act 2005 are brought into force.

30. The main points of that guidance are:

- Clinical governance arrangements relating to the management of restricted patients must be introduced by all health boards;
- There will be a mandatory CPA process introduced for the case management of all restricted patients, whether in hospital or the community; and
- MAPPA procedures will incorporate the management of restricted patients, along with their current remit for registered sex offenders.

31. The mandatory CPA process for restricted patients involves regular multi-disciplinary/multi-agency review meetings (CPA meetings) with standardised documentation for Care Plans incorporating risk issues and contingency plans. The police, and other relevant agencies, must be involved in the CPA process.

32. Local MAPPA co-ordinators should help identify police link staff to be invited to pre-CPA meetings and for liaison about any police issues of relevance to the case. The aim is that the police link should be in place from the start of the CPA process and not simply introduced when patients are moving towards the community. The police may:

- share information of relevance to the management of risk;
- attend CPA meetings to discuss cases (police staff would usually attend a pre-CPA meeting not involving the patient); and
- ask to be involved or informed at specific stages in the patient's management.

33. This notification is part of the CPA process and distinct from MAPPA referrals and meetings. A Notification Form is enclosed at paragraph 106 for use when notifying the MAPPA coordinator of a restricted patient and seeking the identification of an appropriate police representative. (The form should also be copied to the SGHD restricted patient casework team.)

Risk Assessment and Management of Restricted Patients

34. The treatment plan for a restricted patient will necessarily include measures to manage the risk that the patient poses to others. The foundation of risk management planning is risk assessment. Risk assessment informs management planning, which in turn informs subsequent assessment and planning in a continuous and dynamic process.

35. Risk assessment will demonstrate:

- a thorough review of the available information;
    - personal and family history;
    - criminal history and history of violence;

    - substance misuse;
    - psychiatric history;
    - assessment of personality; and
    - other relevant risk factors (e.g. sex offender risk factors).
- the use of appropriate risk assessment tools for the case in hand; to assist in the application of structured professional judgement to help identify relevant risk and protective factors; and to provide a framework for a formulation of risk that includes the nature, severity, imminence, frequency and likelihood of reoffending; and an examination of a number of possible future scenarios that risk management strategies will seek to avert.

36. In order that the risk assessment may contribute to the treatment plan for the patient, it is not recommended that multi-disciplinary teams undertake a solely statistical (or actuarial) assessment but attempt to place the risk the patient presents in context using Structured Professional Judgement. However, use of appropriate protocols or assessment tools (e.g. suitable for mentally disordered offenders, sexual offenders, and violent offenders) may contribute to the risk assessment and can be useful in framing the risk assessment in a systematic way. The Risk Management Authority has evaluated the commonly used risk assessment tools for general offending, risk of violence and risk of sexual violence[5].

37. Risk Assessment will clearly document:
- the likely impact of the harm posed by the patient;
- an indication of those to whom the patient poses a risk of harm;
- all relevant risk factors;
- active protective factors; and
- early warning signs and relapse indicators.

38. Risk assessment will be a continuous process updated at 6 monthly intervals or at key stages in the rehabilitation process in the implementation and review of the plan as implemented through the CPA.

NHS Boards and Clinical Governance

39. NHS CEL (2007)8 Part 8 set out guidance on the NHS Roles and Responsibilities, duty to cooperate and information sharing in relation to MAPPA. Health Board Managers should ensure they are familiar with this guidance and the responsibilities which it places on senior clinicians and senior managers.

40. By complying with the guidance issued by the Scottish Government on CPA NHS Boards will be able to meet many or all of their obligations under MAPPA in those cases where they are one of the responsible authorities.

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[5] Risk Assessment Tools Evaluation Directory, 2007
http://www.rmascotland.gov.uk/ViewFile.aspx?id=280

41. NHS Boards will be expected to identify a senior manager responsible for providing the necessary information relating to the NHS Board's MAPPA Annual Report. NHS Boards must be able to demonstrate that they are satisfied with the quality of the operation of the CPA and that there are appropriate resources in place. They will be responsible for collating the statistical information on the operation of CPA, recording breaches of conditional discharge, and being satisfied on the operation of CPA, risk management proofing and quality assurance of their functions and duties. The NHS manager should remain in close contact with the RMO in exercising their role.

