

# **Serious Violent Offenders: Developing a Risk Assessment Framework**

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# **SERIOUS VIOLENT OFFENDERS: DEVELOPING A RISK ASSESSMENT FRAMEWORK**

## **EXECUTIVE SUMMARY**

### **KEY RECOMMENDATIONS**

- In order to establish a complementary language of risk across all agencies, it is recommended that the Scottish Government and the Risk Management Authority actively disseminate MAPPA guidance through the RMA's specialist training programme and through the development of protocols and memoranda of agreement;
- Prior to a violent offender framework being implemented, an audit of existing numbers, staffing, budgetary and other resources should be undertaken across the Community Justice Authorities to ascertain projected needs;
- So as to ensure that resources are targeted appropriately and that movement between categories of offender and levels of risk are encouraged, monitoring of risk classifications and risk categories should be undertaken on an annual basis. The MAPPA arrangements should be evaluated within 12-24 months of the implementation of a violent offender framework and regularly thereafter;
- Consistent and effective multi-agency working requires compatibility of individual agency powers, statutory responsibilities, IT requirements and training in order to facilitate joint assessments and the effective enforcement of the legislation;
- Training, in agency remits and responsibilities, in concepts and theories of risk and risk formulation, in the use of specialist tools and in the statutory and other requirements which facilitate multi-agency working, needs to be funded and undertaken centrally via the Scottish Government and the Risk Management Authority;
- Given the heterogeneity of violent offending and the need to target both offenders and resources appropriately, the Risk Management Authority will need to consult with Criminal Justice policy makers and practitioners about the adoption of a single initial risk assessment tool and evaluate its use and effectiveness after a two year period. Minimum standards for referral and for panel information should also be devised and disseminated;
- The development of comprehensive risk management plans, informed by risk assessment and risk formulation, should be encouraged and reviewed by the Risk

Management Authority and should also be evaluated in respect of their impact on recidivism.

## **METHODS**

This research aimed to evaluate current and developing research, policy and practice in order to inform a possible framework for assessing risk of violence in Scotland, not only within MAPPA but also across the board within criminal justice agencies. The study utilised two main methods: a literature review and qualitative interviews with 24 key personnel in all the relevant agencies, including SPS, the Police, Social Work, victim agencies and Mental Health. These interviews explored differing definitions of risk of violence, current and potential policy and practice in assessing risk of violence, the strengths and limitations of MAPPA, organisational issues (including multi-agency working), and the key issues for agencies in assessing violence risk. The literature review explored similar themes both to complement and inform the qualitative data.

## **THE LITERATURE REVIEW**

Overall, the literature review shows that definitions of risk, violence and risk assessment remain far from straightforward, although there are common themes. Terms such as 'high risk' mean different things in different contexts and violent offenders can be difficult to 'compartmentalise' either from other types of offenders (e.g., sexual offenders) or from other violent offenders (e.g., perpetrators of domestic violence). Violence risk assessment has a tendency to focus primarily on prediction of risk but the literature suggests that assessment is more effectively used as a guide for treatment and management, not least where adequate structures, supports and training are in place.

## **DEFINING THE ISSUES**

The MAPPA classifications of risk, whilst welcomed as a guide, were seen to be open to interpretation and thus failed to offer definitive criteria for inclusion or exclusion of certain offence or offender types. One classification system and one working definition of harm across all agencies would therefore be beneficial. The proposed implementation of the LS/CMI risk assessment tool, which combines assessments of risk of reoffending and of risk of harm, will offset any confusion over who to target within the violent offender group, although clear guidelines as to how to progress different types of offence, offender and risk will be needed beyond the initial assessment stage.

Competing agency remits and philosophies were evident amongst the key agencies of Social Work, SPS, Police and Mental Health. Whereas Social Work tended to focus on the

offender and his/her rehabilitation, SPS focused on containment within an institutional context although was increasingly aware of the need to look beyond that to the throughcare of offenders on release. The Police tended to take a longer term view of the assessment and management of convicted as well as unconvicted offenders but also tended to rely on tools rather than on professional judgement in making assessments of risk, not least given their concern primarily to protect the public.

A tension was evident amongst respondents about the Mental Health emphasis on treating the 'patient' rather than necessarily assessing risk more widely. Respondents further identified a need for health colleagues to broaden their criteria in terms of who they will work with and under what circumstances. Victim agencies wished to be more included in the risk assessment process, albeit within the confines of data protection requirements, and their perceptions of risk were deemed a valuable addition to risk formulation, not least when the 'victim' and the 'offender' can often be the same individual.

## **RISK ASSESSMENT IN PRACTICE**

Risk assessments were undertaken for both rehabilitative reasons (focusing on the needs of the offender) and operational reasons (focusing on the requirements of the agency). Social Work, the Police and SPS seemed more likely to combine these functions of risk assessment, whilst mental health staff were perhaps more able to focus on the rehabilitative approach because of their more medical remit, their longer involvement with, in particular, in-patients, and their seemingly greater access to resources. Risk assessment tools were not always familiar to each agency, not least since such tools are not currently standardised across all agencies, although the introduction and roll out of LS/CMI should address agency concerns about the assessment and management of violent offenders. Certainly, most respondents welcomed one standardised tool for initial assessments although stressed the need for any subsequent, more specialised, assessments to accommodate diversity, not only of offender types but also of agency remits and constituents.

Movement of offenders between MAPPA categories and levels of risk was currently quite limited, not least in terms of downgrading risk. This will obviously have implications for risk management of violent offenders who, once introduced into MAPPA, would have the potential to 'swamp' the system. The fears of respondents about the number of violent offenders who would be eligible for MAPPA inclusion may be unfounded, without a systematic audit of existing numbers, but concerns remained that violent offenders could not

be subsumed within existing MAPPA arrangements without further financial resources and programme interventions.

Inter-agency cooperation was viewed as very constructive and currently effective in respect of formal arrangements for sex offenders and informal arrangements for other offenders. The introduction of MAPPA procedures for sex offenders seems to have been helpful both in terms of increased information sharing and increased confidence due to joint decision making and shared responsibility taking. Whilst all agencies expressed a desire for greater understanding across agencies of their roles, remits and cultures in meeting multi-agency expectations, it was acknowledged that there were often variations in culture, policy or practice which created challenges for inter-agency cooperation. Quality assurance mechanisms were seen to be augmented by multi-agency working, although accountability may be less clear within a multi-agency forum such as MAPPA where the roles of the Strategic Management Boards and MAPPA coordinators were sometimes ambiguous. Respondents both welcomed and highlighted the need to have clear guidelines from the Scottish Government and the Risk Management Authority on risk levels, not only for staff across the main agencies but also for sentencers. Clear guidelines, protocols and legislation would ensure better quality assurance and accountability systems across agencies and geographical boundaries. Limited resources (both interventions and funding) and incompatible IT systems for sharing information were seen as a potential barrier to multi-agency effectiveness, as was the lack of national, multi-agency training in concepts of risk and approaches to risk assessment and management in relation to violent offenders.

## **CONCLUSIONS**

The lessons learned from current MAPPA arrangements will no doubt greatly inform the implementation of a violence risk assessment framework. Respondents generally felt that the framework used for sex offenders currently within MAPPA could be replicated for violent offenders, but existing MAPPA arrangements would need to be fit for purpose through having a standardised initial risk assessment tool, clear criteria for the target group, and further national training in risk classifications and assessment and management procedures.

The findings from this report suggest that the 'subtlety of violence' is indeed a challenge to both risk classification, assessment and management, but the strong commitment within and between agencies should further the aims of multi-agency arrangements such as MAPPA and build on the success of MAPPA to date in addressing the needs of offenders, agency personnel and the wider public.

# CHAPTER 1.

## THE CONTEXT OF THE RESEARCH

### INTRODUCTION

- 1.1 Current Scottish multi-agency arrangements for the assessment and management of violent offenders are at an early stage of development. Whilst Multi-Agency Public Protection Arrangements (MAPPAs) have been in place in England and Wales since 2001 for those charged with, or convicted of, violent or sexual offences, MAPPAs did not come on stream in Scotland until April 2007. Whilst MAPPAs require the Scottish Prison Service, local authorities and the police to cooperate formally in the assessment and management of risk, their remit is more limited in scope than that operating in England and Wales. Currently in Scotland, only those convicted on indictment for sexual offences are the focus of the existing arrangements, and whilst the current arrangements for sex offenders within MAPPAs seem to be working effectively in terms of multi-agency risk assessment and management, they are limited in their scope. Not only is it the case that pre-conviction cases fall outside the remit of Scottish MAPPAs, it is also the case that many individuals found guilty of specifically violent offences (e.g., domestic abuse) and those sexual and violent offences convicted in the summary courts are not formally included in these statutory multi-agency arrangements for risk assessment and management.
- 1.2 Due to the widening role of MAPPAs in Scotland to include violent offenders, the Risk Management Authority commissioned this research to develop a framework for the assessment of violent offenders with whom agencies currently work under existing multi-agency arrangements. For example, such a framework might include a standardised tool for use by all relevant agencies across Scotland. An effective standardised tool currently does not exist for violent offenders, not least because such offenders do not necessarily specialise in one type of offence. Prediction of further violent offending, rather than offending in general, can therefore be difficult (Loucks, 2002).
- 1.3 Given the wide-ranging remits of the various partner organisations, their own organisational cultures and constituencies and the current tendency towards reactive rather than proactive practice, it is important that a coherent, robust and genuinely

inter-disciplinary risk assessment framework for violent offenders is developed which promotes reliable, structured, consistent and holistic approaches to reducing and managing such risk across all agencies. Such a framework needs to be based on agreed definitions and rankings of risk, and it is hoped that this report can form the foundation upon which such commonalities and improvements are made.

## **BACKGROUND**

- 1.4 In a review of risk assessment on behalf of the Scottish Executive, Barry (2007) noted that differences between organisational cultures, definitions of risk, and a hierarchy of professional expertise prevent the development of a common understanding and language of risk. Barry found little consistency in practice in criminal justice, despite the fact that the field is relatively advanced in terms of inter-agency collaboration. She explains that “The culture of the various organisations... is doubtless an influence on the way risk is perceived and managed within each agency, making the gains from collaboration less obvious” (ibid: ii).
- 1.5 Inconsistencies in risk assessment and management have clear implications for practice. The Inspectorate of Probation (HMIP 2006) in England and Wales has provided consistent and quantitative evidence of shortcomings in work done on risk of serious harm. An enquiry following the murder of Naomi Bryant in August 2005 reported that no single act of negligence or deficiency was responsible for the failure in risk management under MAPPA, but rather it was a cumulative failure of processes and actions throughout an offender’s sentence supervision, both in prison and in the community. The review reinforced the importance of having an integrated offender management system throughout a sentence, with clear and consistent practice between the three core MAPPA agencies (probation, prisons and the police) (HM Chief Inspector of Probation, 2006).
- 1.6 This is equally the case in Scotland. In 2006, for example, the Mental Welfare Commission reported on an enquiry into a murder of one psychiatric outpatient by another. The enquiry reported a number of systematic deficiencies, including no systematic approach to risk assessment in the offender’s care and supervision and no satisfactory risk assessment, risk management plan or strategy to deal with any relapse in his illness. Deficiencies in communication, training, supervision, and information were also evident.

- 1.7 More recently, the Social Work Inspection Agency (SWIA) released a series of criticisms about standards of risk assessment and management. SWIA (2007) reported that just under 40% of the social enquiry reports (SERs) across Scotland reached a fully acceptable standard, with deficits primarily in the quality of the analysis of offending and related risk assessment and in the way in which this, along with other relevant information, was used to inform the reports' conclusions. SWIA went on to say that the authors of SERs relied too frequently on the offender's version of the offence with little further investigation and analysis.
- 1.8 SWIA (2007) noted that work with serious violent offenders was not strong, both when compared to work with sex offenders but also in comparison with offenders as a whole. The report stated that analysis of risk of harm was 'poor' in a significant proportion of reports on serious violent offenders. About three-quarters of these offenders had action plans in place for the first three months of supervision, but SWIA expressed concern about the quality of subsequent supervision. Supervision of serious violent offenders predominantly took the form of individual non-programme work, much of which SWIA said failed to address their offending. While some local authorities ran their own domestic violence or short anger management programmes, no accredited or approved programmes were available for addressing violent behaviour, and with no immediate prospect of any being introduced. Further, supervising officers made checks on offenders' living arrangements in only 38% of cases.
- 1.9 SWIA's report called for more effective risk assessment and management and more options to help offenders to address their offending. The report expressed concern that sound risk assessment practice was not adequately informing SER authors' assessments of the risks of re-offending and harm. It criticised the guidance to staff on risk assessment as well as the standard and immediacy of training. SWIA found that some staff were undertaking risk assessments without having completed the necessary training at all, and some staff resisted using any structured risk assessment tools. The report also identified weaknesses in monitoring and evaluation, lack of up-to-date service level agreements (SLAs) in many areas, and lack of clear and measurable targets and outcomes or performance monitoring information where SLAs were in place.
- 1.10 SWIA (2007) made some positive comments, however, such as the fact that supervision plans were in place in over three-quarters of the case files and in over 60% of files in even the poorest performing areas. The variation in quality of the plans

came under criticism, however, as did the quality of related risk assessments. The Inspectors noted frequent failures of services to review offenders' supervision plans and progress in achieving identified goals and tasks according to National Standards. SWIA believed this led to a considerable amount of 'drift' as well as to reactive rather than pro-active practice. The report concluded with a call for more local authorities to develop effective risk assessment practices, particularly for the highest-risk offenders, and noted plans from the Risk Management Authority to develop a multi-agency risk assessment framework for use with violent offenders – the task of the current review. Barry (2007) notes that, despite such findings from the literature, recent developments in risk assessment tools and procedures are working to encourage both consistency of approach and the active participation of offenders in ongoing risk assessment and management. Similarly the development of accredited programmes both in prison and in the community also ensures that the offender is involved in an ongoing self-assessment of risk and in joint decision making in relation to risk management.

1.11 As noted above, MAPPA provisions for violent offenders under the Criminal Justice Act (Scotland) 2003 are due to be introduced once a consistent approach to risk assessment and management of this group is identified (Scottish Executive Justice Department, 2006). Again, the task of the current review is largely to assist in developing a more consistent and informed approach to the assessment and management of violent offenders, including restricted patients (Scottish Executive et al, 2006).

1.12 Kemshall's (1998) concept of 'defensible decision-making' should be central to all approaches to the assessment and management of risk amongst violent offenders. The Scottish Government (2007b) reiterates these criteria for a defensible decision as:

- Ensuring decisions are grounded in the evidence
- Using reliable risk assessment tools
- Collecting, verifying, and evaluating information thoroughly
- Recording and accounting for decisions
- Communicating with relevant others and seeking additional information
- Staying within agency policies and procedures
- Taking all reasonable steps
- Matching interventions for risk management to risk factors
- Maintaining contact with offenders at level commensurate with the level of risk of harm, and

- Responding to escalating risk, deteriorating behaviour, and non-compliance (source: Kemshall, 1998).

1.13 Defensible decision making is clearly an important part of the management of risk, but should not be conflated with 'defensive' decision making, which may result in precautionary and restrictive practices in both assessment and management. Defensible decision making can better achieve public protection, rehabilitation, and the engagement and compliance of offenders (Wood & Kemshall, 2007).

1.14 Thus far in Scotland, the MacLean Committee (2000), the Cosgrove Committee's work on sex offenders (2001), the Millan Committee's work on mentally disordered offenders (2001) and the Mental Health (Public Safety and Appeals) Act 1999 have had the most impact on violence risk assessment and management. These developments place particular duties and obligations on staff in criminal justice, social work and health regarding risk assessment and management of high-risk offenders (Kemshall, 2002).

1.15 A number of structures are in place in Scotland to assist with defensible decision making, as well as models available from elsewhere in the UK and internationally. Much of the recent focus on this in the UK has been through the development of MAPPA, as described below.

## **MAPPA**

1.16 Scott and colleagues (2007) see MAPPA not as an agency but as a set of national arrangements that require each participant to ensure that their own practice is effective and equally that their collaboration is effective in assessing and managing the risk posed by sexual and violent offenders. This process has been described as the identification of stages on a journey rather than a destination reached (ibid).

1.17 The MAPPA guidance in England and Wales (National Probation Service, 2004a) and in Scotland (Scottish Government, 2007b) identifies three categories of offenders who are subject to the MAPPA process. Category 1 consists of registered sex offenders who have been convicted or cautioned of certain sexual offences and who are required to register with the police. Category 2 is made up of violent and other sex offenders convicted on indictment of an offence inferring personal violence who are subject to

probation or licence supervision, and those acquitted on grounds of insanity or found to be insane following indictment proceedings<sup>1</sup>. Finally, Category 3 consists of other offenders whom the Responsible Authority considers to pose a risk of serious harm to the public. Each of these categories of offenders is then divided into three assessed levels of risk. Level 1 consists of offenders believed to require ordinary risk management, usually by a single agency at local level, such as probation supervision. MAPPA Level 2 requires multi-agency risk management, but again at a local level. Level 3, requiring national Multi-Agency Public Protection Panels, is technically reserved for the 'critical few of the critical few' (National Probation Service, 2004b) who pose the highest risk.

1.18 The Management of Offenders Etc. (Scotland) Act 2005 imposes a statutory duty on a wide range of local and national agencies to cooperate with MAPPA. The responsibility for identifying offenders within the three MAPPA categories lies with the agency that deals with them initially. The 'responsible authority' for offenders varies according to their status. For example, the Prison Service is the responsible authority for those in prison, whilst the health service is responsible for those who are mentally ill, even where they are not restricted patients (Scottish Government, 2007a; also Scottish Executive Justice Department, 2006), the police for registered sex offenders, and the local authority for those offenders convicted on indictment and subject to a probation order for a violent offence or who will be subject to supervision on release from prison (Scottish Government, 2007b).

