

**GUIDANCE ON THE DISCLOSURE TO THIRD PARTIES OF
INFORMATION ABOUT SEX OFFENDERS AND OTHERS WITHOUT
CONVICTIONS WHO MAY PRESENT A RISK TO CHILDREN AND
VULNERABLE ADULTS**

1 PURPOSE

This document is intended to act as interim guidance to employees of the relevant agencies (Police, Probation, Social Services) on the management of the disclosure of information to third parties about sex offenders and others without convictions who may pose a risk to children and vulnerable adults.

2 BACKGROUND INFORMATION TO THIS GUIDANCE

- 2.1 The Police and Probation Service, in collaboration with other statutory and non-government organisations have exchanged information about sex offenders as a matter of routine for many years. The implementation of the Sex Offenders Act 1997, which requires sex offenders to register with the police, created a climate in which this collaboration was to become more formal and part of a more sophisticated risk assessment and management process.
- 2.2 The implementation of the act was accompanied by guidance from the Home Office in relation to the disclosure of information to third parties about sex offenders and this proved to be a useful guide to practitioners in the field. That guidance however was only produced as an interim measure as it was intended that a more detailed document would be produced after a short period of time which would draw upon good practices established across the country.
- 2.3 More detailed guidance was produced in draft form in August 1999 and the document was entitled Guidance on the Disclosure to Third Parties of Information about Sex Offenders and Other without Convictions who may Present a Risk to Children and Vulnerable Adults. It covered all aspects of information exchange including interagency and third party disclosure. It was widely circulated as part of a consultation exercise and the final draft was expected in April 2000. To date (January 2004) the final draft of the guidance has not been prepared and there is no immediate prospect of that happening.
- 2.4 Additional guidance regarding the Multi Agency Public Protection Arrangements (MAPPA) in respect of sexual and violent offenders is to be issued later in 2004. There is however a need to provide some form of guidance to agencies across Dorset to enable staff to make decisions on disclosure between now and that date. This document therefore, is intended to act as interim guidance to employees of the relevant agencies (Police, Probation, Social Services) on the management of the disclosure of information to third parties about sex offenders and others without convictions who may pose a risk to children and vulnerable adults. It will also be important for Health and Education to be aware of this guidance.

3 SCOPE

3.1 This guidance relates to disclosing information to third parties about:

- a) those persons who have been convicted of, cautioned for, or otherwise dealt with by the courts (including those convicted abroad) for a sexual offence and;
- b) those who are believed to have abused a child but who do not have a conviction.

AND/OR

- c) who are considered by the relevant agencies to present a risk to children or others.

Third Parties

'Third Parties' are persons or bodies **other than** agencies having a responsibility for the assessment, monitoring and management of sex offenders in the community. Examples of third parties are child protection charities, partners of offenders, employers, head teachers, housing providers and voluntary organisations. In exceptional circumstances it may include parents whose children may come into contact with a person convicted of sex offences or believed to pose a risk of such abuse, but without a conviction, or carers of vulnerable adults.

3.2 This guidance does not cover;

disclosure of information from criminal records for employment and related purposes,

OR

the sharing of information between agencies (Police, Probation, Social Services, Health) which is covered in other protocols.

4 DISCLOSURE OF INFORMATION TO THIRD PARTIES

General Rules

- Where an agency considers that a sex offender, or in some instances a person without convictions, may pose a sexual risk to children or vulnerable adults, a risk assessment should be conducted which will establish whether or not there should be a disclosure of information to a third party. This risk assessment will be conducted in accordance with local protocols depending upon the status of the subject of the proposed disclosure. (See 'Processes' below)
- The general presumption is that information should not normally be disclosed.
- Each case must be considered carefully on its particular facts.

- A decision to disclose to third parties will always need to be justified carefully on both legal and moral grounds, and should be taken only as part of a carefully managed process. (See 'Processes' below)
- Agencies should act only in accordance with agreed protocols.
- Those involved in the decision making process will have to consider carefully the *purpose* of disclosing information to a third party. Such a decision should normally be taken within the context of a plan for a named individual who poses a risk and/or child/vulnerable adult.
- The offender, or person suspected of posing a risk, should always be informed that a disclosure about him/her is going to be made. Where practicable, s/he should have the opportunity to challenge the information on which the decision was based (R v North Wales Police *ex parte* (AB & CD)).
- Where appropriate the offender or person who is thought to pose a risk should be given the opportunity to make the disclosure her/himself in a supervised and/or properly managed scenario; where the individual agrees to disclose the information to the third party, checks should then take place to ensure that the correct information has been disclosed. (See Appendices A & B)
- The decision to disclose - or not disclose - and the reason for this decision should always be recorded in writing by the decision-maker.