Role of the Responsible Medical Officer (RMO)

42. The Responsible Medical Officer (RMO) has the primary responsibility for the patient's care and treatment. The RMO is responsible for using the CPA process to develop a care plan with due regard to public safety and ensuring that it is implemented within the confines of his/her responsibility for that patient and the legislative framework. The RMO must work in close co-operation with the designated Mental Health Officer (MHO) and all others within and outwith the hospital involved with the care of the patient and with the Scottish Government Health Directorates (SGHD).

43. Where the patient is required to register under the Sexual Offences Act 2003 the RMO is responsible for making the patient aware of their responsibilities in this respect.

44. The RMO must ensure that the MAPPA co-ordinator is notified (using the Notification Form at paragraph 106) when they become responsible for a restricted patient and ensure that a formal MAPPA referral (using the Form at paragraph 107) is made at the appropriate points in the patient's care planning. Use of CPA will ensure that the information required for the referral is readily available. The RMO should wherever possible represent the multi-disciplinary team at the MAPPA meeting discussing a patient in their care (in addition to the Health Board representative who would normally attend such meetings). Where the RMO does not attend they must ensure that the Health Board representative or other member of the patient's care-team attending the meeting are fully briefed on the patient's risk assessment and management.

Role of Mental Health Officer (MHO)

45. The MHO, while an employee of the local authority, is an integral part of the multi-disciplinary team for restricted patients and should be involved in the preparation of the risk assessment and management plans at the key stages prior to referral to MAPPA. An MHO may represent the multi-disciplinary team at a MAPPA meeting but as an employee of the local authority will not be able to represent the Health Board's interests as a responsible authority.

Restricted patients

46. The term 'restricted patient' is used in this guidance. For clarity any patient subject to any of the following orders or directions comes within the remit of MAPPA legislation and procedures:

- an order restricting discharge under section 59 of the Criminal Procedure (Scotland) Act 1995 (a compulsion order with a restriction order);
- an order under section 57(2)(b) of the Criminal Procedure (Scotland) Act 1995 (imposition of special restrictions in disposal of case where accused found to be insane);
- a hospital direction under section 59A of that Act (direction authorising removal to and detention in specified hospital);
- a transfer for treatment direction under section 136 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (transfer of prisoners to a specified hospital for treatment for mental disorder).

47. The legislative provisions requiring the use of MAPPA procedures in relation to these patients can be found at sections 10 and 11 of the Management Offenders etc (Scotland) Act 2005.[6]

48. While patients on **remand** are detained in hospital for treatment they are managed as restricted patients. However such patients are not subject to MAPPA management by NHS Boards (though of course they may be subject to such management by other agencies as a result of prior offences). See paragraphs 82 - 85 for further information on transferred prisoners.

49. While patients on **Interim Compulsion Orders** are not subject to MAPPA they are included in the CPA process for their risk assessment and management in anticipation of them becoming a restricted patient and subject to MAPPA in due course.

Procedures for MAPPA Stage 1

50. When a restricted patient enters the health care system a CPA meeting must be convened within 4 to 10 weeks. For all restricted patients the RMO should contact the MAPPA co-ordinator as soon as practical to provide details of the patient. A Notification form is enclosed at paragraph 106 and an up-to-date list of MAPPA co-ordinators is available on the Scottish Government website.[7] A copy of the form should be sent to the SGHD restricted patient casework team. (Note that this initial notification does not take the place of the formal MAPPA referral required when suspension of detention or conditional discharge are being considered - see paragraph 61 onwards.)

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[6] Management Offenders etc (Scotland) Act 2005
http://www.opsi.gov.uk/legislation/scotland/acts2005/asp_20050014_en_1

[7] List of MAPPA co-ordinators
http://www.scotland.gov.uk/Publications/2007/08/Contacts

51. The MAPPA co-ordinator will identify the police contact who will attend pre-CPA meetings and their input will inform the gathering of intelligence in relation to risk. It is very important to contact the MAPPA co-ordinator before the first CPA meeting takes place.