1.19 At the time of writing (November, 2007), MAPPA procedures had only been in place in Scotland for eight months, and only in relation to sex offenders, so longer-term statistics were only available from England and Wales. In 2004/05, MAPPAs in England and Wales managed about 45,600 offenders (Ministry of Justice, 2007). Of the total number of offenders in MAPPA, 66% were registered sex offenders (category 1), 28% were violent or other sex offenders (category 2), while the remaining 6% were other offenders (category 3; *ibid*). Most offenders managed under MAPPA procedures will be dealt with through local panels. A national panel also exists to co-ordinate the re-settlement of offenders who cannot be safely located in their home area or region (National Probation Service, 2004b).

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<sup>1</sup> Current practice would tend to refer to such people as 'mentally ill' rather than insane.

- 1.20 Realistically, not all offenders can receive high levels of supervision and research on 'the risk principle' suggests that such intervention across the board would be inappropriate, with only those offenders assessed as being at higher risk being likely to benefit from high levels of supervision (Andrews and Bonta, 1994). The National Probation Service in England and Wales (2005d) consequently directs probation areas to be clear about allocating only those offenders who need 'active' risk management of serious harm, or notoriety, to Levels 2 or 3 of MAPPA.
- 1.21 In England and Wales, Registered Sex Offenders continue to form by far the largest category of offenders within MAPPA (Scott et al, 2007). In saying this, the majority of offenders within MAPPA (71%) are not assessed as posing a significant risk of serious harm to the public and can therefore be managed effectively at Level 1 (in other words, under normal methods of supervision such as through local probation teams). Level 3, in contrast, makes up the highest level of risk management, focussing on the most complex offenders, or the 'critical few' (most recently about 3% of the total caseload in MAPPA; see also Criminal Justice Inspection Northern Ireland, 2005), and involves senior managers within each area. The rate of serious reoffending for the intensively managed group has been very low and, though numbers are small, suggests that this method of risk management has been effective (Scott et al, 2007).
- 1.22 In Scotland, the Prison Service (SPS) is responsible at the start of a sentence for identifying and designating a local authority which will be responsible for the supervision of offenders who are subject to a period of post release supervision (Scottish Government, 2007b). The SPS has instigated a multi-disciplinary Integrated Case Management (ICM) process for this purpose, which the Scottish Government (2007a) has identified as crucial in the development of a community focused risk management plan and in the provision of relevant information from the prison to MAPPA. On release, the prisoner's assessed level of risk and needs, as well as the specific requirements of any licence or order, determine levels of contact with the supervising officer, the nature of that contact, and the interventions in which they will be required to participate (ibid). Violent offenders not subject to supervision on release do not automatically fall within MAPPA. The assumption is that in most cases the court will impose the sentence according to the information available to it at the time, including the offender's risk of harm. However, subsequent assessment during custody, such as in assessment for eligibility for Home Detention Curfew, may reveal a need to refer a prisoner to the SPS Risk Management Group who will then consider if

the prisoners should be referred for consideration to MAPPA (Scottish Government, 2007b).

1.23 Clear approaches to and methods for violence risk assessment are central to risk management and consequently to protection of the public. To that end, this report aims to further the already growing level of inter-agency cooperation and good practice with sex offenders so as to inform a risk of violence assessment framework in Scotland.

## **LAYOUT OF THE REPORT**

1.24 This report comprises 6 chapters as follows. Chapter 2 describes the aims and objectives of the research and outlines the methods used to address these. Chapter 3 gives an overview of the international literature review and Chapter 4 explores the issues of classification of offenders and harm, and definitions of violence and sets these within the different organisational structures, cultures and remits of the varying agencies concerned. Chapter 5 looks at the more practical aspects of risk assessment, including perceptions of tools, reasons for undertaking risk assessments and organisational issues such as accountability, quality assurance and training, as well as exploring multi-agency working and barriers to effective inter-agency cooperation. Finally, Chapter 6 draws together the conclusions from the research and provides recommendations for implementing a framework for risk of violence assessment and management.

## **CHAPTER 2.**

### **AIMS, OBJECTIVES AND METHODS**

#### **INTRODUCTION**

2.1 As mentioned in Chapter 1, the Risk Management Authority commissioned this research to evaluate developments in assessing violence risk internationally and to establish how agencies in Scotland currently define risk and work with violent offenders. The ultimate intention of the research was to explore the feasibility of a framework to assess the risks posed by violent offenders from initial screening, through in-depth risk assessment and risk formulation, to risk management. This chapter describes the methods used by the research team in addressing this task.

#### **AIMS AND OBJECTIVES**

2.2 The aims of the research were to evaluate current and developing research, policy and practice in relation to assessing risk of violence and to explore the feasibility of a common risk assessment framework for violent offenders. The objectives of the study were as follows:

- to explore the heterogeneity of violence, examining common definitions as well as different types of violence;
- to provide an overview of the current and developing knowledge and expertise, nationally and internationally, on assessing risk of violence, and to examine critically the advantages and limitations of these, including their applicability to populations other than adult males;
- to examine practice, including the use of tools, processes and strategies, for the assessment of risk of violence, and to assess critically the advantages and limitations of such practice;
- to assess current and imminent promising approaches to the assessment of risk of violence, including approaches for the initial screening of offenders and the use of acute dynamic risk factors as early warning signs of critical risk of violence; and
- to provide recommendations for a risk assessment framework applicable for use by a range of disciplines and agencies involved in the management of violent

offenders, and proposing tools or guidelines for use at various levels of assessment.

## **METHODS**

2.3 The research was conducted between August and November 2007, in three main phases: Phase I - interviews with policy makers; Phase II – an international literature review; and Phase III – interviews with practitioners/managers. Phases I and III comprised 24 interviews with the following key agencies:

- 7 mental health/forensic psychology staff;
- 6 social work staff;
- 5 senior policy makers (Scottish Government and CJA);
- 3 senior police officers;
- 2 Scottish Prison Service/Parole Board staff;
- 1 victim agency.

2.4 The first phase of the work involved exploratory discussions with 12 key policy personnel in the above agencies, exploring the over-arching issues currently being debated about risk of violence assessment within Scotland. The interview schedule for Phase I (see Appendix 1) was developed following discussions with the RMA and was piloted on the first two respondents after which minor amendments were made. The following departments/areas of expertise were covered: the Scottish Government, Scottish Prison Service, Criminal Justice Social Work, the Police, the Mental Welfare Commission, Forensic Mental Health, Victim Support Scotland and the Parole Board. These interviews covered the following areas:

- the current state of play in relation to risk of violence assessment procedures across the various agencies in Scotland;
- definitions of risk, violence and harm;
- the strengths and limitations of MAPPAs, current and proposed legislation, and existing risk assessment tools; and
- the key issues across agencies.

2.5 Throughout the fieldwork period, a literature review (Phase II) informed the interviews and the development of the framework based on issues and experiences

internationally. This review examined information on relevant legislation, policy, practice and research in relation to risk of violence, including inter-agency cooperation and the feasibility of assessment frameworks. The review focused on the last 5 - 10 years and covered legal, policy and practice documents as well as academic research reports, books and journal articles. Source material included literature already known to the authors, supplemented by internet searches using search engines such as Google and Ingenta. A CD-ROM for training in risk assessment concurrently in development by Kemshall and colleagues (forthcoming) was a valuable source of such literature, as the disc contained a comprehensive collection of articles and reports relevant to risk assessment. The international element of the literature review focused predominantly on English-speaking countries (namely, the USA, Canada, Australia and New Zealand) except where English versions of pertinent literature were available from other countries. The main topics which emerged from the review as the work progressed were as follows:

- definitions and cultures of risk generally and risk of violence in particular;
- the effectiveness of approaches to risk of violence assessment;
- a comparison of mental health versus criminal justice legislation, policy, practice and research;
- throughcare arrangements;
- issues of user and family involvement in risk assessment;
- organisational culture, performance indicators and accountability frameworks; and
- target populations for assessment.

2.6 Problems in risk assessment and risk management emerged as important issues, as did multi-agency working and training. The literature is therefore explored under four headings in Chapter 3 – approaches to violence risk assessment, problems in risk assessment, risk management and throughcare, and multi-agency working, organisational issues and training.

2.7 Originally, the literature review also intended to include an examination of risk assessment tools, their use across agencies, and how they accommodate diversity (e.g. gender, ethnicity, age or types of violence). The use and value of specific risk assessment tools was, however, already being addressed in the concurrent research for the RMA being carried out by Farrington and colleagues, and a separate investigation of tools in this review was thus deemed unnecessary.

2.8 Phase III comprised 12 further in-depth interviews with practitioners/managers across Social Work (criminal justice and adult services), Forensic Mental Health, the Police, the Parole Board, MAPPA coordinators and the Scottish Prison Service and followed up on the themes emerging from Phase I. The Phase III interview schedule (see Appendix 2) focused more on practice than on policy, within the following areas:

- definitions and rankings of risk, violence and harm;
- risk assessment procedures and objectives;
- perceptions of certain risk assessment tools;
- quality assurance and accountability;
- inter-agency cooperation;
- the strengths and weaknesses of MAPPAs; and
- the key issues across agencies.

2.9 Analysis of the qualitative data was undertaken manually, grouping the data under particular themes, based on the interview schedule. Also, in order to observe how the agencies worked together on specific cases, two of the research team sat in on a MAPPA Level 2 meeting in one particular area and one member of the team also attended a Parole Board meeting, in both instances to observe how agencies worked together on specific cases. Observations from these meetings have been incorporated, where appropriate, within the findings chapters.

2.10 This study was necessarily limited in scope, given budgetary and time constraints, but provides an overview of existing arrangements and research in relation to risk of violence assessment across the relevant criminal justice agencies. One CJA, 5 local authority social work departments, 2 health boards and one police force were represented, comprising 16 respondents overall. The remaining 8 respondents came from the Scottish Government, prisons, parole and victims' agencies. Because of the small sample size for the qualitative interviews, it has not been possible to systematically proportion views across agencies or skills levels of their staff. Equally, the views presented in this report have had to remain largely anonymised to protect the identity of the 24 respondents – mainly drawn from senior management – and cannot be said to be representative of those agencies' views overall, not least the views of staff at a practitioner level.

## **SUMMARY**

2.11 This research aimed to evaluate current and developing research, policy and practice both within the UK and internationally, in order to inform a possible framework for assessing risk of violence, not only within MAPPA but also across the board within criminal justice agencies. The study utilised two main methods: a literature review and qualitative interviews with key personnel in all the relevant agencies, including SPS, the Police, Social Work, victim agencies and Mental Health. These interviews explored differing definitions of risk of violence, current and potential policy and practice in assessing risk of violence, the strengths and limitations of MAPPA, organisational issues (including multi-agency working), and the key issues for agencies in assessing violence risk. The literature review explored similar themes to both complement and inform the qualitative data.

## CHAPTER 3.

### THE INTERNATIONAL LITERATURE

3.1 A review of the literature informed the research throughout, covering topics such as definitions; approaches to risk assessment of violent offenders and problems with these; risk management and throughcare; and multi-agency working, training and organisational issues. Each of these will be addressed in turn.

#### DEFINITIONS AND CULTURES OF RISK

3.2 Specific definitions of risk are not universal: though they contain similar themes, no single agreed definition of concepts such as risk or violence is evident in the literature. Kumar and Simpson (2005) identified three key concepts in the literature that define risk, namely uncertainty, weighing up the likelihood of different outcomes, and the likely benefits as well as harm due to risk assessment. In Scotland, Barry (2007) defines concepts such as risk, risk factors, risk management, and risk assessment in some detail. She notes that the Risk Management Authority (RMA), which oversees risk in criminal justice in Scotland, defines risk as “[the] nature, likelihood, frequency, duration, seriousness and imminence of an offence” (2006: 50), and that a definition of the level of risk requires a structured consideration of each of those aspects. (ibid, 27).

3.3 In England and Wales, Prison Service Order 2750 on Violence Reduction defines violence as “any incident in which a person is abused, threatened, or assaulted”. This includes an explicit or implicit challenge to their safety, well-being or health. The resulting harm may be physical, emotional or psychological” (para 9.1). Such a definition, according to the Order, offers a common agreed threshold of tolerance within the Service in order to give staff the confidence to challenge behaviour that falls within the definition.

3.4 Risk assessment, in turn, is “the process of evaluating individuals to characterise the likelihood they will commit acts of violence” (MacLean Committee, Scottish Executive, 2000). The MacLean Committee viewed risk assessment as an ongoing process requiring constant review and modification, including an account of both psychological and situational factors and a focus on public safety (Barry, 2007). For the present

review, concerns about definitions focus more on risk generally, including risk of reoffending, as well as risk of violence and risk of harm in particular.

- 3.5 Risk assessments and tools label various levels of risk with no agreed definition of what these levels mean in practice. The Cosgrove Report (2001) recommended that the Scottish Executive provide guidance regarding what constitutes high, medium and low risk. Some attempts have been made to clarify this. For example, the OASys assessment (Offender Assessment System, developed jointly by the Prison and Probation Services in England and Wales) defines low, medium, high, and very high risk (National Probation Service, 2005c and 2006b), as does the (identical) guidance for MAPPA in Scotland (Scottish Government, 2007b). Even so, no national profile of offenders registered as Level 3 (the highest level of supervision and perceived risk) under MAPPA has been issued, even where this system has been in place for several years (Wood, 2006).
- 3.6 Barry expresses concern about the lack of consistency in definitions of risk levels across agencies and fields, especially in the criminal justice field. Wong and Gordon (2006 and 2007) deliberately avoid the use of labels of high, medium and low risk because of the concern that these labels obscure important distinctions. The Child Protection Audit and Review (2002) in Scotland gave an example of this difficulty in their discussion of an offender who committed a sexual murder – not a high frequency offence, but clearly one with a high level of harm. The Review consequently commented that a ‘high risk of reoffending’ fails to categorise the degree of potential harm or to identify potentially dangerous offenders.
- 3.7 Definitions of who violent offenders are, let alone what violence actually is, can pose problems for risk assessment and management. The Scottish Government (2007b) defines violent offenders as those convicted on indictment of an offence inferring personal violence who are subject to a probation order, or who are or will be on release from prison, subject to statutory supervision in the community. However, no clear distinction exists between sexual and violent offenders (Loucks, 2002), for example, so differential application of specific legislation (such as separate streams for MAPPA) for each may be problematic. Violent offences themselves vary widely. Definitions of violence therefore also vary based on perceived seriousness, resulting harm, and context, such as in the case of domestic violence (Gilchrist and Kebbell, 2004) or school violence (Augustyniak, 2005). Some statutes have attempted to create specific legislation for violent sexual offenders, e.g., the 1990 Washington State sexual

predator statute (Connelly and Williamson 2000), but again these offenders will not always be clearly identifiable from others. In such cases a trial may be held to determine whether an offender qualifies as a sexually violent predator (Lieb, 1996; Lieb and Matson, 1998). Sexual Predator Statutes typically apply to offenders who have at least one conviction for a sexually violent offence and are due to be released from custody upon completion of a sentence. Although often committed to psychiatric hospitals, the law pays little attention to the treatment needs of these individuals or whether psychiatrists believe they are treatable (American Psychiatric Association, 1999).

### **'Dangerous' offenders**

- 3.8 Brody and Tarling (1980) question the definitions of dangerous and what constitutes a 'dangerous' offender. They comment that "... when it comes to classifying offenders, it is no simple matter to say who is dangerous or who not, and neither legal or other definitions, nor what research has already been done, can help very much" (p31). Over a quarter of a century later, this definition remains subjective and intuitive. Wood (2006) examines the long-term difficulty in conceptualising 'dangerousness', noting that "As the preoccupation with risk has continued, so too has the desire to distinguish the risky from the very risky, with the notion of dangerousness being inextricably linked to perceptions of very high risk and offenders being labelled as dangerous accordingly" (p309).
- 3.9 Unfortunately much current legislation relies on the ability of assessors to determine who is dangerous. In Australia, a judge must be "satisfied by acceptable evidence that the convicted person is... so likely to commit further crimes of violence, though the standard of proof required for this was not clarified (Campbell, 1991: pp86-7). In the United States, the Supreme Court decided in *Kansas v. Hendricks* (1997) that civil detention after the completion of a sentence was legitimate if offenders were deemed "unable to control" their dangerousness. The Court did not, however, define what this was. Mercado and colleagues (2006) therefore questioned what factors were important to assessors in determining the ability of sexually violent offenders to control their behaviour. They found that verbalisation of control, history of sexual violence, and the context of the legal hearing were highly relevant to this, but also that most participants made remarkably high estimates of likelihood of future sexual violence. Fears of and potential for violence are likely to coincide with high assessments of risk (Rosenfeld

- 3.10 Edens and colleagues (2005) examined how expert testimony can define whether someone poses a 'continuing threat to society'. They found that such predictions often grossly overestimated risk and that, despite advances in the field of risk assessment, clinical assessments of the risk of future violence appear to be "highly inaccurate and ethically questionable at best" (p55). Similarly, Corbett and Westwood (2005) query the definitions used in psychiatric diagnoses of 'dangerous and severe personality disorder' ('DSPD'), arguing that concepts such as 'dangerousness', 'violence' and 'risk' were subjective, with socio-political rather than psychiatric rationales for justifying psychiatric detention. Rogers and Lynett (1991; also Wettstein, 1992; Reardon, 1992) agree, contending that estimates of future dangerousness are based on concepts that are not legally defined and have no basis in psychiatry.
- 3.11 Bonta and colleagues (1996; also Brody and Tarling, 1980) note that psychiatric diagnoses are prominent in the designation of offenders as 'dangerous'. Almost three-quarters of offenders with this designation in Canada had been diagnosed with antisocial personality disorder, while 40% could be diagnosed as psychopathic. The designation of 'dangerous offender' in Canada still predominately applies to sex offenders, despite reforms of dangerous offender provisions to alter this (Grant, 1998; Connelly and Williamson, 2000).
- 3.12 The National Probation Service in England and Wales (2005b) explains that offenders who have previously been convicted of a specified offence are assumed to be dangerous unless to presume so would be unreasonable. 'Significant risk' depends upon whether the commission of further such offences exposes members of the public to serious harm. The term 'dangerous' under the terms of the Criminal Justice Act 2003 in England and Wales therefore applies to offenders whom the court judges to present such a risk (ibid). The Probation Service goes on to clarify that 'significant risk' is for the court to assess in each case. 'Serious harm', however, is defined as 'death or serious personal injury whether that is physical or psychological'. This differs from the definition of risk of serious harm in OASys, which defines it as 'a risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible'.<sup>2</sup> The two definitions are, however, arguably comparable (National Probation Service, 2005b).