5 PROCESSES

The 'managed process' that should be followed (see above) will depend upon the status of the offender or the subject of the proposed disclosure.

1 *Multi Agency Public Protection Arrangements*

If an offender is recognised as posing a serious risk, s/he will be dealt with in accordance with the Multi Agency Public Protection Arrangements (MAPPA). This will consist of Multi-Agency Public Protection Panels (MAPPPs) and Risk Assessment and Management Panels (RAMPs). The protocol relating to MAPPA is entitled 'Protocol for Agencies on the Assessment and Management of Sexual and Violent Offenders or other offenders who may cause serious harm to the public'. It outlines the relevant risk assessment process that should be followed and provides clear guidance for those parties involved. This protocol is currently being updated (refer paragraph 2.4).

If a decision is made by the MAPPP or RAMP meeting that disclosure should take place, the process for physically carrying that out is contained with Appendix A.

The Police will take responsibility for this as lead agency in making the decision and disclosure. A recommendation to disclose must be passed for decision making by the relevant superintendent.

If the police superintendent refuses permission for disclosure, other agencies may wish to consider disclosing this information but should do so only in

accordance with Appendix B and they should take account of their own legal advice.

2 *Registered Sex Offenders*

If a person is a registered sex offender s/he will be dealt with in accordance with the Dorset Police policy on the Sex Offenders Act 1997. That policy provides clear guidelines on the management of registered sex offenders including advice on assessing the risk of disclosure to third parties. The management of registered sex offenders is essentially police business. In instances where there is a risk to a specific child, police will generally liaise with Social Services and other appropriate agencies about disclosure of information, convening a meeting where necessary.

The Police will take responsibility for this as lead agency in making the decision and disclosure. A recommendation to disclose must be passed for decision making by the relevant superintendent.

If a decision is made that a disclosure should take place, this will be managed by the police.

3 *Schedule One Offenders*

If a situation occurs where a police officer or social worker consider that a Schedule I offender, (who is not a registered sex offender), poses a risk to a child (or vulnerable adult), but does not meet the criteria for a MAPP or a RAMP, that person should arrange a risk assessment meeting to take place to consider whether there should be disclosure of information to a third party. The decision about who should be involved in such a risk assessment will depend on the circumstances of the case, but it must include as a minimum a manager from both Dorset Police and Social Services.

The police will take responsibility for this as lead agency in making the decision and disclosure. A recommendation to disclose must be passed for decision making by the relevant superintendent.

If a decision is made that disclosure should take place the process for carrying this out, is contained within Appendix B. If the police superintendent refuses permission for disclosure, other agencies may wish to consider disclosing this information but should do so only in accordance with Appendix B and they should take account of their own legal advice.

4 *Persons believed to pose a risk but without convictions*

The same process as outlined under 3 above (Schedule I offenders) will apply to those persons who are believed to pose a risk but have no convictions. This will include persons against whom credible allegations have been made but not pursued through a criminal prosecution. This may also include those who have been found not guilty, acquitted, case discontinued, but where a serious risk is still believed to exist. If the police superintendent refuses permission for disclosure, other agencies may wish to consider disclosing this information but should do so only in accordance with Appendix B and they should take account of their own legal advice.

6 MAKING THE DISCLOSURE

The question of which agency should physically carry out the act of disclosure to third parties will depend upon the particular circumstances of the case. This will normally be the Police, but will be decided upon during the risk assessment discussion. In situations relating to specific children it is likely to be most appropriate that social services will work jointly with the police in ensuring that the disclosure takes place properly.

Disclosure should be made in person.

The person making the disclosure should explain that it is made in confidence and ensure that the recipient understands the reasons for having been given the information, what use they are to make of it, and any restrictions applying to its further dissemination.

Disclosure of information should always be accompanied by the offer of appropriate professional support and guidance both to the person to whom the information is disclosed, and the person about whom the information is being shared.