52. CPA meetings should be held regularly while the patient is detained in hospital and the risk management plan reviewed at 6-monthly intervals or more frequently as appropriate. The police contact should be invited to attend all CPA pre-meetings. This allows an opportunity for sensitive information and intelligence to be shared with the team without the patient being present. All risk assessment and management plans will be expected to address the risk and likely outcome should the patient abscond.

53. All restricted patients are managed by a multi-disciplinary team of health and social care professionals with input from other agencies such as the police when required. Such multi-disciplinary working does NOT mean that the patient must automatically be assessed as MAPPA Level 2 or 3. The MAPPA level assigned depends on the level of risk which the patient is assessed as presenting to the public. Restricted patients may be assigned any level considered appropriate to their risk assessment by the MAPPA Group.

54. Each Health Board has already appointed an appropriate health representative (as set out in NHS CEL (2007)7) who will attend all MAPPA meetings for their area. It will be very important also for a member of the multi-disciplinary team with knowledge of the patient, preferably the RMO, to attend the MAPPA meeting at which their patient's risk management plan is discussed. If no-one from the team is able to attend then the appropriate health representative must be briefed about the case. Even if the MHO attends the MAPPA meeting the appropriate health representative must still be briefed about the case by the RMO. The MHO (as an employee of the local authority) cannot represent the Health Board in its role as responsible authority.

55. When an RMO makes a formal level 2 or 3 referral to the MAPPA co-ordinator he or she in turn will make a referral to the police who will arrange for the patient to be considered by the MAPPA group or Multi-Agency Public Protection Panel (MAPPP) as appropriate.

56. For a Level 2 referral an initial level 2 meeting will take place within 20 working days of the receipt of the referral by the police co-ordinator. For a Level 3 patient a MAPPP meeting will be convened within 5 working days of receipt of the referral by the MAPPA co-ordinator.

Transfer (to conditions of lower security or otherwise)

57. When a restricted patient transfers between hospitals the transfer should be discussed and agreed between the care teams in the transferring and receiving hospitals prior to approval being sought from the Scottish Ministers.

58. Planning for transfer to lower security should involve a re-assessment of the risk the patient will present in the new setting and a review of the risk management plans for the patient.

59. For all transferring patients the current RMO should notify the MAPPA co-ordinator of the planned change of hospital address (and, where appropriate, the change of responsible NHS Board and local authority) and the date of the transfer taking effect using the Notification Form at paragraph 106. All notification forms to MAPPA should be copied to the SGHD restricted patient casework branch. Scottish Government officials will in turn update the Violent Offender and Sex Offender Register (ViSOR) of the new address.

60. However, if the team consider the patient's MAPPA level after transfer might be Level 2 or 3 then a formal MAPPA referral must be made prior to the transfer taking place. A MAPPA Referral Form for restricted patients is attached at paragraph 107. A copy of the Referral Form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government.

Planning for suspension of detention

61. For many patients the level of risk will remain unchanged when the patient receives escorted suspension of detention and only change when unescorted suspension of detention or leave within the grounds of the hospital is approved. However it must be recognised that a small number of patients may also present an increased risk to the public (eg through absconding) while on escorted suspension of detention. It is therefore essential that the risk management plan is reviewed by the multi disciplinary team and, **if appropriate,** a formal referral made by the RMO to the MAPPA Co-ordinator before **any** request for escorted suspension of detention is made to Scottish Ministers. This may also apply to patients who have a high media profile or where there may be a particularly adverse public reaction.

62. When the patient is first being considered for any **unescorted** suspension of detention or unescorted leave within the hospital grounds, the multi disciplinary team **must** review the risk management plan. At this stage it will be appropriate to assign a provisional MAPPA Level 2 to the patient and to initiate a MAPPA referral. This will ensure that the patient's risk assessment and management plans are reviewed at a MAPPA meeting. (Note, however, that unescorted leave within the secure perimeter of the State Hospital or Rowanbank MSU would not trigger such a referral.)

63. A MAPPA Referral Form is attached at paragraph 107 which should be completed by the RMO and sent to the MAPPA co-ordinator. A copy of the referral form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government.

64. Following consideration by a MAPPA meeting the MAPPA Group will then assign an appropriate MAPPA Level for the patient. It may be that it is considered appropriate to reduce to Level 1 given the supervision in place. However there may be cases which remain at level 2 or are escalated to Level 3 in recognition, for example, of potential media reaction.