- 3.13 Connelly and Williamson (2000) outline a range of definitions and criteria for dangerous offenders in various countries. Many criteria for 'dangerous' offenders are based on offence categories. Many also specify the role of judicial discretion, such as in New Zealand where the sentencing judge may impose preventative detention where he or she is satisfied that this is necessary for public protection (Birgden, 2007; Meek, 1995; New Zealand Ministry of Justice, 1997; Brown, 1996; also Petrunik, 2002 for a review of the US and Canada, and Ray and Craze, 1991 for provisions in Denmark). Under the Criminal Justice Act 2003 in England and Wales, indeterminate or extended sentences for public protection must be imposed for sexual or violent offenders if the court assesses them as posing a significant risk to the public.
- 3.14 Connelly and Williamson (2000) note a trend in many countries towards implementing provisions that are specifically geared towards public safety but equally that evaluations of their effectiveness are sparse. Earlier research by Brown (1996) found that offenders classified as 'serious' under the legislation for preventative detention in New Zealand were significantly less likely than 'ordinary' offenders to be re-imprisoned within two and a half years of release: the vast majority (92%) of subsequent 'serious offences' were committed by offenders originally imprisoned for 'ordinary' offences. The legislation therefore failed to define and detain offenders who presented the greatest threat to public safety. Although this information is now somewhat dated, the figures starkly illustrate the fact that such legislation fails to prevent the vast bulk of serious offending (also Petrunik, 2002). The costs of such policies compared to their impact on serious offending are also disproportionately high (Petrunik, 2002).
- 3.15 In the Netherlands, the vast majority (90%) of offenders categorised under their legislation for the management of dangerous offenders were serious violent offenders (Kinzig, 1997). This makes an interesting contrast to other countries such as the UK, which appear to define a higher proportion of sexual offenders as 'dangerous'. Dangerous offender legislation in Germany bases its definitions on repetitive offending and risk of harm and consequently includes psychological harm and damage to property as well as physical harm (Kinzig, 1997; Albrecht, 1997).

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<sup>2</sup> The definition of serious harm under MASRAM in Northern Ireland replaces 'impossible' with 'incomplete' (Owens, 2003).

3.16 Grant (1998) expresses concern that a focus on 'dangerous' offenders ignores more frequent forms of violence and diverts attention away from preventing these. Attention to violence from strangers, which Grant notes is characteristic of legislation on dangerous offenders, fails to take into account the fact that victims of violent and sexual offences usually know the perpetrator. Specifically, it ignores domestic violence and sexual abuse on the basis that such offending does not put the general public at risk.

3.17 The approach in Scotland since the work of the McLean Committee has been to use the term 'risk' rather than 'dangerousness':

... because the term dangerousness implies a dispositional trait, inherent in an individual, that compels him/her to engage in a range of violent behaviour across a range of settings. That approach fails to take into account the complex interaction of psychological characteristics and situational factors in the production of violent acts. (2000: 2.4)

Further, the Committee preferred to focus on risk *assessment*, which they viewed not as an end in itself but as a link to "positive action to manage and reduce risk" (*ibid*, 2.3).

3.18 Despite the problems evident in the literature, guidance regarding definitions of violent offences and offenders can be helpful as long as it recognises the need to take into account the characteristics of individual cases. The next section examines ways to approach such assessments.

## **APPROACHES TO VIOLENCE RISK ASSESSMENT**

### **Characteristics of violent offenders**

3.19 Research on violent offenders often identifies characteristics that seem to set such offenders apart from others. Stalans and colleagues (2004) found that the strongest predictor of violent recidivism was whether the offender was a generalised aggressor (meaning people who are violent in a variety of contexts including both in and out of the home). Hanson and Harris (2000) found poor social supports, antisocial lifestyle,

and poor self-management strategies to be important risk factors for violent reoffending, as were lack of co-operation with supervision and hostile attitudes.

3.20 Some sex differences in predictions of violence are evident. The vast majority of serious violent offenders are male (Loucks, 2002). Henning and Feder (2004) found that female arrestees for domestic violence were significantly less likely than males to have histories that indicate potential for future violence. Teasdale and colleagues (2006; also Robbins et al, 2003) noted contextual differences in violence from male and female psychiatric patients.

3.21 Equally evident in the literature is the recognition that violent offenders are not a homogenous group that can easily be set apart or distinguished from others. Loucks (2002) noted that characteristics of serious violent offenders are more similar to offenders generally - even those who have never committed a violent offence - than to non-offenders, and that recidivism is not usually for further violence. Indeed, violent offenders tend to be generalist rather than specialist offenders: a large proportion commit other types of offences, both before and after their first conviction for violence (Grunfeld and Noreik, 1986). Brody and Tarling (1980) found, for example, that violence is almost always mixed with property crimes.

3.22 The rate of violent offending has been found to be a good predictor of future offending, though not necessarily of violence (Loucks, 2002). In saying this, those who had committed a violent offence in the past were more likely to do so again (also Stalans et al, 2004), and early antisocial behaviour was amongst the top-ranked predictors of future violent offending. Greater recidivism was also associated with more extensive offending histories and with more serious offences (Loucks, 2002). Brody and Tarling (1980) note that, with prisoners who had been labelled as 'dangerous', violent episodes were more regular and frequent than for other violent offenders, though not necessarily more serious. Early research shows the tendency towards further violence increases with each recurring violent incident, occasionally with emergence of a 'violent type' (Walker et al, 1967; Phillpotts and Lancucki, 1979).

3.23 Some evidence suggests that better prediction is possible when 'serious' violence is separated from more trivial incidents (Kozol et al, 1972), though such separation is far from straightforward (Brody and Tarling, 1980). Much of the research suggests that a relatively small group of offenders commit the majority of crimes which involve serious violence against others (see Piper 1985). Brody and Tarling (1980) found that

3.24 Loucks (2002) notes that serious violent offenders start offending earlier and are more likely to continue offending into adulthood than are other offenders. Again, sexual and violent offenders are not necessarily distinct groups: previous convictions for violence, especially numerous and highly violent offences, indicated high risk of reoffending for sexual offences. Equally, recidivism amongst sexual aggressors tends to be for the same type of offence (ibid; Miller et al, 2005).

3.25 Violent offenders remain a diverse population even within specific types of violent offences. Gilchrist and colleagues (2003), for example, found no consistent type of domestic violence or perpetrator, though they were able to identify risk factors for domestic violence (also Cunningham et al, 1998). Dutton (1998) identified psychopathology in the form of borderline personality disorder as a characteristic of some perpetrators of domestic violence, though most general violent offenders show no evidence of mental illness (Loucks, 2002).

### **Methods of assessment**

3.26 Methods of assessing risk have been under discussion for decades (Barry, 2007). The tendency in recent years has been to favour actuarial methods over clinical assessment (i.e., Andrews, 2007), while authors such as Murphy (2004) note the importance and accuracy of the 'gut feelings' and clinical judgment of the Community Mental Health Nurses in assessments for violence. Still others assert that, for certain populations, neither method is superior to the other (McMillan et al, 2004).

3.27 A review for the Scottish Executive by Kemshall (2001 and 2002) notes that clinical methods of risk assessment are considered less reliable than actuarial methods (also Petrunik, 2002). They can however provide important information on individual risky behaviours, environmental stressors, and in establishing treatability and management plans. Kemshall asserts that combining clinical and actuarial methods in a holistic approach to risk assessment is now advocated as a technique most likely to enhance

both the predictive accuracy and usefulness of risk assessments of dangerous offenders. Current methods of assessment rely on structured clinical assessment, which combines actuarial tools with clinical judgment to yield both an assessment of risk and ideally to inform case management plans. Wood (2006) notes that professional judgment is crucial to risk assessment and management, but that this judgment must have a solid evidence base to underpin it if it is to lead to defensible decision making.

3.28 In England and Wales, OASys gives an example of this combined approach (National Probation Service, 2005c). OASys is structured to help practitioners assess how likely an offender is to reoffend and the likely seriousness of any offence they are likely to commit, including the risk of harm offenders pose to themselves and others. It identifies and classifies offending-related needs, such as accommodation and poor literacy, since tackling these specific needs reduces the probability of reoffending. OASys also helps to produce sentence plans and pre-sentence reports of a high standard. OASys does not replace an assessor's judgement but helps to ensure that the assessment is comprehensive and evidence based. This approach is similar to the Level of Service Case Management Inventory, or LS/CMI, which is planned for use across Scotland in the near future.

3.29 A further debate is around the use of static versus dynamic factors for risk assessment. Philipse and colleagues (2006) in the Netherlands found that a small set of static predictors yielded a good estimate of future reconvictions, whilst dynamic predictors did not add predictive power (Philipse et al, 2006). In contrast, research in the UK (Lindsay et al, 2004; Thornton, 2002) identified a number of dynamic variables as being possible predictors of future violence. The Child Protection Audit and Review (2002) in Scotland noted the importance of including detailed information on both family history and dynamics. Wood (2006: 318) goes so far as to say that: "Whilst static risk factors are clearly of relevance, it is the dynamic factors that are crucial to considerations of risk."

3.30 More basic research methodologies have also shown value. For violent offenders, self-reports of their behaviour appear to be fairly accurate. Kroner and colleagues (2006) found that socially desirable responding (SDR - responding in ways which subjects believed may be more socially and culturally acceptable) did not reduce the predictive validity of self-reported violence. This is consistent with the statements in the interviews conducted in this study (see Chapter 4) in which practitioners said offenders

discussed violence very openly and that perceived stigma against violent behaviour was either weak or non-existent.

### **Tools for assessment**

- 3.31 A number of tools for assessment of risk of violence have been developed. In Scotland, tools which are likely to be of most use to staff engaged in high-risk work include the Violence Risk Assessment Guide (VRAG) and the Historical, Clinical and Risk Management Assessment Scheme (HCR-20). Kemshall (2001 and 2002) reports that the VRAG actuarial assessment is the most accurate and the most widely used throughout the UK, while the separate structured clinical assessment in HCR-20 provides value in terms of identifying those dynamic factors requiring case intervention and treatment. The HCR-20 is designed for risk management, while the VRAG focuses more on the probability of further risk behaviour. Other commonly used tools for assessment in this field are the Level of Service Inventory - Revised (LSI-R), which the LS/CMI will update, and the Psychopathy Checklist, Revised (PCL-R). Farrington and colleagues (2007) focus on these tools in their review for the Risk Management Authority (RMA). The RMA also compares a number of commonly used risk assessment tools in its Evaluation Directory, RATED (RMA, 2007).
- 3.32 The HCR-20 is commonly used as an assessment tool in many countries, particularly in forensic settings. Research in the Netherlands (De Vogel and De Ruiter, 2006) found that the predictive validity for violence of the HCR-20 was good amongst male mentally disordered offenders admitted to a forensic psychiatric hospital. Research in Norway (Hartvig et al, 2006) found that the PS (Preliminary Scheme), a 33-item scale based on the HCR-20, showed a definite association between scores on the scale and violence following discharge from an acute psychiatric inpatient unit. Other tools that have found support for the assessment of violent offenders include CARDS (Watts et al, 2004); use of a Classification and Regression Tree (CART; Rosenfeld and Lewis, 2005) or Classification Tree Analysis (CTA; Stalans et al, 2004); the Violence Risk Screening Instrument (VRSI; Davies and Dedel, 2006); the Violence Risk Scale (VRS; Wong and Gordon, 2006 and 2007); the Buss-Durkee Hostility Inventory (BDHI; Firestone et al, 2005); the Dynamic Risk Assessment and Management System (DRAMS; Lindsay et al, 2004); and the Brøset-Violence-Checklist (BVC; Abderhaldern et al, 2004).
- 3.33 Davies and Dedel (2006) note that community correctional settings require a separate mechanism for risk assessment that can both classify offenders according to their risk

of violent recidivism and be administered quickly and effectively by non-clinicians. Equally, some authors highlight the importance of developing and validating models for problematic or unique subgroups of individuals such as stalkers (Rosenfeld and Lewis, 2005) or perpetrators of domestic violence (Heckert and Gondolf, 2005)<sup>3</sup>. Different approaches to assessment for such offences have proved useful, such as the use of assessments of risk of future victimisation by female victims of domestic violence (Cattaneo et al, 2007). Some authors have advocated assessment of risk of victimisation for all women and children who have been victims of domestic violence as a means of identifying future offences (Hester and Westmarland 2005)

3.34 Equally some authors assert that single methods of assessment can work for a range of types of violence (Bonta, 2007). Dunbar and colleagues (2005) examined the specific issue of hate crimes (i.e., racially motivated offending). They found that ratings of risk using the HCR-20 were comparable to those found amongst other groups of offenders and were correlated with the severity of the hate crime. The severity of the criminal history as measured on the Cormier-Lang scale, the number of prior arrests, and number of criminal convictions were significantly greater for offenders who targeted racial minority victims. Offenders who belonged to bias-orientated groups had more extensive and violent criminal histories and committed more severe hate crimes.

## **PROBLEMS IN RISK ASSESSMENT**

### **Definition and purpose**

3.35 Mclvor and Kemshall (2002) suggest that a primary consideration in approaches to risk assessment is the ability for professional groups to make defensible decisions supported by appropriate tools. Not all tools helped this process in the same way or equally effectively, with weaknesses including their complexity, lack of objectivity, lack of validation and, for violent offenders, inability to measure the specific risks associated with violence. The authors found that tools for risk assessment had most often been adopted based on the ease with which they could be administered and/or scored, their ability to identify risk of harm, and their ability to identify the risk of sexual offending.

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<sup>3</sup> Indeed, such tools have been developed, such as the Stalking Assessment and Management (SAM; Kropp et al, 2006), the Spousal Assault Risk Assessment (SARA; Kropp et al, 1995), and the Brief Spousal Assault Form for the Evaluation of Risk (B-Safer; Kropp et al, 2005).

- 3.36 Some risk assessment tools (e.g., HRC-20 and VRAG) have shown improved rates of prediction of violent offences (Kemshall 2001 and 2002), but risk factors for serious offenders are largely similar to those for other types of offenders. The prediction specifically of future violent offending is therefore more difficult (Loucks, 2002).
- 3.37 An important issue in risk assessment is the tendency to resort to assessments for risk *prediction* rather than for risk *management*. Risk *prediction* involves an assessment that comes up with a 'score' of likely risk of reoffending in an attempt to 'predict' likely future behaviour. Hart and colleagues (2007) argue that this is technically impossible when applied to individuals and therefore sets itself up to fail. Risk prediction shows particular limitations regarding estimates of whether someone poses a 'continuing threat to society', even where structured risk assessments are used (Edens et al, 2005). Indeed, Horsefield (2003: 374) comments that "if [the value risk assessment] was based only on accuracy in prediction of future events, it would have vanished years ago" (also Hart et al, 2007). Risk assessment for the purpose of management, on the other hand, is a more dynamic process that takes into account the need for an individualised and responsive risk management process and assists in its development. Risk assessment is only one part of a wider process of risk management (Cosgrove Report, 2001). The distinction may be a fine one, but it is important in terms of understanding the purpose of assessments of risk and in working towards the prevention of future offending.
- 3.38 The need for comprehensive risk assessment and risk management intervention rather than merely prediction about the likelihood of reoffending (see also Kumar and Simpson, 2005) has been evident in practice in Scotland. The Child Protection Audit and Review (2002), for example, found that scores on assessments showing a low likelihood of (in this case) impulsive behaviour were not then compared with assessments showing a high risk of reoffending and other concerns, as well as documented recent behaviour. Langan and Lindow (2004) in England also gave examples of conflicting descriptions of behaviour and consequently of perceived risk. The Child Protection Audit and Review (2002) strongly emphasised the need to take into account all available information for risk assessment rather than individual test scores. Barry (2007) also highlighted this as a concern, finding that individual risk assessment tools were beginning to replace rather than inform professional judgement.
- 3.39 The emphasis on mental disorder in some assessments of risk may be misleading and disproportionate. Van Der Merwe and Dawes (2007) found in their review of

assessments of young people that a number of instruments designed to assess risk of violence amongst young people exist (e.g., SAVRY), but that many focus on identifying psychopathic tendencies in young people rather than violence *per se* (e.g., PCL:YV – see below).

### **Universal applicability**

3.40 Methods of risk assessment have been designed and validated almost entirely with populations of white adult men. The Risk Matrix 2000 scale for assessing risk of sexual and violent offending, for example, is designed for adults (Child Protection Audit and Review, 2002). The literature therefore regularly questions their use with, and applicability to, other populations such as women, ethnic minorities, young people, and people with intellectual impairments (Campbell et al, 2007; Odgers et al, 2005; Shaw and Hannah-Moffat, 2001; Rungay, 1996; McMillan et al, 2004).