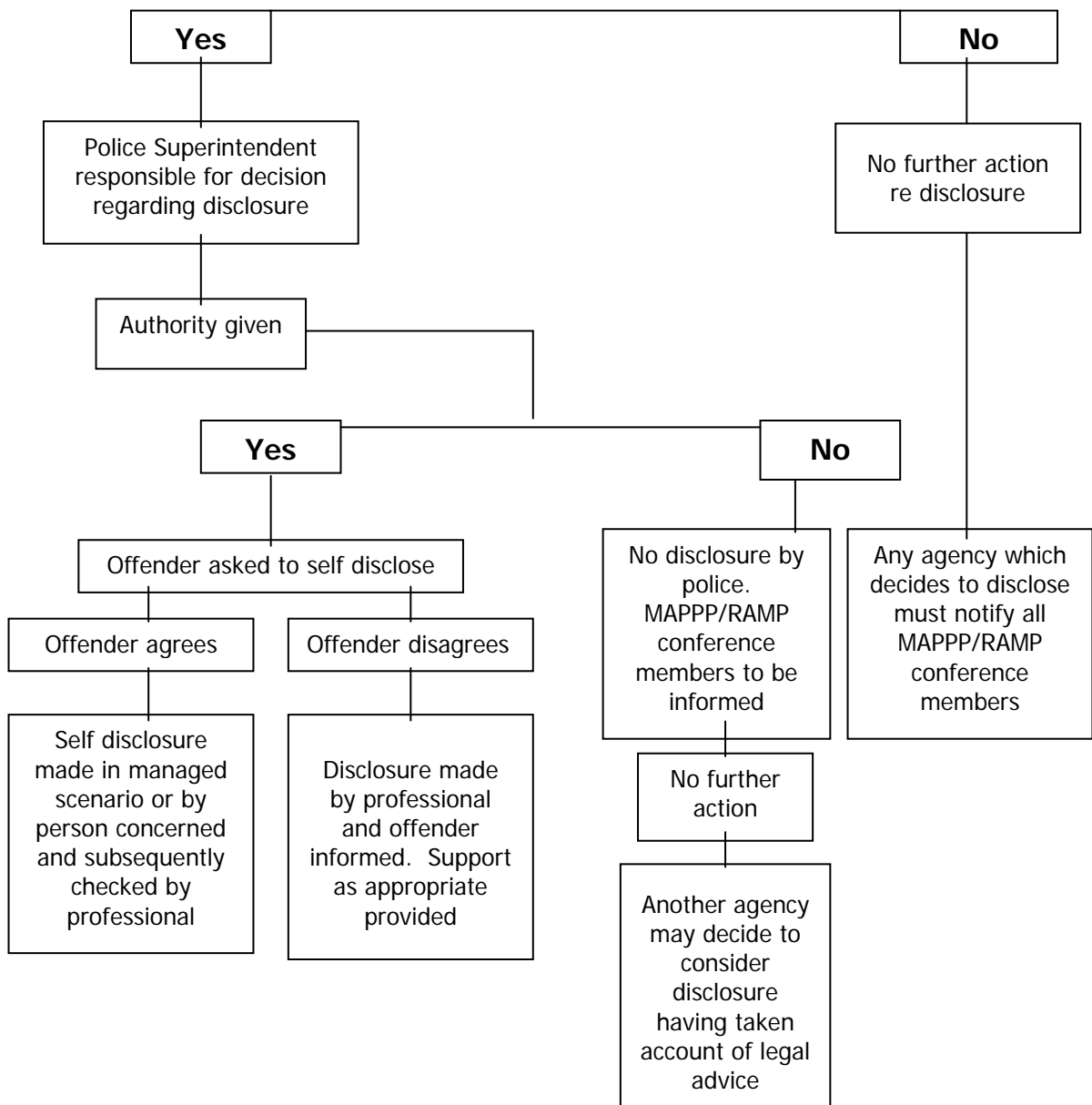
7 EXAMPLES OF DISCLOSURE TO THIRD PARTIES

It is not possible to identify all the circumstances in which disclosure to third parties may need to be considered. However, the examples in Appendix C may help to illustrate when disclosure may be appropriate. These examples were contained within the original guidance from the 1999 Home Office.