65. Once the MAPPA meeting have scrutinised the risk assessment and management plans they will indicate whether or not they are content with the management plans. Where additional planning is required this should be carried out as soon as practical and may need to be referred back to the MAPPA meeting. Once the MAPPA meeting has confirmed agreement to the plans the RMO should submit the request for suspension of detention with the final plans for Scottish Ministers' consideration in the usual way.

66. Scottish Government officials will in turn update ViSOR of the agreed suspension of detention plan.

67. It should be noted that in some cases the MAPPA Level 2 meeting may be content with the plan, but suggest certain actions are taken in relation to the patient's risk assessment or management plan, which would not necessarily result in a further Level 2 meeting for review or approval.

Planning for Conditional Discharge

68. Planning by the multi-disciplinary care team for the conditional discharge of those restricted patients subject to a compulsion order and a restriction order will include identification of accommodation in the community for the patient. It is expected that such planning will be considered at regular CPA meetings which are attended by police and other relevant non-health officials. Such meetings will consider the suitability of accommodation and should include a view from the police about the suitability of the accommodation – they will be best placed to advise on risk factors relevant in the area.

69. CPA meetings will consider plans for discharge and any proposed conditions of discharge. However it should be noted that only the Mental Health Tribunal for Scotland (the Tribunal) can formally apply conditions to a patient's discharge. The Scottish Ministers may vary conditions imposed on a conditionally discharged patient, if they consider it appropriate to do so. Restricted patients are expected to undergo a testing out process of overnight suspension of detention of a minimum of four months' duration.

70. It is therefore essential that the patient's risk assessment and risk management plan are again reviewed through a MAPPA meeting and once accommodation has been identified for possible discharge a further referral must be made to MAPPA (at level 2) using the MAPPA Referral form at paragraph 107. A copy of the completed referral form and accompanying documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government. In order that there is no unnecessary delay to the planning towards conditional discharge the rehabilitation may continue whilst the referral and consideration by MAPPA is underway.

71. Once the views of the MAPPA meeting are known any concerns must be addressed and may need to be referred back to the MAPPA meeting.

72. Once the plans are agreed by the MAPPA meeting and the restricted patient has undergone a satisfactory period of testing out the RMO may make the recommendation for conditional discharge in the usual way to the Scottish Ministers. It is important that any concerns or issues raised at MAPPA meetings are addressed before a recommendation for conditional discharge is made by the RMO to the Scottish Ministers. The Scottish Ministers will include the views of the MAPPA meeting on the patient and their risk management plans within the Position Statement it submits for consideration by the Tribunal.

73. In the event the Tribunal orders conditional discharge the conditions of discharge and the date of conditional discharge taking effect will be notified by SGHD officials to the MAPPA co-ordinator and entered on the ViSOR system.

74. In those cases where the Tribunal orders revocation of the compulsion order (absolute discharge) or revocation of the restriction order the procedures at paragraphs 93 - 98 below should be followed.

75. It is expected that by the time a restricted patient is being considered for conditional discharge the risk presented should not be high, particularly as the patient will continue to be subject to a robust care plan and supervision in the community by the multi-disciplinary team. Nevertheless the MAPPA referral must be carried out and up to date information on the patient provided to the MAPPA co-ordinator.

Procedures for referral to MAPPA Stage 2 and Stage 3

76. The MAPPA Level 2 and 3 system will operate for restricted patients as for other offenders. The responsible authority will be the Health Board and the Board is responsible for ensuring that the patient's RMO is directly involved in the MAPPA meetings. In exceptional circumstances it may be possible to brief the health representative identified under the duty to co-operate provisions to represent the team's interest.

77. The RMO will complete the referral form (at Paragraph 107) giving all relevant information regarding the likelihood of reoffending, the risk of serious harm and any indication of imminence. (The form has been designed to enable much of this information to be extracted from the existing CPA documentation.) Any formal risk assessment and management plan undertaken should be noted.

78. The RMO should identify factors known to contribute to the risk of serious harm and that require management through a multi-agency public protection process including key characteristics of the offender and any local knowledge about the offender based on evidential information. In particular the MHO should be consulted and given the opportunity to contribute to this process.