3.41 Kemshall (2004) notes the need for risk assessment of women to take into account a range of contextual features that distinguish their offending from men's. Skeem and colleagues (2005) found that mental health professionals of both sexes are particularly limited in their ability to assess female patients' risk of future violence. Assessments of ethnic minorities can also be problematic (Desai, 2006).

3.42 Långström and Grann (2002) reported that the PCL-R (Psychopathy Checklist – Revised) may be a less valid predictor for severe violent recidivism among young people than among adult offenders. Some tools have since been structured specifically for young people, such as a Youth Version of the Psychopathy Checklist (PCL:YV) and the Structured Assessment of Violence Risk in Youth (SAVRY). Some assessments may work for women as well. For example, the LSI-R manual supplies normative data for both female and male offenders and the LS/CMI can equally be used for women (Andrews and Bonta, 1995; Bonta, 2007; Wong and Gordon, 2006 and 2007).

3.43 While some risk assessment tools have been tested for applicability across cultures (see, for example, Abderhaldern et al, 2004), this is not always the case. Van Der Merwe and Dawes (2007), for example, note the lack of research on violence risk assessment in South Africa, particularly on the assessment of risk for violence in children and adolescents.

3.44 A further concern is the applicability of risk assessments for different types of risk (Davies and Dedel, 2006). Assessment tools have been developed for different types of violent offenders to take differences in type of risk into account, but this makes comparability difficult and inhibits transferability of tools across offender populations (Kemshall, 2001 and 2002). Prediction of particularly rare offences poses further problems (Evans et al, 2005; Morrison, 2003; Monahan, 1981). Brody and Tarling (1980) note that the infrequency of very serious offences as well as their apparently random quality makes definition and assessment of a genuinely 'dangerous type' highly dubious, thereby casting doubt on policies that aim to reduce serious violence through selective use of extended periods of imprisonment.

3.45 In cases where the rate of reconviction is low initially, such as for very serious violence or sexual offending, any apparent reduction in reoffending is too small to attribute to the effectiveness of treatment or management rather than chance (Falshaw et al, 2003). This issue of scarcity of certain behaviours is another argument regarding difficulty in conducting risk assessments for serious violence amongst women (Kemshall, 2004).

### **Definitions of target groups**

3.46 As discussed previously, violence and violent offenders have been difficult to define in concrete terms. This is also the case for designations of offenders as 'dangerous' for the purpose of 'dangerous offender' legislation, with the result that relevant provisions have been applied inconsistently (i.e., Soward, 1998; Bonta et al, 1996). The National Probation Service in England and Wales (2005d) identified this as a problem during early analysis of risk of harm levels from OASys, where noticeable variation was evident between areas in how thresholds of risk are applied. Early discussion from Brody and Tarling (1980) raised the issue of difficulty in distinguishing between 'violent' offenders and others, due to the fact that most crimes of violence are relatively minor incidents that recur in the careers of many 'ordinary' offenders.

3.47 Connelly and Williamson (2000) note difficulties in definitions of psychopathic disorder which, for the purpose of risk assessment, tend to be combined as a single disorder without acknowledging the wide variations within this diagnosis. Similarly, Ogloff (2006) explains that research shows that between 50% and 80% of prisoners meet the criteria

for a diagnosis of antisocial personality disorder, yet only about 15% of prisoners would be expected to be psychopathic, based on the PCL-R. As such, the characteristics and research findings drawn from the research on psychopathy may not be relevant for those with antisocial or dissocial personality disorder. Huss and colleagues (2006) similarly note that antisocial or psychopathic characteristics are potentially problematic in the ongoing evaluation of risk but encourage clinicians to assess routinely for these traits. They also note that these characteristics demand special attention in cases of domestic violence and have a number of implications for treatment of this group.

3.48 In Australia and New Zealand, Kumar and Simpson (2005) have widened the argument to question the extent to which violence risk assessment designed in forensic settings applies equally to general psychiatric settings (also Hartvig et al, 2006). In North America, Davies and Dedel (2006) apply a similar argument to the applicability of instruments such as the LSI-R, PCL-R-2, VRAG, and HCR-20 to predicting violence in community corrections.

## **RISK MANAGEMENT AND THROUGH-CARE**

3.49 The Child Protection Audit and Review in Scotland (2002) described risk assessment as being, at best, “an imprecise activity” (para 4.1), but equally one that is of no value without the support of a plan to manage and minimise that risk. The multiple dimensions of ‘risk’ make careful and detailed consideration of individual cases and offences especially important (Brody and Tarling, 1980). Belfrage and colleagues (2004) found that appropriate risk management can reduce the number of subsequent violent incidents even where subjects showed no significant decrease in important risk factors for violence.

3.50 Where prisoners have been recalled to custody, the assumption is that, wherever possible, the Parole Board will re-release the prisoner as soon as it is safe and practical to do so. Risk management plans therefore play a critical part in determining when a prisoner is re-released (National Probation Service, 2005a). Re-release may not be practicable when, for example, prisoners are assessed as a high risk of committing violent or sexual offences or their behaviour has deteriorated to such an extent the Parole Board believes re-offending to be imminent. In such cases, an adequately robust plan for risk management may be difficult to construct (ibid), though in Scotland this was a primary aim of introducing the LS/CMI.

## **User involvement**

3.51 Barry (2007) notes that the focus in criminal justice appears to be more on managing risk than on alleviating other problems that might influence offenders' behaviour. The literature identifies a number of these factors as important in the ongoing management of risk of violence. Appropriate housing, for example, is identified as critical (Langan and Lindow, 2004; Child Protection Audit and Review, 2002; SWIA 2007; Scottish Government, 2007a). Other issues include the management of hostility and anger (Firestone et al, 2005) and full involvement of service users wherever possible, without limiting assessments solely to the offender's account (Cosgrove Report, 2001; Barry, 2007) and including a willingness to take appropriate risks, to talk about risk, and to look holistically at all aspects of a person's life (Langan and Lindow, 2004; Kumar and Simpson, 2005). Langan and Lindow (2004) found that community-based risk management is more likely to be successful when clients receive quick and effective responses to any difficulties – something which does not always happen in practice.

3.52 Risk management provisions in Scotland apply primarily to sex offenders, though they will pertain to violent offenders in future once MAPPA procedures in Scotland are widened to include them. While the voluntary participation of clients in risk management is beneficial, Irving (2005) comments that the lack of any statutory back-up in Scotland requiring offenders to participate in the risk assessment process is flawed. Further, Barry (2007) notes that the Criminal Justice (Scotland) Act (2003) allows for serious violent and sexual offenders to be subject to a Risk Assessment Order (RAO) but that offenders can challenge the findings of these and indeed may also commission their own additional risk assessments.

## **Retribution v rehabilitation**

3.53 Retributive models of addressing risk fail to provide for the eventual likelihood that offenders will be released into the community (Lieb et al, 1998; Wilson, 1995), nor do they motivate treatment in offenders (Connelly and Williamson, 2000). The lack of a period of supervision prior to final release also reduces the ability of professionals to assess change in offenders' behaviour, which may in turn delay the decision to release offenders from custody in the first place and err on the side of caution (Quinsey, 1992; Petrunik, 1994; Connelly and Williamson, 2000).

3.54 'Dangerous offender' legislation appears to have had a number of unintended effects on the treatment and management of offenders labelled under these statutes. Klotz and colleagues (1992), for example, questioned whether the possibility of extended detention would lead offenders to deny their offending and therefore to hesitate to seek treatment in custody. Connelly and Williamson (2000) explained that treatment programmes in prison tend to be targeted at those near the end of their sentence, but those sentenced to indefinite detention under dangerous offender legislation may have no specific release date. 'Dangerous offenders' may consequently be left in the system, unable to get treatment due to lack of a release date, but unable to get a release date due to lack of participation in treatment.

3.55 This is also an issue for treatment and management in the community. Levenson (2003) found that dangerousness legislation, and public notification clauses in particular, decreased compliance with treatment (also Wood and Kemshall, 2007). Cohen and Jeglic (2007) questioned whether intensive and extended supervision in the community is targeted at offenders at highest risk of serious reoffending and indeed whether merely extending periods of supervision is useful. Sample and Bray (2006), for example, note that targeting sex offenders under such measures is useful, as (like violent offenders) they are not a homogeneous group and will have differing patterns of re-arrest and differing levels of risk.

3.56 Petrunik (2002) neatly summarises the range of approaches to risk management, in this case relating to sex offenders but arguably equally applicable to violent or other serious offenders. He cites these as:

- Clinical approaches, in which clinical experts claim offenders can be managed and 'healed' through treatment
- Justice approaches, which advocate the right of all individuals not to have their liberties restricted without just cause or full protections
- Community protection–risk management approaches, in which offenders are identified and isolated from the community or placed under supervision; and
- Community reintegration approaches, which favour reintegrative and restorative measures, placing accountability on both the offender and the community staff or volunteers to minimise the risk of reoffending

Connelly and Williamson (2000) indicate that the legislation in many jurisdictions (including England and Wales) now incorporates both retributive and rehabilitative approaches, or

'hybrid' policies, for dealing with 'dangerous' offenders. Petrunik (2002) suggests that community reintegration approaches such as Circles of Support show the most promise for risk management.

### **The need for information**

3.57 The literature repeats the need for full and independent information for proper assessment and management of risk with violent offenders. Information about an offence may be relevant even where an offence is not primarily a violent one. The Child Protection Audit and Review (2002), for example, mentioned the need for a marker (Crime Type Indicator) on criminal records which highlights whether an offence involved a sexual or violent element. The Cosgrove Report (2001) in Scotland recommended a similar system of 'flagging' the existence of (in this case) a sexual element in any charge which is not itself a sexual offence (e.g., breach of the peace). A similar approach could be used for violent behaviour. In England and Wales, the Police National Computer (PNC) has proved more effective than databases such as the Offender Index at identifying relevant convictions, though access to information on the PNC is more restricted (Falshaw et al, 2003).

3.58 The Cosgrove Report (2001) recommended the development of a national protocol determining the information which must be exchanged upon release. The Cosgrove Committee believed that community-based social workers responsible for supervising offenders upon release should have detailed information about an offender's behaviour in prison as well as response to and the impact of any prison-based programmes. While their recommendations were directed at sex offenders, a similar model for violent offenders is likely to be of importance in risk management.

3.59 The National Probation Service in England and Wales (2005a) cites a range of information relevant to risk management. This can include progress on offending behaviour programmes; accommodation status and changes in this; and any outstanding charges: specifically, "what action can reduce the risk of what event happening, to whom, and how it will work?" (ibid, App A, p3). This includes consideration of the likelihood of compliance with licence conditions and supervision; management arrangements including accommodation and employment opportunities; and actions in the event that any parts of the plan cannot immediately be put in place.

## Effective approaches to management

3.60 Very few systematic evaluations of treatment programmes for violent offenders have been conducted. The heterogeneity of violent offences and offenders entering these programmes further hinders assessments of their impact (Kemshall, 2001; 2002). Kemshall (2002) notes that cognitive-behavioural methods of treatment show the most promise, though some offenders are less amenable to treatment. Programme integrity and the accurate targeting of high-risk offenders are also key features of effective treatment, as is the offender's motivation to change and timing of treatment (ibid). The Cosgrove Report (2001) recommended the development of an integrated, consistent, and dynamic approach to programme delivery for offenders which builds on existing plans and expertise.

3.61 Andrews and colleagues (2005) advocate risk-need-responsivity (RNR) – basically the need to match offenders with appropriate rehabilitative programmes (Horsefield, 2003; Maguire and Raynor, 2006), which they argue provides a valid knowledge base to underpin risk management with the result of enhanced public protection. In England and Wales, the Prison Service has introduced an intranet Violence Reduction Toolkit to assist in the management of violent offenders in custody (HM Prison Service, 2004). Restorative justice practices following violent offences have also shown promise in a number of countries, including claims of reduced recidivism and reduced trauma for victims (Sherman and Strang, 2007). Factors to consider in the management of any offender are his or her internal and external strengths, or inhibitors to reoffending (Owens, 2003).

3.62 Treatment programmes are only part of the wider management of violent offender risk. Intensive support mechanisms in the community enhance the management of risk beyond custody. Kemshall (2002) argues that treatment should be part of broader risk management strategies to ensure monitoring, surveillance, and appropriate action to enforce any conditions imposed and to challenge inappropriate behaviours. Programmes designed to reduce recidivism can target specific risk factors for change (Andrews et al, 1995). Further, an extended range or 'menu' of effective interventions can be useful as part of an integrated strategy to reduce offending (Goldblatt and Lewis, 1998).

3.63 Offenders who have been referred to MAPPA in Scotland progress through it in three key stages. These are identification as falling within the criteria for MAPPA and notification to the relevant MAPPA coordinator; referral to Level 2 or 3 if necessary based on assessed risk of harm; and eventual deregistration, determined for violent offenders convicted on indictment by the period of supervision under licence or for other offenders by assessment from the Responsible Authority that they no longer pose a risk of serious harm (Scottish Government, 2007b). Exit from MAPPA for Category 3 ('other') offenders therefore appears highly discretionary, despite clear criteria in the legislation for offenders to enter and leave the process in other cases<sup>4</sup>.

3.64 Kemshall and colleagues (2005) reviewed MAPPA processes in England and Wales and identified a number of factors that contributed to effective risk management. The first of these was the presence of a dedicated MAPPA coordinator, which provided a greater level of consistency, quality assurance, and a stronger link between operational and strategic work in local MAPP arrangements. The most effective panel meetings had competent and proactive Chairs; standing agendas in line with the MAPPA guidance; active input from all who attended; and practice standards for the conduct of meetings (ibid).

3.65 Kemshall and colleagues explained that areas that were successful in managing risk levels adopted a broad range of approaches including a clear definition of active Level 2 involvement, the downgrading of cases where appropriate, and recognition that level of referral depends on the extent of multi-agency work needed to manage the offender as well as the level of risk. Proactive exchange of information greatly aided risk management planning, as did the systematic review of risk factors, clear actions and timescales, and contingency plans (ibid). Finally, the Scottish Executive Justice Department (2006) highlighted the crucial role, based on experience in England and Wales, of MAPPA coordinators in engaging with the responsible authorities and with agencies that have a duty to cooperate as well as 'gatekeeping' to ensure cases referred meet the MAPPA criteria.

3.66 Even where MAPPA procedures were working well, allocation of offenders to the respective levels still tended to err on the side of caution, with a higher than necessary

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<sup>4</sup> This level of discretion in the management of offenders is similar to the MASRAM process for sex offenders in Northern Ireland, where specific provisions for entrance to and exit from MASRAM procedures do not exist (Criminal Justice Inspection Northern Ireland, 2005).

proportion of offenders allocated to the highest level of management. This in turn results in resources being diverted from those who genuinely pose a high risk (Kemshall et al, 2005). Further, offenders with mental health problems or learning disabilities in MAPPA may require additional provision of supports and resources (ibid). Kemshall and colleagues (2005) concluded that risk management was generally good when participants followed MAPPA structures and procedures and had enough administrative support.

3.67 More recent analysis of the use of MAPPA in England and Wales (Wood and Kemshall, 2007) found that areas commonly relied on external control such as licence conditions and restrictions on behaviour and contact to manage offenders in the community. Successful relationships with supervision staff increased compliance both with these external measures and with supervision and treatment programmes to address offenders' internal controls. Programme interventions appeared to have produced behavioural changes. Wider public disclosure measures appeared to be counter-productive, though discretionary disclosure, usually with the offender's consent, appeared to enhance public protection.

3.68 In the case of restricted patients, the enquiry into the case of Mr L and Mr M (MWC 2006) and subsequent response from the Scottish Executive and colleagues (2006) emphasise that medical treatment does not equate to risk management. The government response to the inquiry concluded that a patient's risk must always be considered separately, regardless of recovery and response to treatment, and must determine the degree of restriction appropriate.

### **Risk management in practice**

3.69 An important concern about extending MAPPA provisions in Scotland to violent offenders is the risk that the number of violent offenders would overload the process and make it unworkable. The literature review therefore needed to explore examples of practice elsewhere to see whether this concern was valid. The MAPPA process in England and Wales applies to both sexual and violent offenders, so their experience should shed light on what the Scottish system may expect.

3.70 In one of the few studies conducted on MAPPA so far, Wood (2006) found an even spread of sexual and violent offences amongst Level 3 cases (who require the most

intensive level of supervision and support) rather than a predominance of violent offenders. Scott and colleagues (2007) reported similar findings in their review of the first five years of MAPPA, showing 40% violent offenders and 45% sexual offenders at MAPPA Level 3, and 34% violent and 48% sexual offenders at Level 2 in 2005/6. Further, introduction of the Violent Offender & Sex Offender Register (ViSOR) shared national database means that one police officer should be able to manage about 50 offenders on this system (Child Protection Audit and Review, 2002).

3.71 Of interest was the fact that 14% of people registered at Level 3 in Wood's (2006) study were unconvicted. Most of this group had mental health problems and were therefore best placed to be managed through mental health services. However Wood raised concerns about the lack of clarity and potential human rights issues in sharing information about this group between agencies when they were not technically 'offenders'.

3.72 Finally, one element of risk management not always taken into account is the risk to staff responsible for supervising offenders. Risk management plans can usefully include considerations of the impact of violence against staff as well as planning and action for this (Bowers et al, 2006). Denney and O'Beirne (2003) looked at violence perpetrated against probation officers and found that the managerial response to this has been largely defensive and piecemeal without adequate training or organisational support. Operational staff such as nurse practitioners often have a great deal of practical knowledge and experience in working with high risk groups and are likely to be able to contribute more effectively to risk management strategies (Notarianni et al, 2007).