DISCLOSURE TO THIRD PARTIES

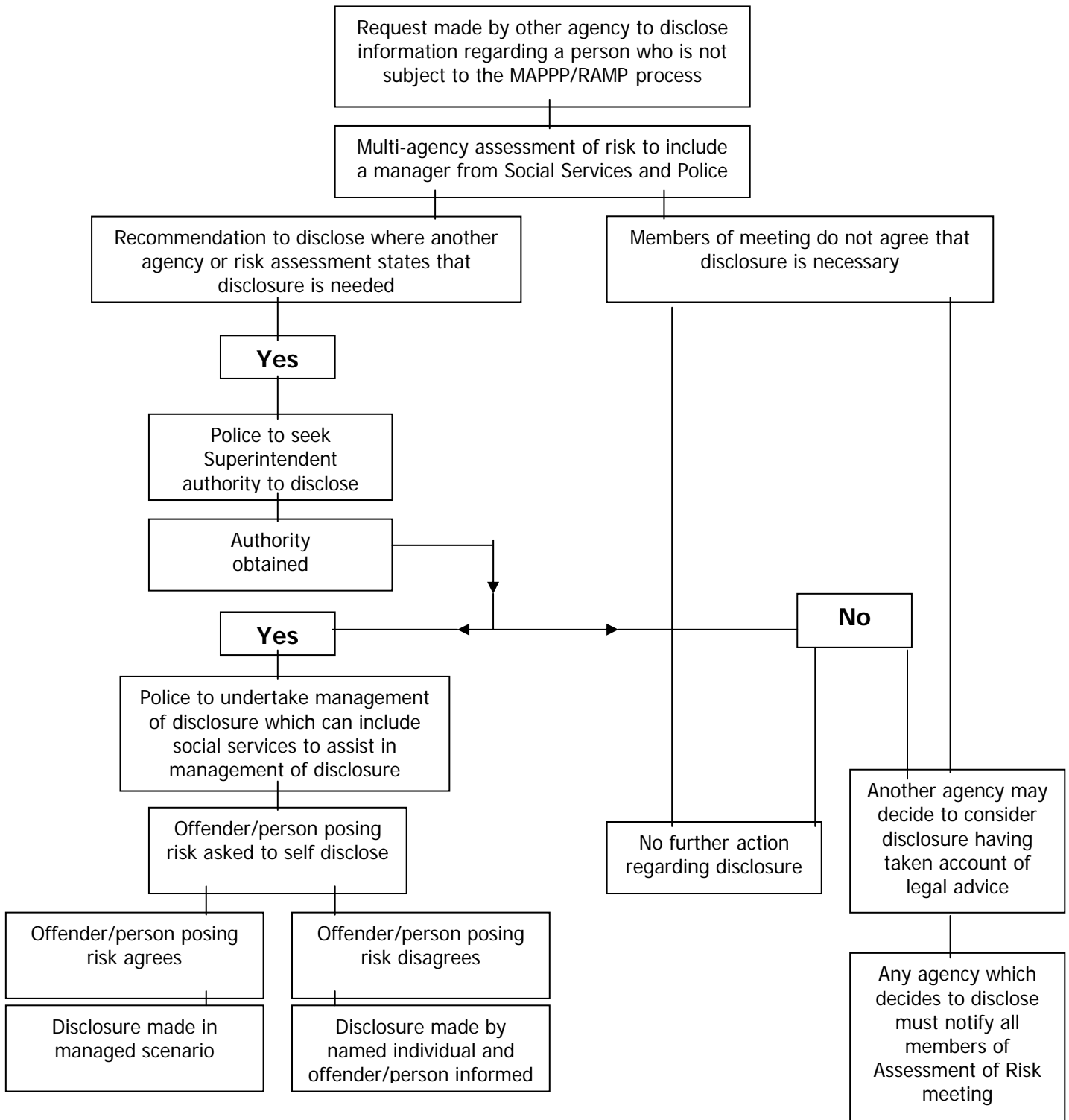
MAPPA

MAPPP/RAMP CONFERENCE RECOMMENDS DISCLOSURE



DISCLOSURE TO THIRD PARTIES

ASSESSMENT OF RISK MEETING
(NOT MAPPP OR RAMP)



ILLUSTRATIVE EXAMPLES OF WHEN IT MAY BE APPROPRIATE TO DISCLOSE TO THIRD PARTIES

Housing

Where an offender is seeking social housing (housing owned by a local housing authority or a registered social landlord) the landlord should be advised where it is considered that the offender should be accommodated away from areas frequented by unaccompanied children or where he may come into contact with children, e.g. – schools, nurseries or playgrounds. Disclosure should be made to a nominated officer in accordance with a protocol agreed between the agencies concerned and the landlord. In such cases, the landlord should also be advised of the level of risk attached to the offender and the arrangements for supervision.