79. The RMO should identify any core agency or agencies central to the delivery of an effective risk management plan and any other known agency currently involved in management or care of the offender. Use of the CPA process for restricted patients will ensure that this information is readily available. The RMO should also comment on previous responses to supervision and any previous convictions noted by the police.

80. The MAPPA co-ordinator will acknowledge receipt to the RMO and arrangements will be made by the MAPPA co-ordinator to progress the case to the initial Level 2 meeting/Level 3 meetings.

81. **It will be important that the representative attending the MAPPA/MAPPP meetings to present the risk assessment is someone who has been involved in and trained in the risk assessment process with the necessary understanding to be able to link it to the risk management plan**. It is therefore expected that the patient's RMO or a senior member of the multi-disciplinary team will attend all such meetings.

Transferred prisoners

82. Patients who are transferred prisoners (on a Transfer For Treatment Direction) or patients who are subject to a Hospital Direction should be managed, while in the health system, as a restricted patient and therefore managed under CPA and notified to the MAPPA co-ordinator (using the form at paragraph 106 and copying to the SGHD restricted patient casework team.)

83. It is unlikely that many transferred prisoners will be given unescorted suspension of detention. Most are transferred back to the prison system to complete their sentences when they have recovered sufficiently. However, a small number of prisoners are rehabilitated through the mental health system. These patients could be considered for release from their prison sentence at their Earliest Date of Liberation (EDL) or, where appropriate, through the parole process. Where a person is released in this way, the transfer for treatment direction or hospital direction to which the patient was subject will cease to have effect. Scottish Ministers will make representation to the Parole Board in respect of the patient including where appropriate any conditions which they consider should be made in respect of the prisoner's licence once released. The Memorandum for Procedure for Restricted Patients[8] (MOP) provides full detail of this process.

84. Prior to the prisoner's EDL or consideration by the Parole Board discharge planning should be undertaken through the CPA procedures. It is essential that representatives from SPS and Criminal Justice Social Work (CJSW) are invited to CPA planning meetings to discuss discharge and risk management plans for the patient.

85. Once discharge takes effect the prisoner will no longer be a restricted patient and the NHS Board's responsibility under MAPPA for the prisoner will cease and, if appropriate, revert to the Police or CJSW as responsible authority.

Absconding by a patient on leave

86. In the event of the patient absconding or being absent without approval from their specified address normal procedures should be followed by the RMO to notify the police and the Scottish Ministers. The MAPPA co-ordinator should also be alerted by the RMO. The critical risk factors will be available to the police on ViSOR.

87. Once the patient is returned to hospital a CPA meeting should be convened to review the incident and the risk management plans in place for the patient. Where appropriate a revised MAPPA referral should be made using the MAPPA Referral form at paragraph 107. A copy of the Referral form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government.

88. SGHD Officials will update ViSOR with details of any abscond or escape.

[8] Memorandum of Procedure for Restricted Patients (MOP) - http://www.scotland.gov.uk/Publications/2005/10/0584334/43364

Breaches of conditions of discharge

89. All breaches of conditions of discharge must be reported by the RMO to the MAPPA co-ordinator, the relevant Health Board manager and to the Scottish Government (Principal Medical Officer, Forensic Psychiatry). It will be important that the multi-disciplinary team have good procedures in place to ensure:

- the conditions of discharge are known to the patient and to all members of the multi-disciplinary care team;
- any breach of these conditions is identified;
- appropriate action in response to any such breach is taken; and
- any breach is reported to the appropriate authorities as soon as practical.

90. Not all breaches of conditions will result in recall of the patient. However, it is essential that all breaches are identified and assessed and reported. The NHS Board is under a duty to make/publish an annual report on all patients in their care subject to MAPPA which includes information on breaches and it is essential such incidents are notified to the appropriate Health Board MAPPA manager.

91. Procedures for reporting breaches and guidance on the appropriate action to take in respect of any breach are included in the MOP. Procedures for reporting recall and re-assessing the patient can also be found in the MOP.