3.73 Social workers may ask families and carers to contribute to risk assessment or management. Formal opportunities for this have recently been introduced into the Scottish Prison Service's Integrated Case Management Process, although this applies primarily to long-term prisoners and is at the discretion of social work teams. The Mental Welfare Commission (2006) directs that the principles of the Mental Health (Care and Treatment) (Scotland) Act 2003 should be considered in deciding whether to share risk assessment and management plans with the patient and his or her carers.

3.74 Structured assessment procedures and protocols for managing risk factors in a multi-disciplinary context have been found to be effective (Tiffin and Kaplan, 2004) and form the basis of approaches to risk management such as MAPPA. The next section looks at this in more detail including the problems associated with multi-agency working.

## **MULTI-AGENCY WORKING, ORGANISATIONAL ISSUES AND TRAINING**

3.75 Research in the Netherlands found consensus ratings of risk of violence to be the best predictors (De Vogel and De Ruiter, 2006). This ‘group’ approach to assessment and management of risk is common practice in forensic mental health settings and forms the basis of processes such as MAPPA, which by design increase the level of information available for defensible decisions to be made. The AIM assessment framework (Assessment, Intervention & Moving on) (Print et al, 2000) is another means of achieving this. Its purpose is to provide guidelines for practitioners from a wide range of agencies in order to give them a common language and a shared approach to tackling harmful behaviour. SWIA (2007) noted examples of good practice in Scotland in which offenders with histories of serious violent offending and of mental health problems were being managed through close joint working between criminal justice social work services, forensic mental health services and the police.

3.76 Earlier literature, however, gives repeated evidence of failures in multi-agency working. The Bichard Inquiry in England and Wales (2004) found problems with information sharing between social services, the police, and other systems such as the Child Protection Database. In Scotland, the Caleb Ness Inquiry (O’Brien et al, 2003) noted an over-reliance on the judgment of individual case coordinators, none of whom knew all the relevant facts, as well as “alarming variations in agency managers’ expectations of the appropriate level of monitoring. At every level, in several agencies, the phrase ‘high level of monitoring’ had different meanings” (p8).

3.77 Rather than working collaboratively, the Caleb Ness Inquiry found a tendency among all agencies to make assumptions about the knowledge, training, and actions of others. This was particularly evident in the lack of communication between social workers in Children and Families teams and Criminal Justice social workers who, despite both being part of Social Work services, did not routinely work together. Exchange of information between police and social work agencies was equally lacking, as was information sharing with health care and addiction workers. Problems in sharing information were also highlighted in the work of the Social Work Inspection Agency (2005) and in the Child Protection Audit and Review (2002). The latter reported particular difficulties in the sharing and transfer of information between the Children’s

Hearings System and the Criminal Justice system, with additional confusion regarding the status of residential schools in the risk assessment process.

3.78 In Canada, multi-disciplinary approaches were intended to offer a more neutral and objective means of deciding dangerousness (Connelly and Williamson, 2000; Federal/Provincial/ Territorial Task Force, 1995), though such an approach made challenging those assessments difficult for offenders (Jackson, 1997; Bonta et al, 1996). Grant (1998) argues that the apparent objectivity and neutrality of the multi-disciplinary approach for deciding dangerousness may give the (false) impression that risk prediction is an exact instrument.

3.79 The Cosgrove Report (2001) noted a tendency for agencies to focus on improving their own internal procedures rather than in improving links with others. Offenders can therefore learn to exploit gaps between systems. The Report consequently recommended a more collaborative approach to risk management and delivery of services, including improvements in the quality and flow of information. The Cosgrove Committee endorsed a structured clinical approach to risk assessment but added that specific risk assessment tools did not necessarily need to be standardised: each profession may reasonably have its own tools that reflect its own area of work, provided that the tool fits within a structured clinical approach (though standardised tools at a local level are likely to be of assistance) (Hawley et al, 2006). More important is consistency of approach to enable interpretation and understanding between professions and effective implementation and use of existing tools.

3.80 Langan and Lindow (2004) found serious gaps and inaccuracies in information held about service users that potentially put them and others at risk. A review of serious violent and sexual offenders in Scotland (Loucks, 2002; also Cosgrove Report, 2001) reported similar problems with case files, ranging from poor quality of information to a complete absence of files or parts of files from Prison Service records.

3.81 The Child Protection Audit and Review (2002) raised the issue of risk management of people previously dealt with under the Children's Hearings System. The Review indicated that young people who had committed sexual offences but who had been dealt with under the Children's Hearing System are not required to register as sex offenders once they enter the adult system. It consequently recommended that arrangements should allow non-registered juvenile sex offenders to be brought into structured risk assessment and management arrangements when necessary without

3.82 In view of these difficulties, the Child Protection Audit and Review (2002) recommended the development of a consistent framework across Scotland for assessment including the need to document and review all decision making procedures and processes and to continue to review methods of risk management. The Review stated that standardisation of practice is critical both to individual agencies and to how agencies work in partnership. A further suggestion was the establishment of a case manager where more than one social work team is involved. The National Probation Service in England and Wales (2006a) noted a similar need for continuity and clarity of lead responsibility, particularly for offenders assessed as posing a high risk of harm. Arguably the subsequent role of the Responsible Authorities and MAPPA coordinators has addressed this recommendation for higher risk cases. However, the fact that such a recommendation was made in England and Wales, where MAPPA procedures have been operational for some time, suggests this may not be enough.

3.83 The Scottish Executive Information Steering Group Concordat (2005)<sup>5</sup> has gone some way towards addressing the need for improved information sharing between agencies. Although it has no legal standing, the Concordat gives guidance to a wide range of agencies both in and out of the criminal justice system and facilitates the sharing of information and collaboration between them. The Concordat applies specifically to the sharing of information about sex offenders at present but provides a useful template to extend such an agreement to information sharing about other high risk offenders.

3.84 In England and Wales, assessment of offenders continues throughout the sentence. Once operational, OASys should enable regular electronic exchange of information between probation and prison staff to ensure access to full information and avoid duplication of effort (National Probation Service, 2005c). England and Wales has also established a recall Forum to oversee and review recall arrangements and working practices, identify and tackle gaps in information, improve liaison between the relevant

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<sup>5</sup> The Information Sharing Steering Group Concordat (ISSG) allows for the sharing of information about sex offenders in order to enhance inter-agency management of this group of offenders. It has been endorsed and signed by all the relevant agencies (prosecutors, courts, the police, the SPS, criminal justice social work, housing, health and education. The ISSG was known to the majority of respondents, across all the agencies involved in this research, but given the fact that these respondents tended to be in senior positions themselves, this is perhaps not surprising.

agencies, and review the collation and dissemination of management information (National Probation Service, 2005a). Nevertheless the National Probation Service (2006a) noted a need to improve work on risk of harm nationally including improving clarity of lines of responsibility.

3.85 In Scotland, SWIA (2007) identified a number of obstacles to achieving improvements in partnership working, including difficulties in overcoming practical issues, incompatibility of IT systems, and different corporate mechanisms for quality assurance. They recommended that each Community Justice Authority area review their partnership arrangements in order to reach clear agreements about how to make better use of their joint resources. Responsible Authorities in MAPPA should also ensure that systems for data collection are in place to ensure that the required information is readily accessible and can be provided to the MAPPA Coordinator for collation (Scottish Government, 2007a).

### **Organisational issues and accountability**

3.86 Much of the literature identifies organisational errors in the assessment and management of risk when things have gone wrong. The Bichard Inquiry (2004: 4), for example, found errors in one Constabulary's local Criminal Records Bureau (CRB) that "were not systemic or corporate, but they were serious", while in another constabulary, errors were both systemic and corporate rather than simply human error. In Scotland, the Caleb Ness Inquiry (O'Brien et al, 2003) identified failures to take into account readily available background information or to undertake a rigorous assessment of risk.

3.87 Some structures for accountability in risk assessment and management are in place or have been considered. In England and Wales, the National Probation Service (2006a) recommends that the Probation Inspectorate undertake and publish a formal review in exceptional cases of serious further offending "in order to hold the authorities to account and to inform good practice" (p3). Kemshall and colleagues (2005) suggest that case-based audits offer a number of benefits to ensure consistency and accountability. In Scotland, SWIA (2007) criticised many local authorities for lack of rigour in the processes for checking the quality of reports. SWIA consequently began an inspection of throughcare arrangements for high-risk prisoners in conjunction with HM Inspectorate of Prisons.

## Training

3.88 In Australia, Douglas and Ogloff (2003) found that the confidence of assessors in using risk assessment tools affected the accuracy of these assessments, with more accurate assessments coming from raters who were more confident about their judgments. A confident workforce is also essential for practice to move away from risk-averse, reactive decision making (Barry, 2007). Training is therefore central to effective violence risk assessment and management.

3.89 The literature has recorded a number of shortfalls in training in this area. The Bichard Inquiry in England and Wales (2004) found that police were often ignorant about how records were created and how relevant IT systems worked. It also found that the guidance and training available were inadequate to the extent that “there was not even a common understanding of what was meant by ‘weeding’, ‘reviewing’ and ‘deletion’. It cannot now be ascertained how many records were lost without proper review” (p2). In Scotland, the Caleb Ness Inquiry (O’Brien et al, 2003) identified a lack of training that resulted in the lack of effective monitoring of the case under review. The Child Protection Audit and Review (2002) consequently recommended a review of staff training needs.

3.90 The literature raised a variety of issues in terms of the types of training that was needed to improve the assessment and management of violent offenders. The Cosgrove Report (2001) recommended training and assistance for the adoption of structured clinical approaches to risk assessment as well as joint training of agencies to develop shared understandings and effective communication. Langan and Lindow (2004) found that staff needed training to counter institutional racism in terms of race equality training, cultural awareness, and a review of existing strategies. The Mental Welfare Commission (2006) insisted that social workers supervising conditionally discharged patients must be Mental Health Officers with the necessary training to carry out this responsibility. Particularly important in terms of risk assessment and management was uncertainty amongst staff about formal parameters in the use of discretion; SWIA (2007) believed that too much inconsistency was evident in the way staff used and recorded their personal discretion and that National Standards did not offer a clear enough framework in this area.

3.91 The Scottish Government will be introducing the LS/CMI for use as a standardised tool for risk assessment and information sharing between the Scottish Prison Service and

Criminal Justice Social Work. SWIA notes that the Government will need to manage the introduction of this new risk assessment framework very carefully, supported by clear guidance to staff and by a high quality training programme, if it is to improve the overall standard of risk assessment. Plans for use of the LS/CMI in Scotland do not currently extend to the health service, though the Mental Welfare Commission (2006) recommended some form of systematic approach to risk assessment and management within the forensic psychiatry service.

## **SUMMARY**

3.92 Overall, the literature review shows that definitions of risk and risk assessment in relation to violence or indeed what violence is or who violent offenders are remain far from straightforward. While definitions share common themes, legal concepts remain woolly, such as how to assess whether someone poses a continuing threat to society. Even terms such as 'high risk' mean different things in different contexts: high risk of reoffending does not necessarily make someone 'dangerous', for example, if the risk of harm is low. Definitions of people as 'dangerous' pose the most difficulty, with diagnoses relating as much to political expediency as to forensic criteria and the focus on perceived risk guiding decision makers towards defensive practice. Violent offenders are a heterogeneous group that can be difficult to 'compartmentalise' either from other types of offenders (violent and sexual offenders are not necessarily distinct groups, for example) or from other violent offenders (for example perpetrators of domestic violence can be specialist or generalist violent offenders).

3.93 A range of characteristics describe violent offenders, though these are largely similar to those for offenders in general and do not easily identify a violent 'type' or, more specifically, a 'dangerous' violent offender. A structured clinical approach to assessment drawing upon both static and dynamic factors appears to be of most use in practice. A wide range of tools is available for violence risk assessment, with some standing out as more commonly used and accepted. Arguably no single tool is appropriate for all such assessments (cf Bonta, 2007), and much research advocates the use of specialist tools for specific types of violence (e.g., the SARA for domestic violence and the SAM for stalking; Kropp et al, 1995 and 2006).

3.94 Violence risk assessment has a tendency to focus primarily on prediction of risk. However, the literature suggests that assessment is more effectively used as a guide for treatment and management. The literature also argues for specialist tools for

specific types of offenders (eg women, young people, ethnic minorities). Consideration should also be given to how thresholds of risk are applied in assessment and the extent to which distinct groups may be brought together inappropriately, such as for people diagnosed with different types of psychopathic disorders.

3.95 The literature showed that collaborative risk management including user involvement and attention to factors that underlie offending behaviour are worth encouraging. Retributive approaches are not adequate if they fail to follow up with treatment, motivation for compliance, and support. Meanwhile appropriate responses to people assessed at various levels of risk remain unclear and must be based on individual assessments of and responses to risk and need. Full information must be available to prepare strategies for risk management, though practice is for decisions to rely on partial accounts. Risk management can however be effective where adequate structures, supports and training are in place.

3.96 Organisations involved in risk assessment and management need to adopt a more participative, holistic and proactive approach which enables effective communication within and between agencies as well as organisational flexibility and performance incentives (Barry, 2007). MAPPA procedures should enable this in relation to qualifying offenders, though in Scotland this remains to be seen. National structures for accountability and training should go some way towards improving levels of information and collaboration as well as confidence amongst staff in risk assessment and management of violent offenders.

## **CHAPTER 4.**

### **DEFINING THE ISSUES**

#### **INTRODUCTION**

4.1 One of the aims of the interviews in Phases I and III was to ascertain the extent of understanding and congruence between the different agencies in relation to definitions of risk, violence and harm. This was seen as crucial in informing a framework for risk of violence assessment, not least when all the relevant agencies in criminal justice or forensic mental health were expected to work more closely and collaboratively in reducing the risk of harm to offenders, victims and the wider public. This chapter therefore examines the varying classification systems and definitions of risk, harm and violence across the agencies concerned and also briefly summarises the main issues relating to each agency in terms of inter-agency cooperation. It should be borne in mind that the direct views of respondents contained in this and the following chapter were inevitably hypothetical in respect of more formal arrangements for assessing risk of violence (since none exist at present) and thus presented more of a 'wish list' than an evidence-based critique of existing practice.

#### **CLASSIFICATION SYSTEMS**

4.2 The Criminal Justice (Scotland) Act 2003 defines the criteria for risk as:

the nature of, or the circumstances of the commission of, the offence of which the convicted person has been found guilty either in themselves or as part of a pattern of behaviour are such as to demonstrate that there is a likelihood that he, if at liberty, will seriously endanger the lives, or physical or psychological well-being, of members of the public at large (ibid, 210E).

The RMA uses this as its definition of risk criteria (RMA 2006: 51 and 2007: 126), and stresses that assessing the nature, likelihood, frequency, duration, seriousness and imminence of an offence should take into account the risk of serious harm and the risk of reoffending (2006: 50).

- 4.3 All agencies (Social Work, SPS, Health and Police) agree that definitions of risk, harm and violence can seem confused and confusing, and different agency remits only serve to exacerbate these distinctions:

If you look at LS/CMI, what that would mean for low, medium, high. If you look at MAPPA. If you look at the HCR-20. If you look at the RMA. Those are four well thought out definitions. They all differ (prisons).

- 4.4 Prior to the introduction of MAPPA, risk of reoffending was the primary focus of risk assessments, but MAPPA introduced the importance of assessing the additional risk of harm to inform case management planning. This seems to have caused some confusion amongst those respondents, notably in social work, who are more familiar with risk of reoffending or who consider risk of reoffending assessments to be difficult to combine with risk of harm assessments. Currently, social workers might use LSI-R to assess the former and RA1-4 to assess the latter, and although there is an expectation that they combine the two to draw conclusions, there are challenges in doing this. Firstly, not all local authorities (even within the same CJA) use these two tools: some use different tools and some do not use both in combination at the initial assessment stage. Secondly, and perhaps more importantly, several respondents suggested confusion over how feasible it was to combine reoffending and harm in one assessment and whether such assessments were necessarily subjective in nature. As one respondent noted:

You would hope, wouldn't you, that in a bunch of 10 social workers, that they would be scoring it very similar, but that isn't the case (Social work).

- 4.5 Equally, some offences (especially where the offender tends to specialise in one type of crime) do not necessarily constitute a risk of violence (e.g., non-contact sexual offending), and whilst an individual may score high on risk of reoffending, they may concurrently score low on risk of harm, and vice versa. One local authority social work department (which worked closely with its health colleagues), one police respondent and several health respondents suggested that risk of harm should be the primary concern rather than risk of reoffending, since risk of harm encapsulated not only past concerns, but also considered future potential scenarios and current or changing circumstances, irrespective of the offender's previous record. Although there may be a political focus on risk of reoffending, it was argued by the majority of respondents that

risk of harm should be the defining feature of any risk assessment, using risk formulation and scenario planning to inform risk management.

### **MAPPA classifications**

4.6 The Scottish Government (2007b) classifies the offenders who pose risk of harm, rather than offences *per se*, under three categories within the MAPPA guidance, namely:

- Category 1 - registered sex offenders;
- Category 2 – those convicted on indictment of an offence inferring personal violence who are subject to a probation order, or who are or will be on release from prison subject to statutory supervision in the community; and those persons acquitted on grounds of ‘insanity’ or found to be ‘insane’ following proceedings taken on indictment;
- Category 3 - those convicted of an offence who may cause serious harm to the public.