The Workplace

Circumstances might arise in which a risk of offending comes about because of opportunities for access to children or vulnerable adults as part of the employment or training course, and in which an employer or prospective employer ought to be aware of the position, in order to consider whether the risks are acceptable or could be made so. For example, by weighing the offender's assessed risk against the nature of the employment envisaged, the degree and level of supervision the offender would receive in it, and the extent to which the offender would work in the presence of other people (which, depending upon the circumstances of the employment, could either reduce or increase the risk). Disclosure should be made to a senior professional such as the head of the personnel department, business owner, or the manager at the business or workplace where the person is employed. Such disclosure would only be undertaken in the most exceptional circumstances, following an inter-agency risk assessment, and agencies should be aware of the risk of legal challenge.

Schools and Playgrounds

Agencies may receive information that an offender is living near or has been seen in the vicinity of a school, day nursery, play group or similar organisation. Following a risk assessment involving the appropriate agencies, and having considered the vulnerability of the children in that place, it might be thought necessary to inform the head teacher, playgroup leader, etc. of the risk. On receipt of this information, head teachers will need advice from the police or social services department about disclosing to other staff, and the desirability of informing parents, and perhaps pupils, in general terms of the risk. The police or social services department should ensure that clear advice is given to head teachers on these issues.

Youth Groups

There may be circumstances where an offender has secured an official or unofficial role in helping children or vulnerable adults, for example in helping to run a youth

club or society; acting as an advocate; befriender, etc., and if the risk assessment is such as to indicate that there is a risk of offending arising from the situation the police will need to identify to whom any disclosure should be made, e.g. to the church authorities or other relevant governing bodies. It is recommended that local protocols are established with the organisations concerned, to make it easier to implement decisions to disclose information.

Family Relationships

It may come to the notice of the Police, Social Services or Probation that an offender has begun a new relationship, where the partner has children or a relative of a vulnerable disposition (for example, an elderly or disabled relative living in the home). Where a decision is taken to disclose the history of the offender to the new partner, this will need very careful handling given the close relationship between the offender and the recipient of the information. Social services departments should take a full part in these discussions, and it may be appropriate for a social worker to make the disclosure, or to be present when the disclosure is made. A decision on this should only be reached following consultation with the relevant police force.

Some cases will require additional care in handling, for example where the offender is young, has a mental health problem, or severe learning difficulties. In these cases, it will be particularly important to ensure that the appropriate bodies are consulted before any decision is taken to disclose.

People with learning disabilities

Particular care will be needed when handling cases involving people with learning disabilities. It will be important to ensure that all offenders with learning disabilities understand the reasons for, and implications of, disclosure, and that their rights to confidentiality are taken into account. Decisions on risk and risk management will need to be informed by expertise in the learning disabilities area.

Young Sex Offenders

There could be a case for a distinction to be drawn between adults and juveniles: juveniles may be more amenable to techniques for changing their behaviour; they could be more profoundly affected by being labelled a sex offender; and it will be important to ensure that treatment at an early stage for the offenders' own problems (which may have led to his offending behaviour) should not be inhibited. Where young sex offender (i.e. those under the age of 18) are concerned, those who have parental responsibility for them or who have day to day care, will need to be consulted before any decision is taken to disclose, unless the young person is deemed to be of sufficient capacity to give consent him or himself. Where a young sex offender is being looked after or accommodated by the local authority, the guidance in LAC(88)17 will have to be taken into account by the local authority. Where the young offender is in education, the education authority will also have to be consulted.

Juvenile sex offenders looked after by local authorities: placement decisions

Local authorities looking after children who are sex offenders will need to develop clear policy and practice guidelines for the appropriate placement of the child. This will involve undertaking a risk assessment of the placement and ensuring that carers, in residential or foster care settings, are made fully aware of the child's background and that no other children or at-risk adults will be placed in a vulnerable position by the placement.

An important aspect of meeting the needs of abusing children will be access to psychological services to reduce offending behaviour. On a strategic cross-agency level management information should be sought on the numbers of abusing children, so that planning can incorporate their special needs.