92. SGHD Officials will update ViSOR with details of any breach of conditions.

Revocation of Compulsion Order (Absolute Discharge) or Revocation of Restriction Order

93. This will normally occur when a patient has his compulsion order revoked (ie absolutely discharged) by the Tribunal. The patient will cease to be subject to the compulsion order and restriction order and the conditions of conditional discharge.

94. When an RMO is making a recommendation for revocation of the restriction order or revocation of the compulsion order a MAPPA Level 2 referral should be made in order that the MAPPA Group can consider the risk implications of the patient no longer being subject to a restriction order or the compulsion order. Their view will ultimately inform the Position Statement submitted on behalf of Scottish Ministers to the Tribunal.

95. Where a patient has a 2-year review or appeal against excessive security set down and the care team, while not recommending discharge or transfer, is of the view that this might be a possible outcome and is considering provisional plans for such an order by the Tribunal the RMO should consider a MAPPA Level 2 referral prior to the hearing. This would enable the MAPPA meeting's view on the patient's risk management plans to be obtained prior to any hearing.

96. It may be that the Tribunal removes the restriction order but leaves the compulsion order in place. This will occur when the Tribunal considers that the patient no longer presents a serious risk of harm to others due to his/her mental disorder. In such cases the patient is no longer a restricted patient and therefore no longer subject to MAPPA. There is one exception - where the patient is subject to an already existing requirement to register under sex offender legislation. In such cases the offender will require to continue to be managed under MAPPA arrangements.

97. Where the patient has either the compulsion order or the restriction order revoked and meets the registration criteria in the above paragraph, the police will become the responsible authority and the Health co-ordinator should ensure that the MAPPA co-ordinator and their police contact are aware of the change in arrangements.

98. Officials at the SGHD will notify the MAPPA co-ordinator of the date of revocation of the compulsion order or the restriction order.

99. Where the patient remains subject to a compulsion order then the NHS Board will continue to have a duty to co-operate in managing the patient under MAPPA until such time as the patient's compulsion order is revoked by the RMO or by the Tribunal – see guidance in NHS CEL (2007) 8.

Early Discharge Protocol

100. In event of a restricted patient being discharged by the Tribunal against clinical advice the Early Discharge Protocol (NHS HDL(2002)85) should be implemented. In such cases there is a period of 21 days following receipt of the written decision in order for any appeal to be lodged before the patient can be discharged. The MAPPA co-ordinator should be informed. If the patient is assessed as still presenting a risk of serious harm to the public an urgent MAPPA referral at Level 2 or 3 (as appropriate) should be completed. In the event the decision is appealed, the patient will remain subject to their current detention until the appeal process has concluded. Where the decision of the Tribunal to revoke the compulsion order or to lift the restriction order is upheld the patient ceases to be subject to MAPPA unless they are subject to sex offender registration.

Transfer out of Scotland

101. Part 10 of NHS CEL (2007)8 provides guidance on the transfer of prisoners out of Scotland to another UK Territory. Procedures already exist for the transfer of restricted patients whether detained in hospital or on conditional discharge – these are set out in the MOP. In addition to the normal procedures which health and local authorities and Scottish Ministers will undertake in arranging and approving any such transfer the RMO should inform the MAPPA co-ordinator at the planning stage who will pass information to colleagues in the appropriate jurisdiction. Scottish Government officials will update ViSOR once the transfer has taken place.

ViSOR

102. ViSOR (Violent Offender and Sex Offender Register) is an IT database to facilitate multi-agency information sharing in relation to Registered Sex Offenders, Other Sex Offenders, Violent Offenders, Dangerous Offenders and Potentially Dangerous Persons. All restricted patients will be included on ViSOR. ViSOR provides agencies with a confidential communication tool through which they are able to exchange information in joint offender management. It has the capacity as the IT solution for agencies to record their assessment, monitoring and review of offenders managed in the MAPPA and facilitates the storage of minutes of meetings and offender management plans.

103. The use of ViSOR is intrinsic to the development of enhanced protocols between Responsible Authorities and between relevant responsible individuals with the capacity to enhance these protocols, speed up communication, and support consistency and sustainability. Full details are contained in Part 4 paras 44 to 55 of the MAPPA guidance NHS CEL (2007)8.