4.7 Whilst some respondents were happy to work with the MAPPA categories (predominantly social work staff), equal numbers felt that these would be less helpful in assessing and managing risk of violence (predominantly mental health staff), not least because of the heterogeneity of violence which is described later in this chapter and the wide range of offences that result from that violence. However, some of these differences of opinion were put down to agency remits and constituents, as outlined in the penultimate section of this chapter, although other differences related to whether risk assessment was seen to be about resource management, rehabilitation or public protection. Nevertheless, these MAPPA classifications have been shown to be effective in England and Wales in terms of violent offenders (Kemshall et al, 2005; Wood and Kemshall, 2007). The MAPPA evaluations in England and Wales suggested that over time, practitioners become more familiar with the distinctions between categories and can use them more consistently and more confidently as a result (ibid). It needs to be borne in mind that the criticisms raised in this chapter are taken from a small and select group of respondents, mainly managers rather than practitioners, and are hypothetical not least given the fact that the MAPPA classifications have yet to apply in practice in Scotland to violent offenders and had only applied to sex offenders for six months at the time of interview.

4.8 MAPPA categories were considered to be, on the one hand, *too loose* to help staff target those most in need or considered most 'risky'. Category 3 was singled out in this respect as a 'catch-all' category: 'The get-out clause is the third criteria... any other scary person really' (CJAs). In England and Wales, Wood (2006) found that 14% of her sample of MAPPA cases were unconvicted offenders at the time of entering category 3, and previous convictions that suggested a violent propensity may relate to the distant as well as the recent past. Equally, category 3 offenders may not necessarily be on statutory supervision, and those finally released from prison after being recalled following breach of licence conditions may also not be under any statutory obligation for supervision on release. Such voluntary engagement would not only have resource implications for social work in particular, but also compliance implications for all agencies offering support to those offenders. With category 3 offenders, there were also inferences made that different areas may make local decisions as to who to bring into MAPPA under category 3, which may exacerbate the drive towards greater consistency of approach across the country.

4.9 On the other hand, MAPPA categories were also deemed *too rigid* through not covering all eventualities of risk of violence. Category 2 was criticised by the majority of respondents for only focusing on convicted violent offenders and within that group only those convicted on indictment. Mental health respondents in particular took this line of argument, perhaps because they deal with mentally disordered 'offenders' irrespective of whether they are involved in the Criminal Justice system or not. Respondents generally felt that focusing on convicted offenders on indictment was possibly too narrow in terms of violent offenders, not least because the harm caused by an offence may be wider and more serious than assumed by dint of the offence being convicted on indictment. Summary cases were seen as an important addition to the criteria for MAPPA inclusion, especially cases of domestic abuse which often do not constitute indictable offences, if convicted at all. Conversely, however, respondents acknowledged that some indictment convictions did not necessarily infer a serious risk of harm.

4.10 Groups or offences not covered under the above definition include many public order offences, domestic violence offences, those released from prison without licence or supervision conditions, those who are seen as a potential threat to public safety (e.g., youth gangs), those convicted in summary courts and all pre-convicted offenders. One respondent suggested that the reporting rate, the detection rate and the conviction rate are minimal in comparison to the prevalence of violent offending in Scotland and that

the Criminal Justice system only skims the surface in dealing mainly with 'the feckless and the stupid' who are caught and found guilty.

4.11 The greatest concern lay in the fact that there were a lot of violent, or potentially violent, people who were either unconvicted or convicted in the summary courts, as the following quotations illustrate:

What about the people up to the point of conviction or what about the person who has a history of violence but is currently involved with the system because of theft or road traffic offences and what about the whole issue of domestic violence? (Social work).

... you do need to have scope wherein you could say these individuals have not done this before, but it really looks like they might, and therefore we need to manage them. So the classic example of that would maybe be... a family that's splitting up and the husband's saying - they've maybe got no track record of violent behaviour - and he's saying: 'if I don't get custody of the kids, I'm going to, you know, kill them and then myself'... I think MAPPAs should encompass this, people who have not already been seriously violent, but there's sufficient evidence to raise concerns (Prisons).

4.12 However, such early intervention has major human rights implications, which coupled with the possibility of netwidening and increased workload, would make it difficult to implement. There was a fear of MAPPAs being swamped by too broad a target group and too broad eligibility criteria, not least when many of these cases may be mental health 'patients' rather than criminal justice 'offenders'. Whilst early intervention and prevention are laudable from a support perspective, they have major resource implications as well as a need for a change in organisational culture and philosophy – and possibly legislation, and perhaps the success of MAPPAs to date has given agencies a false sense of optimism about what is possible in terms of intervention overall. It was *not* an intention of MAPPAs to broaden the target group but to limit it to the 'critical few'. As one mental health respondent commented in this regard: 'being a MAPPAs case will become meaningless'.

4.13 One social work respondent also suggested that some staff will not have access to court-based information on whether a charge was on indictment at the point of possible

referral to MAPPAs. What offences are deemed 'indictable' may also vary within local Crown Offices (those marking the cases) and within local sheriffdoms (sheriffs choosing to refer a matter to a higher court): the index offence, whilst not necessarily relating to violence, may well mask previous allegations relating to that offender's past. Equally, one social work respondent felt that those on community service (following a conviction on indictment) would not be covered by the MAPPAs arrangements, even though it could be argued that community service is higher tariff than probation but does not require statutory supervision as such. Equally, one social work representative pointed out that 'not everyone who's committed a violent offence gets put on probation. Far from it'.

4.14 From a Community Justice Authority perspective, with its emphasis on community safety, the focus on convictions and indictment alone does not fully cover public protection issues or fear of crime, neither of which could necessarily be eased by targeting those convicted on indictment:

You will have people who have been convicted on indictment because they have committed very serious offences like murder or whatever, but the chances of them reoffending are probably fairly slim, so really where you want to be targeting your resources are where the concern lies... in terms of community safety (CJAs).

4.15 There was also a suggestion that current MAPPAs arrangements may have inadvertently diverted resources away from unconvicted or non-registered sex offenders, leaving the latter more marginalised in terms of assessment and intervention. Whilst the inclusion of unconvicted cases of violence was seen as important in the future by, for example, mental health representatives (because violence and harm were still prevalent irrespective of criminal justice system involvement), respondents acknowledged that social work had no remit and no resources to work with unconvicted individuals other than those on bail. However, there are examples in Scotland where the police, social work and mental health have arrangements in place for overseeing unconvicted sex offenders, sometimes even within existing MAPPAs arrangements.

### **Definitions of harm**

4.16 MAPPAs definitions of 'risk of serious harm', taken from the most recent (September 2007) third version of the MAPPAs Guidance, are as follows:

- Very high risk - There is imminent risk of serious harm. The potential event is more likely than not to happen imminently, and the impact could be serious;
- High risk - There are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact could be serious;
- Medium risk - There are identifiable indicators of risk of serious harm. [Name] has the potential to cause harm, but is unlikely to do so unless there is a change of circumstances;
- Low risk - Current evidence does not indicate likelihood of causing serious harm.

4.17 With the same caveats about the small sample size mentioned above, these definitions of risk of harm, like those of the category of offender, also received mixed reactions from respondents, with a tendency for social work to agree with them, since they broadly matched the definitions in the RA1-4 guidance. However one social work representative felt that the MAPPA guidance was at odds with tools such as RA1-4 and LSI-R which tended to measure risk of reoffending and reconviction rather than seriousness and imminency of harm *per se*. However, the introduction of LS/CMI will clarify this issue since it is more likely to identify both reoffending *and* harm. Mental health representatives were more likely to disagree with the MAPPA definitions, suggesting that they were not congruent with their particular value base. Kemshall et al (2005) and the Royal College of Psychiatrists (2004) also found similar criticisms from mental health colleagues about seemingly imposed criminal justice definitions, but this is perhaps more a matter of achieving greater understanding of different agency remits and responsibilities rather than questioning the definitions upon which those responsibilities are put into practice.

## **THE HETEROGENEITY OF VIOLENCE**

4.18 The Scottish Executive Information Sharing Steering Group Concordat (2005) defines a violent offender as an offender that has been convicted of a violent offence under the Criminal Justice and Court Services Act 2000 and has received the appropriate sentence as identified under Schedule 15 of the Criminal Justice Act 2003. In contrast, a 'dangerous' offender, according to the Concordat, is an offender with a relevant

offence who demonstrates behaviour that is deemed to pose a significant risk of harm to the public. A Potentially Dangerous Person follows the same criteria but has no conviction or relevant offence. The criteria for establishing the risk of 'dangerousness' in Scottish legislation have been set by the Criminal Justice (Scotland) Act 2003, at Section 210E in relation to the Order for Lifelong Restriction, and has been adopted by the RMA in its own standards and guidelines (RMA, 2006; 2007; see also para 4.2 above).

4.19 Within the current research, violence as an action was distinguished from harm as the impact of that action, and several respondents inferred that the two had to be kept separate in terms of both assessment and management of risk. There was often no common understanding of levels of, or responses to, violence risk across or even within agencies, and definitions of violence may vary according to the agency's legal requirements (e.g., forensic mental health is bound by definitions contained in the Mental Health Act) or according to its adopted definition (the Violence Reduction Unit<sup>6</sup>, for example, adopted the definition of violence used in the World Health Organisation's World Report on Violence and Health, 2002, which one respondent described as 'everything from bullying to suicide'). Equally, closed institutions (for example, prisons or psychiatric hospitals) may have a less tolerant definition of violence because of their close proximity to 'inmates' or 'patients' respectively, and their definition can include verbal aggression to staff as well as aggression to property or other inmates or patients.

4.20 However, two broad types of violence were identified at interview: instrumental ('cold, calculating', pre-meditated and a means to an end) and impulsive (emotion-driven, uncontrolled and an end in itself), although both types could well be combined in the same act. Violence could also be incidental and, within individuals, could come in peaks and troughs, depending on lifestyle (e.g., substance misuse) or provocation, and assessment needs to accommodate psychological as well as physical violence and psychological as well as physical harm (to victims or society more generally).

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<sup>6</sup> The Violence Reduction Unit was set up in 2005 to target violent behaviour within Strathclyde, its remit being extended nationwide in 2006. Its two main aims are to contain and manage the problem of violence and to work with partners and communities to develop and implement cross-sector policies in order to change attitudes and deliver a sustainable reduction in violence in Scotland.

## Differences between sexual and violent offenders

4.21 There was concern amongst the majority of respondents that interventions (including MAPPA) would need to vary between violent and sexual offenders because of their different characteristics and propensities to pose risk. Respondents saw distinct differences between the characteristics of violent offenders and those of sexual offenders, with sex offenders being seen generally as more of an homogeneous and compliant group than violent offenders, making risk assessment and management easier. This ‘myth’ about sex offenders being more readily identifiable or compliant is not, however, borne out by the literature<sup>7</sup>, and suggests that similar risk management plans, interventions and treatments can be applied to them across the board, which is not the case in practice. Equally, there is little research to suggest that violent offenders will be less compliant than sex offenders, but this was nevertheless considered to be an important factor by respondents in this research when introducing violent offenders into MAPPA. However, in terms of compliance, one respondent suggested that if the individual was constructively involved in the risk assessment and management plan, compliance was more likely, irrespective of their offending propensities (see ‘user involvement’ in Chapter 3). It would thus be important for the risk assessment tool to include an element of self-assessment. However, having said that, one respondent remarked sceptically that:

Sex offenders are more likely to show up for supervision, but they’re more likely to be lying to you as well about what they’re up to (Prisons).

4.22 Some respondents suggested that Scotland has a different ‘culture of violence’ than perhaps south of the border, and certainly would have a higher proportion of potentially violent offenders in MAPPA than in England and Wales, where the ratio of violent to sexual offenders was the reverse of that anticipated in Scotland. Violence was also seen as being concentrated in specific areas, notably parts of Glasgow (Houchin, 2005), as one SPS respondent noted:

A shockingly high proportion of prisoners in the estate come from, sort of, like 3 or 4 postcodes within the Glasgow area, you know, a shockingly high proportion (Prisons).

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<sup>7</sup> With the possible exception of incest offenders (Waterhouse et al, 1994).

4.23 There may also be a higher threshold of tolerance of violence in some areas of Scotland than elsewhere, both within communities and in the wider public perception:

There's not really a stigma attached to being violent in Scotland, in some ways there's a kudos attached to being violent... it is very much seen as a legitimate way of problem solving... that's entrenched within them (Policy).

4.24 Whilst one mental health representative suggested that 'once a sex offender, always a sex offender', it was also suggested that sexual offending was not ubiquitous or culturally-specific and that sex offenders could otherwise lead pro-social lives. Although one policy respondent equally suggested that violent offenders could also 'be capable of being very controlled in the ways they think', it was generally felt that violence was more likely to be entrenched, and triggered more easily by alcohol or drug misuse. Sex offenders were also seen as more likely to offend on their own (even if part of a paedophile network, for example), whereas:

Violent offenders can be co-accused, part of a lot of different offences... part of an organised crime group, involving potentially drugs, firearms and weapons (Police).

4.25 One respondent suggested that whilst sex offending was easier to predict, violent offending was not. In terms of assessment, sexual offenders were seen as easier to draw conclusions on (in terms of risk formulation<sup>8</sup>) as such offending was considered by one respondent to be 'clear cut', although the research literature would indicate that our knowledge of sexual predation is limited and the nature of such offending is often more complex (see para. 3.7 above). Violent offending was seen by respondents as ubiquitous, and not necessarily specific to particular populations or locations, making management of the risk potentially more problematic:

If we are aware of a person with a mental illness who is a sex offender or who threatens sexual offences, then it is perfectly reasonable for us to inform the school where he works because it is highly likely he is going to be a risk to children. But just because someone is being violent, does that mean he is

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<sup>8</sup> 'Risk formulation' means synthesising and concluding on all the relevant information on a case to produce an explanation or 'narrative' of that person's risk factors and the implications of this for treatment and management (see also RMA 2007b).

going to be a risk to everybody? And who do you inform that they are going to be violent? (Mental health).

## TARGET GROUPS FOR MAPPA

4.26 Types of offence or offender which were mentioned as being eligible for MAPPA involvement under the violence categories were stalking, people with diagnosable mental health issues, domestic abuse, repeat offenders, those who refused to engage in programmes within prisons, and those posing a serious or imminent risk of harm. However, one mental health respondent suggested that the offence was less important than the context and circumstances of the offender. Serious offences and offenders at high risk of repeat violent offending were seen as the main target group for MAPPA, but some respondents felt that the context of any given community should also be taken into account since different communities may be prone to different types of violence (e.g., knife crime), again irrespective of whether convicted on indictment. Domestic abuse was seen as a significant omission in the MAPPA classification of 'conviction on indictment', since such offending requires specialist risk assessment techniques, if indeed it is reported at all<sup>9</sup>. Domestic abuse was usually against a known victim and involved elements of power and control within a given relationship; perpetrators of domestic abuse may otherwise lead law-abiding lifestyles. Stalking, on the other hand, was viewed as all-encompassing and personality-driven.

4.27 One mental health representative expressed concern that mental disorder, as currently defined within MAPPA in Scotland, did not include [anti-social] personality disorders. This omission was possibly based on advice from psychiatrists who felt that personality disorders defied known medication and other treatment measures and could not, therefore, be given priority. This was seen as a major gap in the current arrangements, since a high proportion of prisoners, and violent offenders more generally, presented with personality disorders. For example, the international literature has suggested some 50 – 80 per cent of prisoners present with a personality disorder (see, for example, Møller et al, 2007), although one SPS respondent suggested that this was, in effect, 'medicalising criminality'. One Parole Board member expressed concern that if these individuals were not given support, they would be more likely to be recalled to prison following release on licence. However, in terms of released prisoners, one respondent felt that those released on parole are less likely to reoffend having applied for parole

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<sup>9</sup> It was suggested at interview that female victims of domestic abuse were unlikely to report such abuse until 30 plus incidents had been experienced.

compared with those released automatically on non-parole licence at the two-thirds stage of their sentence, which may have implications for the inclusion of violent ex-prisoners on non-parole licence within MAPPA.

4.28 The possibility of a violence register, along the lines of the sex offender register, was raised as a possibility towards the end of the Phase I interviews and was therefore explored with Phase III interviewees. The advantages of a register were seen to be that it might lessen the likelihood of netwidening because of strict criteria for registration, it could be accessible to all agencies across the country and would stipulate who was on licence/probation and for how long (information which apparently only currently exists in paper files). A 'flag', such as that recommended in the Cosgrove Report (2001) and the Child Protection Audit and Review (2002; see Chapter 3, para 3.56), may be preferable to a register, however, to identify potential behaviour relevant to violent or sexual offending, even where a further offence has not been committed. Nevertheless, ViSOR currently fulfils this role and it would seem premature to duplicate or extend this resource not least when the evaluation of ViSOR is imminent in Scotland. The disadvantages of a separate register were seen to be the scale of the task (in Strathclyde alone, it was suggested that there could be five times as many violent offenders as sex offenders liable for registration), the fact that violence was too variable compared with sex offending to allow for strict criteria for inclusion on a register, and the likelihood that a register would be incriminating, stigmatising and open to political manipulation. The literature supports this latter view, namely that 'dangerousness' is extremely difficult to assess and that labelling people as such can result in inaccurate and indeterminate records being kept on them.

4.29 There was some concern that, whilst individuals may continue to pose a serious risk, intervention would need to end when their registration or supervision requirements end, although this has admittedly always been the case, irrespective of MAPPA arrangements. However, although sex offenders have been mentioned as tending to be 'cooperative' beyond the period of registration or social work intervention, the same may not be true of violent offenders. Agencies would also have no power to impose further conditions or requirements on an individual unless the legislation changed or registration was indeterminate or for life.

## AGENCY REMITS AND CULTURES

4.30 A tendency to use professional judgement, irrespective of the definition of violence used, not only applies within agencies, but also across agencies dealing with criminal justice and risk, especially when those agencies have differing remits and cultures and conceivably different definitions of – and response to - risk. Agency cultures can be entrenched, and bounded by different philosophies, constituents, protocols and priorities, yet they are being asked to practice collaboratively and consistently based on a drive towards an increasingly unified approach:

We all know that we are talking about the same thing, but we view it differently (MAPPA).

4.31 This section summarises some of those key differences within social work, SPS, the police, mental health and victims' agencies. It should be borne in mind that, as will be seen in Chapter 5, multi-agency working was considered by all respondents as both positive and constructive in working collaboratively across Scotland. However, respondents were asked specifically to highlight any *potential* challenges to inter-agency cooperation which could be improved in relation to the introduction of violent offenders within a multi-agency framework. The following section draws out some of those challenges as well as highlighting the positive relationships that currently exist.

### Social Work

4.32 Social workers aim to balance public protection with individual rehabilitation. Public protection includes victims as well as local communities, and rehabilitation requires addressing wider structural constraints on an individual's social inclusion (e.g., housing and benefits). Social workers are also concerned to encourage independence and empowerment in their clients, and in terms of risk assessment, one social worker explained that 'one of our tasks is to work with people in managing their own risks'. Whilst one social worker described risk assessment as their 'bread and butter', there was a perception by two respondents – in mental health and SPS – that social workers tend to rely more on actuarial methods than on professional judgement. If true, this perception could result from pressures on limited resources (both from a financial and programme perspective) which were a cause of concern for social work staff, but could equally result from there not being an adequate number of dedicated, specialist and trained practitioners to undertake risk assessments in social work (see chapter 5 for a

resume of the training issues in risk of violence assessment). Generally speaking, social work and the police were seen as closest in practice when it came to risk of violence assessment, although their rationales for such assessments may differ.

### **The Scottish Prison Service**

4.33 SPS currently does not have a working definition of risk of harm. Equally, because of its institutional focus, it tends to focus not on public protection but on containment of the individual and minimisation of risk of violence (to self or others) *within* the establishment. Many respondents expressed concern that this institutional focus in respect of risk assessment could no longer be sustained within a multi-agency forum, and respondents were encouraged by the Integrated Case Management system now operating within SPS which has helped to make SPS more 'outward facing':

The prisons do a considerable amount of risk assessment of prisoners but very little of that risk assessment has anything to do with their level of behaviour in the public environment, in the community (Police).

4.34 Although one SPS respondent considered that SPS spoke 'with one voice' (being the only unified agency across the spectrum of criminal justice agencies), another agency representative suggested that both within and between prison establishments there are different perspectives on assessment and management of risk, which if correct suggests that unification does not necessarily mean consistency of approach. Although a mental health respondent considered SPS more in tune with 'structured professional judgement' than, say, social workers, both social work and SPS respondents felt that SPS was more cautious about risk and may rely therefore on tools for assessing such risk. There was also concern from social work staff in particular that prison officers may not have adequate training or information, (the latter in respect of some more recently-incarcerated offenders), to undertake violent risk assessments and that this could result in greater pressure being put on forensic psychologists or prison-based social workers to carry out such assessments. Equally, whilst one social work respondent suggested that vital information in prison-based files might be missing (e.g., the index offence that resulted in imprisonment; see also Loucks, 2002; Cosgrove Report, 2001), another social work respondent felt that SPS staff may present *too much* information for risk

assessments because of under-confidence in extracting appropriate information for risk assessment purposes.

## **The Police**

4.35 Following the Sex Offenders Act (1997), the police remit broadened from assessment of risk to management of risk and offender reintegration, and Offender Management Teams were set up to coordinate the sex offender arrangements. These teams were highly praised at interview by other agencies, notably social work and mental health. Indeed, in terms of multi-agency working, the current relationship between the police and social work, in particular, was seen as extremely constructive and cooperative by all agencies, with one almost envying that relationship:

[SPS] is impressed by the way that the police and social work have started working together over the last maybe five, ten years, and we want to get to the same point (Prisons).

4.36 Not surprisingly, perhaps, given their focus on public protection and crime control, the police, like the SPS, are often seen by other agencies as 'risk averse', although they themselves would prefer to use the word 'cautious'. This caution may result in a tendency to up-tariff individuals for public protection reasons, even though this may be at odds with the MAPPAs aim of prioritising the 'critical few' based on imminence of serious harm.

## **Mental Health**

4.37 Mental health workers are mainly concerned with the perpetrators of crime, who may well themselves be victims as well as patients. Mental health workers are also more bound – both legally and morally - by confidentiality issues. Broadly speaking, the NHS prioritises the presenting [medical] problem in their dealings with patients, as another agency respondent explained:

Health don't recognise offenders as a kind of specific client group. They see everybody as patients which is understandable and you shouldn't have to go to your doctor and say 'I have a headache - and I'm an offender just in case you need to know that' (CJAs).

4.38 Forensic mental health workers, however, do have a greater need to focus on the offending behaviour as well as the presenting medical condition and thus have minimisation of risk (primarily to patients and out-patients but increasingly to society at large) as their main focus over the longer term. However, there was concern from one social work respondent that mental health workers could only work with individuals who had diagnosed mental illnesses, and not with, for example, with those presenting with personality disorders (which, as mentioned above, are viewed as not easily diagnosed or treated). Although psychiatrists were deemed to prioritise cases according to specific medical diagnoses, at the possible expense of broader risk assessment *per se*, the Care Programme Approach (CPA)<sup>10</sup> now places a greater emphasis on risk assessment and was described by one mental health respondent as a 'mini-MAPPA'. Within the State Hospital, and arguably within the community, the concern of mental health practitioners and managers is not with targeting of resources, since there is less pressure to prioritise resources – within forensic mental health at least - but to identify appropriate treatment for each individual, based on need. Classification or ranking of harm is therefore deemed unhelpful when circumstances, potential risk and therefore treatment can vary over time.

### **Victim agencies**

Risk assessments are done by and large based on what the offender [says]... their perception of the crime isn't necessarily the same perception as [the victim] (Victims agency).

4.39 Victims agencies receive the bulk of their information from the police, subject to the Data Protection Act. They are not given identifiable information about a specific offender, nor are they given an overview about other offenders living in close proximity to a victim which may impact either on the safety of staff visiting that victim or on the victim him/herself. Whilst victim agencies would prefer more information on offenders, there is an issue for some agencies in respecting the privacy of their clients, whether offender or victim. For example, one mental health respondent suggested that many of their patients could be seen as:

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<sup>10</sup> The Care Programme Approach is a multi-agency arrangement for the non-compulsory treatment and care of people in the community with severe and enduring mental illness, to ensure that they receive appropriate services and resources. It includes an assessment not only of vulnerability but also of risk.

... victims rather than offenders, particularly our outpatients, and I wouldn't want their information to be divulged left, right and centre (Mental health).

4.40 Many respondents stressed the need to obtain the victim's perspective within the risk assessment process, since the harm caused to the victim will contribute to determining the seriousness of the offence. However, in terms of risk management, neither the SPS nor the Parole Board will necessarily know who the victim is when someone is released from a prison sentence, and this may affect the quality and accuracy of the final intervention, not least where risk of harm is an issue:

When they're potentially thinking of releasing someone, they've got to sort of scurry round to see, does anyone know who the victim was. No idea (Victims agency).

4.41 Victims' agencies also felt that, since the majority of serious violent crimes, according to two respondents, are *not* reported to the police, victims will not necessarily be protected by MAPPA or any other criminal justice arrangements.

## **SUMMARY**

4.42 Whilst there seemed to be concerns voiced by many respondents about the competing definitions of reoffending, violence and harm, there is a limit to how prescriptive and all-encompassing any definition can be. However, classifications of offenders or offence types are necessary from a targeting point of view (in terms of numbers and resources). The MAPPA classifications, whilst welcomed as a guide, were seen to be open to interpretation and thus failed to offer definitive criteria for inclusion or exclusion of certain offence or offender types. However, it would seem that one classification system and one working definition of harm across all agencies would be beneficial.

4.43 In terms of the possible confusion over risk of reoffending versus risk of harm, notably amongst social work staff, it is acknowledged by the report writers that the implementation of the LS/CMI risk assessment tool, which combines risk of reoffending and risk of harm, will offset this confusion, although clear guidelines as to how to progress different types of offence, offender and risk will be needed beyond the initial assessment stage. Likewise, there were stark distinctions made between sex offenders and violent offenders in relation to risk, which concerned respondents in terms of ensuring the effective assessment and subsequent management of that risk. Risk

formulation was seen as essential in that process, and to include the cultural context of violence in Scotland and an awareness of the psychological as well as physical consequences of violent crime.

4.44 Types of violent offender/offence type that were deemed eligible for MAPPA inclusion included repeat offenders, those at serious risk of imminent harm through violence, those with mental health issues (albeit not necessarily clinically diagnosed as such) and domestic abuse.

4.45 In terms of competing agency remits and philosophies, social work tends to focus on the offender and his/her rehabilitation, which infers a greater need for social work staff to feel confident and skilled in using professional judgement alongside any risk assessment tools.

4.46 SPS, on the other hand, focuses on containment within an institutional context but is increasingly aware of the need to look beyond that to the throughcare of offenders on release. The SPS system of record keeping could also be more complementary with those of other agencies involved in risk assessment and management.

4.47 The police have a good reputation amongst other agencies for taking a longer term view of the assessment and management of convicted as well as unconvicted offenders, but tend to rely on tools rather than on professional judgement in making assessments of risk, not least given their primary public protection remit.

4.48 Mental health professionals span a wide range of remits and ethical considerations and there is thus a tension currently between treating the 'patient' and assessing risk more widely. Although mental health practitioners, like their SPS counterparts, are becoming more 'outward facing', there was still seen to be a need by other agencies for health colleagues to broaden their criteria in terms of who they will work with and under what circumstances.

4.49 Victim agencies feel a need to be more included in the risk assessment process, albeit within the confines of data protection requirements. It was stressed by many respondents that victims' perspectives and fears of risk were a valuable addition to risk formulation and needed to be taken on board in any risk assessment framework, not least when the 'victim' and the 'offender' are often one and the same individual.

## **CHAPTER 5.**

### **RISK ASSESSMENT IN PRACTICE**

#### **INTRODUCTION**

5.1 The implications of differing definitions of risk and agency cultures will be bound to have an impact on risk assessment in practice, and indeed the previous chapter exemplifies those often confusing and contrasting views of respondents about how to assess and manage risk. This chapter focuses in particular on their views of risk assessment tools, on their reasons for doing risk assessments and on organisational issues such as quality control, training and multi-agency working.

#### **PERCEPTIONS OF RISK ASSESSMENT TOOLS**

5.2 There was limited knowledge, in particular amongst social work respondents, about the various tools currently in use in assessing violence risk (VRAG, VRS and HCR-20), although this is perhaps understandable given that most violence risk assessment tools currently are used by mental health rather than social work, partly because the latter practitioners have concentrated their efforts recently in assessing risk of sexual offending within MAPPA rather than violence *per se*. However, as will be seen towards the end of this chapter, there is an issue about training, which if done at an appropriate time and within a multi-agency framework, can alleviate many of the concerns of staff about new methods of working, not least in respect of risk assessment tools.

5.3 However, overall, there was some scepticism and criticism of those tools that were familiar to respondents and that these left a lot to the imagination, as the following quotation illustrates:

... a warning light goes on when you see 'high', and there's a sort of greenish light that goes on when you see 'low', and in the middle, you take into account all the factors... you're on your own then... and therefore you make up your own mind from all the other information (Parole Board).

5.4 For social work respondents in particular, although intended as a more static tool for predicting risk of reoffending, LSI-R was seen as focusing too much on static factors

relating to risk of re-offending and could usefully include a risk of harm section. It was also seen as leaving too much to professional judgement, although having said that, many respondents suggested that a tool should be an 'aide memoire' rather than prescriptive. Equally, social work's use of RA1-4 was seen by some respondents as restrictive in terms of its subjectivity (leaving too much to professional judgement), although it was only ever designed to structure professional judgement. It was also seen as cumbersome to complete. Likewise, although RM2000 is relatively effective in predicting risk of general reconviction for convicted male sex offenders, some respondents felt it could perform better in this regard. It was also seen as being overly static, with no risk of harm section, and only able to categorise offenders overall rather than to address concerns on a case by case basis.

5.5 Psychiatrists use HCR-20 to assess both sexual and violence risk, but again was seen as being too subjective by, in particular, psychologists and required a level of clinical expertise which did not lend itself to wider use by basic-grade practitioners. However, actuarial tools were considered by one SPS respondent to be 'handy screeners' and therefore were perhaps more likely to be embraced by front-line practitioners when doing initial assessments. HCR-20 is also time consuming to complete, although in a hospital setting where patients may be admitted for longer periods of time, this was seen as a small consideration. More than any other tool where known to these agencies, HCR-20 was, however, seen as being better able to accommodate diversity, not least in respect of mental health issues. VRAG was also seen as too subjective and focusing on static factors (which in terms of diagnoses such as schizophrenia, for example, meant that it resulted in false positives or negatives when assessing risk).

5.6 However, many of these concerns, as mentioned in the previous chapter, will be rectified by the introduction of LS/CMI. Kemshall (1998) also notes that these tensions between wanting the certainty of a tool but the leeway to exercise professional judgement are common amongst practitioners and managers alike.

5.7 There were mixed messages across agencies as to whether violence risk assessment required one tool at the initial SER/HBR stage or several tools which could accommodate diversity (e.g., women, young people and perpetrators of domestic abuse). The majority view (held by social work and police respondents) was that there should be one risk assessment tool for violence (with add-on sections for specific groups or more specialist tools for more in-depth assessment, although mental health

representatives tended to prefer a range of initial risk assessment tools, depending on the needs and circumstances of each individual being assessed.

- 5.8 Either way, it was suggested by several respondents that a risk formulation component needs to be included in any risk assessment tool for violence along the lines of that provided by the RMA in its standards and guidelines for offenders subject to Orders for Lifelong Restriction (RMA, 2007b). In particular, one social work respondent argued that *current* risk assessment tools do not allow for risk formulation in terms of risk of harm, although LS/CMI, once introduced, will address this concern:

[The tool] indicates clear risk in this person's way of offending at this time... and it's about the next bit that is missing... it still, to me, doesn't include the harm element because all you know is that the potential is there for that person to re-offend, but to re-offend in what way and in what situation? (Social work).

- 5.9 One tool used by both social work and mental health in one local authority – RAMAS (Risk Assessment, Management and Audit Systems) - purportedly covered not only risk of reoffending but also risk of violence and risk of harm and was considered useful in assessing all three issues in a graduated way. It is primarily an evidence-based Department of Health tool which has been validated in multi-disciplinary community and hospital mental health settings (DOH, 2000).

## **RATIONALE FOR ASSESSING RISK**

- 5.10 There are two main focuses of risk assessment with any offender, not just violent offenders, and these are 'operational' and 'rehabilitative'. An operational focus would be on statutory requirements, to target resources at the appropriate group, and to protect the public. A rehabilitative focus would be on the individual offender, with the risk assessment informing the identification and management and/or improvement of those risk factors which trigger offending and violence within that individual. Coming from the analysis of interviews was the impression that the police, social work and the SPS seem to take both an operational and rehabilitative approach in tandem and mental health primarily takes a rehabilitative approach.

- 5.11 Colleagues in social work, the Police, MAPPA and SPS spoke mainly about the need to prevent reoffending by those posing a risk of harm to others, through early and constructive intervention and management of those risks. Social work was also

concerned to ensure, through the assessment process, that offenders were suitable for community-based disposals and groupwork programmes. However, they also suggested that risk assessments could inform progress made by practitioners or the agency more generally through the monitoring and evaluation of statistics gained from risk assessments; to manage often limited resources; and to target those who have already been identified as high risk who require further input so as to protect the public at large.

5.12 Mental health respondents saw risk assessments as primarily informing management plans for each offender, where interventions would not only protect the individual within the community but also, in so doing, protect the public from potential harm caused by that individual. As mentioned in Chapter 4, mental health workers seem more than the other professionals to be less constrained by financial concerns and were therefore less likely to cite targeting of limited resources as a rationale for undertaking risk assessments. Their primary concern is with the individual and his/her if not improved behaviour then at least contained behaviour in the community.

5.13 Research suggests that agencies over-estimate the risk posed by offenders and likewise that guidance is needed on what constitutes 'evidence' of progress in minimising risk, since little research to date has identified effective measurement of reduced risk. When it came to upgrading or downgrading risk levels as a result of risk assessments, there was a difference of opinion between the agencies, possibly reflecting the different value bases of these agencies or of the workers within them. Whether risk is seen to be escalating or reducing ideally requires independent and well-researched criteria, although within the agency context, the RMA (2007b) offers constructive guidelines on how practitioners themselves can effectively monitor and review change in an individual's behaviour or risk factors. Downgrading was promoted by mental health respondents as resulting from a positive sign of progress for the individual and about the rights and freedom of the individual (through less intervention overall and offering the potential for movement to less secure units). However, social work staff seemed more wary than their mental health colleagues of downgrading, whilst the police were more likely to want to upgrade or maintain a consistent level, for fear of reprisals if things went wrong as a result of reduced intervention. There was concern, voiced by one MAPPA representative, that the public protection remit of the police may be at odds with the MAPPA remit of working with the 'critical few':

[The police] are very conscious of public protection and it is better to up-tariff somebody and have additional supervision as it is to under-estimate, so there is a tendency to over-estimate somebody's risk. This obviously runs contrary to the whole MAPPA concept and the guidance which is about doing, as far as possible, accurate risk assessments... because it is about allocation of resources and it is about targeting resources to those that we need to be paying the most attention to (MAPPA).