104. The ViSOR system is used to maintain up to date information for all offenders registered at MAPPA level 2 or 3. Scottish Government officials (restricted patient team) will be responsible for keeping the information on all restricted patients up to date in the ViSOR system. It is therefore essential that the multi-disciplinary team caring for each restricted patient regularly reports relevant information to Scottish Government officials.

Scottish Government Health Directorates Contacts

Team Leader
Ms Rosie Toal 0131 244 2510

Surnames A-Go
Ms Fiona Currie 0131 244 2459
Mr Gordon Stirling 0131 244 2512
Ms Marian Webster 0131 244 2170

Surnames Gr-Ma (including all 'Mcs')
Mrs Nova Brown 0131 244 2546
Mrs Jenny Craigie 0131 244 2457
Ms Julia Hilton 0131 244 6929

Surnames (Me-Z)
Mrs Jenny McNeill 0131 244 1818
Mrs Denise Mitchell 0131 244 2171
Ms Noelle Perrett 0131 244 2545

References
105. The following guidance on MAPPA and CPA in relation to restricted patients has been issued:

- Latest MAPPA Guidance – Version 4 - Criminal Justice Directorate Circular 15/2006 and NHS CEL(2007) 8
  http://www.scotland.gov.uk/Publications/2007/10/03110820/0

- NHS HDL (2007)19
  http://www.sehd.scot.nhs.uk/mels/HDL2007_19.pdf
  - Note this has been superseded by NHS CEL (2007)8

- NHS CEL (2007) 7 -
  http://www.sehd.scot.nhs.uk/mels/CEL2007_07.pdf

- NHS CEL (2007) 13
  http://www.sehd.scot.nhs.uk/mels/CEL2007_13.pdf

- NHS HDL(2002)85 http://www.sehd.scot.nhs.uk/mels/HDL2002_85.pdf

- Memorandum of Procedure for restricted patients
  http://www.scotland.gov.uk/Publications/2005/10/0584334/43364
  Note that the MOP is currently being revised and the new version will include details on the use of CPA and the interface with MAPPA.

NOTIFICATION FORM FOR RESTRICTED PATIENTS

106. When completed this form should be sent to the MAPPA co-ordinator for the patient's NHS Board - see list on Scottish Government website http://www.scotland.gov.uk/Publications/2007/08/Contacts and copied to the SGHD restricted patient casework team.

MAPPA NOTIFICATION FORM
Details from restricted patient Care Plan Dated: ../../..
Patient Name: Date of Birth: ../../..

Restricted patient notification to MAPPA		
CJA area		
MAPPA Coordinator	Name	
	Address	
❑	**Notification Only**	
❑	**Notification accompanied by referral to level 2 (should be accompanied by the MAPPA referral form)**	
❑	**Notification accompanied by referral to level 3 (should be accompanied by the MAPPA referral form)**	
❑	**Referral to follow**	

Patient Details			
Name			
Date of Birth			
Permanent Address			
Previous significant address			
Sex		Ethnic Origin (Standard Codes)	
CHI number		Unit number	
Prison number (if known)		SCRO number(if known)	
PNC number (if known)		ViSOR number(if known)	

Notifying Service Details	
RMO details (name address telephone no.)	
MHO details (name address telephone no.)	
Police contact details	(if not known, request for police contact to be identified)
Responsible Local Authority	
Responsible Health Board	

Legal Details		
Legal Status & Section		
Sentencing court		
Date of Conviction/Insanity Acquittal *		
Date order began *		
Date of previous annual review*		
Date of next annual review *		
MANAGEMENT STAGE	❑ Interim Compulsion Order ❑ Escorted Suspension of detention ❑ Unescorted Suspension of detention ❑ Conditional Discharge	
For Determinate Sentences Earliest Liberation date/ Parole Qualifying date		
For Life Sentences Punishment part		
Notifiable under part 2, Sexual Offences Act 2003 (2) Yes / No		
If yes to above – Detail offence(s) and period of order		
Schedule 1 Notification Yes/ No		

Signature_____
Date of completion_____
Date of notification_____

MAPPA REFERRAL FORM FOR RESTRICTED PATIENTS

107. When completed this form should be sent to the MAPPA co-ordinator for the patient's NHS Board - see list on Scottish Government website http://www.scotland.gov.uk/Publications/2007/08/Contacts A copy of the Referral Form and any supporting documentation should also be sent to the Principal Medical Officer, Forensic Psychiatry, at the Scottish Government.

(This form has been designed to enable information from the CPA template to be cut and pasted into this form where appropriate.)

MAPPA REFERRAL FORM
Details from restricted patient Care Plan Dated: 00/00/00
Patient Name: Date of Birth: 00/00/00

Restricted patient referral to MAPPA		
MAPPA Local Office		
MAPPA Coordinator	Name	
	Contact Number	
Suggested Level		
MANAGEMENT STAGE		
Notifiable under part 2, Sexual Offences Act 2003 (2) Yes / No *		
If yes to above – Detail offence(s) and period of order *		
Schedule 1 Notification Yes/ No *		

Patient Details	
Name	
Date of Birth	
Permanent Address	
Previous significant address	
CHI number	
Unit number	
Prison number	
PNC number	
SCRO number	
ViSOR number	
Sex	
Ethnic Origin (Standard Codes)	
Referring Service Details	
Hospital	
Ward	
Phone No	
Responsible Local Authority	
Responsible Health Board	
Clinical Team	

Useful Contacts			
Designation:	Name:	Office Hours Contact Number	Out of Hours Contact Number
Key Worker/ Care Coordinator			
RMO			
MHO			
General Practitioner			
CPA Coordinator			
Scottish Government			

Legal Details	
Legal Status & Section	
Sentencing court	
Date of Conviction/Insanity Acquittal *	
Date order began *	
Date of previous annual review*	
Date of next annual review *	
RMO details *	
MHO details *	
For Determinate Sentences Earliest Liberation date/ Parole Qualifying date	
For Life Sentences Punishment part	

Risk Summary

Offending History	
Index Offence	
Other Offences Highlight all violent/sexual offences Highlight all offences or concerns relating to children young persons. Detail any children within or outside the family who may be at risk with names and dates of birth	

History of …		
	Yes/No	**Brief Details**
Violence Include a list of all known incidents of violence to staff of any agency	**please s**	
Sexual Aggression	**please s**	
Fire Raising	**please s**	
Hostage Taking	**please s**	
Use of Weapons	**please s**	
Alcohol or Substance misuse	**please s**	
Absconding/Escape	**please s**	
Self Harm	**please s**	
Other factors of relevance (e.g. past child protection referral or vulnerable adult referral)	**please s**	

Current Risk Status	
Setting	**Likelihood, imminence, frequency & severity of harmful behaviour towards whom & under what circumstances**
In Hospital List all known concerning incidents whilst in an institution (e.g. prison or hospital)	
Escorted in Community	
Unescorted in Community	
Other	

Conditional Discharge Conditions

Medication

	Yes/No/not applicable	Comment
Is the patient prescribed medication without which his/her risk may be increased?		
Is the patient compliant with this medication?		

Victim Considerations

	Yes/No	Details
Is/are there specific person(s) whom the patient poses a risk to?		
Does the patient pose a potential risk to certain types of people? (e.g. children, women, vulnerable adults)		

Monitoring & Supervision Requirements

In Hospital	Nursing observation level	
	Restrictions regarding contact with staff	
	Restrictions regarding access to indoor areas	
	Restrictions regarding access to outdoor areas	
	Restrictions on telephone use and letters	
	Room searches	
	Personal searches	
	Alcohol/drug testing	
	Access to sharps & other utensils	
	Visitors	
	Other hospital requirements	
In the Community	Escort requirements	
	Special considerations for staff visiting patient	
	Special consideration for out-patient appointments	
	Alcohol/drug testing	
	Other community requirements	

Additional Comments

Please give details of any other information held which may assist with public protection (e.g. details of any known violent/sexual behaviour, previous allegations, domestic abuse incidents)

Risk Management /Contingency Plan		
Issue	**Early Warning Signs (Relapse Indicators)**	**Contingency Actions**
examples	**Green** : **Amber**: **Red**:	• • •
examples	**Green**: **Amber** : **Red**:	• • •
examples	**Green** : **Amber** : **Red** :	• • •