5.14 Whilst ranking of risk is seen by many to be an essential means of targeting resources and interventions appropriately, one mental health respondent voiced the concerns of other health professionals that ranking was perhaps unhelpful from a mental health point of view because of the fluidity of people's lifestyles and behaviours, the ranking of which might restrict the opportunity and scope for change:

I don't think [ranking] necessarily leads to good planning because people tend to think: 'very high, don't let him out'... if he's not drinking and he's not ill and he's not in a relationship, he's not high risk... when somebody has moved from very high to medium, we've had huge difficulties explaining that change to other agencies... it's not a fear of downgrading, it's a fear of reprisals (Mental health).

5.15 Nevertheless, if ranking is clearly defined and understood, and movement between levels of risk is encouraged, practitioners would be more confident in downgrading as well as upgrading, not least with the backing of colleagues in other agencies:

We have had 2 or 3 cases that have been downgraded from a '3' to a '2' because we have pulled together the MAPPA arrangements and had the multi-agency planning and risk assessment pulled together, which has worked well and [offender] risk has been more managed so the imminence changes (MAPPA).

5.16 However, some agency representatives felt, albeit reluctantly, that ranking of risk was mainly a cost cutting exercise, in the hope of allocating limited resources to those individuals with the most pressing needs. SPS staff mentioned that because of capacity issues within the estate, there may be a tendency to downgrade from secure to open conditions to free up cell space in the more secure establishments. Psychiatrists were also inferred to want to move patients on for similar reasons.

## QUALITY ASSURANCE AND ACCOUNTABILITY

5.17 Generally, respondents felt that greater worker consistency, augmented by consistent approaches and tools, would improve both quality assurance and accountability. However, multi-agency working (see below) and fora such as MAPPAs were seen positively by all respondents as being both mechanisms for quality assurance and for accountability, although there was concern that MAPPAs coordinators – who have the unique position *across* agencies to provide some form of quality assurance and consistency – were not being used in that way but were seen by the Scottish Government to be primarily an administrative function. Equally, with regard to MAPPAs, the Strategic Management Boards in each CJA were seen as a potential form of quality assurance and accountability, but as one respondent questioned: ‘who oversees the Strategic Management Board?’.

5.18 The main forms of quality assurance, used to greater or lesser extents in each agency, included: case reviews, line management/supervision, case conferences, training, accreditation (of both tools and risk assessors), peer review, the MAPPAs Annual Report and guidelines such as those prepared by the Risk Management Authority or the Scottish Government’s National Standards in Criminal Justice. From an *intra*-agency perspective, accountability was seen as coming from line management systems, ideally including the auditing of quality as well as quantity. However, from an *inter*-agency perspective, accountability was less clear cut, not least in respect of the MAPPAs arrangements. One MAPPAs coordinator suggested in relation to MAPPAs that: ‘it’s all based on goodwill and willingness to cooperate’. Within such a forum there is no obvious hierarchy, and there may be tension between the responsibilities of agencies to other MAPPAs members versus their responsibilities to their own respective constituents. Accountability structures as such, therefore, were not readily identifiable by the various agencies, not least when MAPPAs representatives were not necessarily able to influence or veto their colleagues in other agencies, as one police respondent noted:

Basically, it’s down to good working relationships and trying to resolve a lot of these issues, because I can’t actually influence the head of another agency to go back and change their decision. All I can do is share information and make sure that they’re aware that this information has been shared (Police).

## INTER-AGENCY COOPERATION

I think sometimes there is a bit of a lively debate, where one agency might have a different view about the risk posed and have a different view therefore about how other agencies should respond, but... I'm very proud of the working relationships that we have with health, social work, the police and housing in relation to the management of offenders and I think that we have got confidence in each [other]... [if] one makes a decision, the others are comfortable with that (Social work).

5.19 As exemplified by the above social work respondent from a relatively rural area with well-established multi-agency fora, the vast majority of agency representatives felt that inter-agency cooperation was good, albeit currently primarily in respect of sex offender information sharing and management. However, as noted in the preceding section, several respondents suggested that such relationships were based more on goodwill than on any statutory requirements, not least when there were no such requirements currently in respect of violent offenders. Whilst urban areas may have greater resource constraints or anxieties about multi-agency working being effective, both rural and urban respondents commented that well-established networks over a prolonged period helped to consolidate good working relationships, as one urban-based social work respondent suggested:

The Police and Social Work work pretty well together because we're used to doing it. We've got a long history of doing it. There's a lot of goodwill. A lot of very good work goes on (Social work).

5.20 Legislation such as the Management of Sex Offenders, etc. (Scotland) Act 2006, policy guidance and protocols along the lines of the ISSG Concordat were seen as important elements in both ensuring and encouraging inter-agency cooperation and collaboration, and respondents in larger cities tended to rely on such statutory incentives compared with their counterparts in more rural areas. Fora such as MAPPA, high risk advisory groups mentioned in three local authorities or the NHS Care Programme Approach operating across Scotland were also cited as positive frameworks for inter-agency cooperation and information sharing. The frequency and consistency of contact helped such cooperation, as one high risk advisory group member commented:

because we get together so often, in a multi-agency arena, I think the other agencies would feel quite confident... I mean, there is a different culture in social work than in the police, and that is quite right because they are looking at things from a different viewpoint, but I think that we have built up strong enough relationships where we can share... we can understand why social work might do things in a certain way. We also have a very clear understanding that the clinicians... have a clear view of how or why someone behaves in a certain way. We accept that. We respect each other's ways of working (rural-based Social work).

5.21 Such fora promoted a greater understanding between agencies of their responsibilities and limitations and also encouraged learning from each other when and if mistakes were made. Whilst the partner agencies may not necessarily agree on definitions or scenarios of risk, there was generally an awareness of, and sympathy for, the different roles and remits of the varying partners. MAPPA was also singled out by many respondents as being a template for positive intra- as well as inter-agency working, as one respondent commented:

It's having a huge impact. We are only in our infancy and we can already see that it is starting to fundamentally change how we organise our work and how we use assessment tools (MAPPA).

5.22 Protocols in particular were seen as helpful reminders to agencies that multi-agency working was a requirement rather than just an ideal, and indeed, one respondent commented that without such protocols in respect of violent offenders, multi-agency working would be compromised:

If you phoned up the police to... ask them for information, it would be highly, highly unlikely that they would give you that, because there is no protocol (city-based Social work).

5.23 However, protocols apart, it was suggested that offenders and victims should be included as partners within multi-agency arrangements and that sheriffs and other court officials would require guidance on any future multi-agency arrangements in relation to violent offenders. There was also deemed to be the need for a named liaison person per agency for violent offenders as was currently the case in some areas for sex offenders, which was seen by many respondents as being integral to effective inter-agency

cooperation and understanding. Training was also seen as crucial in building skills and knowledge amongst practitioners of other agency roles and responsibilities. In this regard, there was an issue of practitioners deferring to their colleagues in other agencies more because of a lack of expertise rather than a lack of consensus, as one respondent illustrated thus:

Psychiatrists' and psychologists' assessments are given more weight than the risk assessment... done by social work... It takes a really brave chair and a really brave meeting to override a psychiatrist or psychologist's assessment and go with the social worker (MAPPA).

5.24 In terms of legislation, there was concern expressed by a minority of respondents that whilst legislation required certain interventions, often agencies were unable - because of the limits on their own powers – to put those interventions into practice (notably the issue of police enforcement of certain MAPPA recommendations where the police had no statutory authority from within their own agency to intervene in the event of non-compliance):

We need something there when the top-end critical few don't comply (Police).

5.25 Equally, whilst social work or mental health practitioners, for example, may wish to intervene in a *potentially* violent situation, there was concern that other agencies may not be required to take a similar stance, as the following social work example illustrates:

If someone... [intended] to harm somebody, but wouldn't name who it was, where do you go with that? The police won't respond until the crime is committed. He is a violent offender in the past but... because he is on probation for a very low level offence... where do you go with that? All you can do is record it (Social work).

5.26 One mental health official also suggested, notably in respect of the Mental Health Act and Adults with Incapacity Act, that:

there is an inexactness about Scottish legislation [which is] open to interpretation' (Mental health).

## **Barriers to effective inter-agency cooperation**

[There's] a shared understanding about how things have to be. The challenge is how do we actually make that an efficient process, and we don't fall over ourselves in endless inter-agency meetings talking about going round in circles (Social work).

5.27 Multi-agency working can be extremely labour intensive, not least where senior management personnel are expected to meet around the table on a regular basis, as is the case with MAPPA. It also needs to be clearly delineated and with strict parameters and objectives, as the above quotation infers. For respondents overall, there was a concern in particular about the potential lack of resources, both financial and practical, for identifying, implementing and sustaining effective interventions for high risk violent offenders within a multi-agency environment.

5.28 Equally, the different cultures and remits of the varying agencies were potential obstacles to good working relationships. For example, mental health input was seen by one social work respondent as only being possible where a clear diagnosis was made and that undiagnosed cases were left to social work alone to deal with. It was thus acknowledged that there was a lack of both a theoretical understanding of the concept of risk within and between agencies and a lack of a practical understanding of each agency's philosophy, role, remit and objectives, and both these areas of understanding – theoretical and practical - should be seen as central to both intra- and inter-agency training. Equally, some respondents felt the need to rely on legislation or protocols to ensure the longer-term effectiveness of inter-agency cooperation.

5.29 Likewise, there was a lack of compatibility within and between agencies in terms of information sharing, monitoring, quality assurance and accountability systems. In this regard, one of the main obstacles to inter-agency cooperation was seen as the mechanisms (technological or otherwise) for information sharing, with IT systems not being compatible or user-friendly across agencies, ViSOR and secure e-mail systems being mentioned in particular. ViSOR is not amenable to direct entries by social work staff, and agencies such as Social Work and SPS do not currently have secure e-mail facilities:

We've got terrible problems just now trying to communicate with the police because electronically... we don't have secure e-mail - although I'm told even

when we do get secure e-mail, it won't be truly secure... We can't cut and paste into ViSOR for example... we have to look at our one screen, take the information from that and type it into another screen (Social work).

Information exchange from police, fiscal, to courts, to social work is abysmal... there's no framework for sharing information... You are reliant on asking the service user. Well you might as well not bother, eh? (Social work).

## **TRAINING IN RISK ASSESSMENT**

5.30 Training was a major concern for all respondents in this study, and it was generally felt that it was piecemeal in its delivery and tended not to be undertaken until after the implementation of initiatives, such as the MAPPA arrangements or the introduction of a new risk assessment tool. The fact that practitioners were being trained in sex offending risk assessment tools up to two years after the start of the MAPPA arrangements, and the fact that the Scottish MAPPA guidelines were revised three times in the first eight months since their inception, suggested to some respondents that a violence risk assessment framework needed to be implemented *following*, rather than *concurrent with* such training. Conversely, however, it was deemed essential that training needed to be put into practice immediately following its delivery so that practitioners could utilise the skills learnt whilst these were fresh in their minds. There are, therefore, implications for the timing of training in order for it to coincide appropriately with the imminent implementation of any new initiative.

5.31 Practitioners in any field need to be confident and comfortable with the tools they use to assess risk (Douglas & Ogloff, 2003), not least for those who have limited time in which to undertake such assessments. However, it was suggested by many respondents that training in risk assessment tools – whilst essential – was not necessarily the only training needed, and that wider training in, for example, the concept of risk, in its theoretical underpinnings and in risk formulation, was also needed. Whilst the SPS and the police have a national training centre and budget, social work, for example, does not. Yet national training was deemed imperative, not only within but across agencies and disciplines, not least if a standardised risk assessment framework was to be implemented nationally. Several different agency respondents also commented on the limited number of accredited or trained staff in risk assessment or risk assessment tools, not least when some tools required a level of expertise or clinical training to ensure that structured professional judgement could be utilised.

## RESOURCE IMPLICATIONS OF RISK ASSESSMENT

5.32 Whilst most respondents were familiar with the numbers of registered sex offenders that they were currently dealing with, at least within the MAPPA arrangements, there was a fear (in terms of the logistics of assessment and management) that the number of violent offenders is going to be considerably greater than the number of sex offenders. As one police respondent remarked: 'we could be talking thousands'. Within secure establishments, that proportion of violent to sex offenders could be even higher with, for example, one mental health respondent estimating that 98 per cent of State Hospital inpatients had been admitted following the commission of a violent offence. Calculating the numbers may require manual trawling through files because of limited electronic data on licencees, indictable offences, etc. Equally, there was concern about the *existing* violent offenders currently involved in the criminal justice and forensic mental health systems who would need to be risk assessed and classified prior to potential inclusion in MAPPA.

5.33 In addition, there was concern that the numbers of violent offenders and the complexities of managing such a disparate and often volatile group in a cohesive and constructive way would impact greatly on agency workloads, finances and interventions. Those offenders who were eligible for MAPPA or subject to increased scrutiny through other multi-agency mechanisms were predicted to have significant resource implications, not only in terms of needing additional skilled staff both to assess and manage these violent offenders within specific multi-agency arrangements but also in terms of having effective and appropriate programmes and other interventions in place to manage, if not reduce, the risks posed by this particular group. One mental health respondent feared that there would be a dilution of effective practice because of such resource pressures:

Another major influencing factor [apart from the availability of trained assessors] in terms of the input is resources... what you often get is risk management plans being modified to address the level of resources just as much as the level of risk, so what you end up [with] is a compromise (Mental health).

## SUMMARY

5.34 Risk assessment tools were not always familiar to each agency, not least since currently such tools are not standardised across all agencies; yet it is anticipated that the introduction and roll out of LS/CMI will address many of the concerns expressed by respondents about tools generally. Certainly, most respondents welcomed one standardised tool for initial assessments although stressed the need for any subsequent, more specialised, assessments to accommodate diversity, not only of offender types but also of agency remits and constituents.

5.35 Risk assessments were undertaken for both rehabilitative reasons (focusing on the needs of the offender) and operational reasons (focusing on the requirements of the agency). Social work, the police and SPS seemed more likely to combine these functions of risk assessment whilst mental health staff were perhaps more able to focus on the rehabilitative approach because of their more medical treatment remit, their longer involvement with a patient, and their greater access to resources. However, wider public protection issues are increasingly a requirement across all agencies, which means that mental health professionals will have greater operational reasons for undertaking risk assessments in the future.

5.36 Movement of offenders between MAPPA categories and levels of risk was seemingly dependent on philosophies, resources and professional confidence, but was currently quite limited – not least in terms of downgrading risk. This will obviously have implications for risk management of violent offenders who, once introduced to MAPPA, would have the potential to ‘swamp’ the system. Having the flexibility within protocols and guidance to ensure movement of offenders between levels of risk, as well as training in what constitutes each level of risk, would undoubtedly be welcomed by respondents once violent offenders are introduced into MAPPA, for example.

5.37 Quality assurance mechanisms were seen to be augmented by multi-agency working although accountability may be less clear within an multi-agency forum such as MAPPA where the role of the Strategic Management Boards were seen as ill-defined and the MAPPA coordinators were considered not to be given enough responsibility and autonomy.

5.38 Generally, however, inter-agency cooperation was viewed as very constructive and currently effective in respect of formal arrangements for sex offender and informal

arrangements for other offenders. Legislation and protocols were helpful reminders of the need for inter-agency collaboration although perhaps the inclusion of other constituents, such as the courts, victim agencies and offenders themselves should also be included under the banner of 'multi-agency'. Nevertheless, such collaboration required liaison with the appropriate people with the appropriate skills but there was a suggestion of a professional hierarchy currently which may result in some agencies or staff deferring to the expertise or designation of their colleagues in other agencies. It was also pointed out that legislative powers for multi-agency working may not be compatible with within-agency powers to deliver. For example, it was noted that the police currently do not necessarily have authorisation to implement or enforce certain existing MAPPA requirements. Equally, resources (both interventions and funding) and compatible IT systems for sharing information were seen as limited currently and this was a potential barrier to multi-agency effectiveness, as was the lack of multi-agency training in concepts of risk and risk assessment, an understanding of different agency remits and the availability of adequate services and resources to implement appropriate risk management plans.

## **CHAPTER 6.**

### **CONCLUSIONS AND RECOMMENDATIONS**

6.1 This research has highlighted several issues in relation to the assessment of risk of violence and these are explored below under the following three headings:

- Definitions, MAPPA classifications and risk levels;
- Organisational arrangements; and
- A risk of violence assessment framework.

6.2 Where appropriate, recommendations are made under each heading to inform the Risk Management Authority's developing work on a risk of violence assessment framework, not only in MAPPA but also within the wider context of multi-agency working in criminal justice and forensic mental health. As mentioned in Chapter 4, it should be borne in mind when reading this report that perceptions of risk and violence, and the assessment and management of violent offenders, were limited to 24 mainly line management staff rather than front-line practitioners across the agencies. Equally, the discussions at interview about formalising the assessment and management of violent offenders were by necessity hypothetical, since violent offenders in Scotland have not, as yet, been under official scrutiny – not least in MAPPA.

#### **MAPPA CLASSIFICATIONS, DEFINITIONS AND LEVELS OF RISK**

6.3 MAPPA classifications in England and Wales have had a far longer period in which to 'bed in' than they have to date in Scotland. Thus, the 24 respondents interviewed for this research were speaking without the benefit of hindsight about classifications which had not – in respect of violent offenders – been put into practice, and even those relating to sex offenders had only been in operation for six months at the time of interview. That said, these respondents had contradictory views about the MAPPA classifications, considering them to be both too rigid (in terms of restricting MAPPA involvement to those convicted on indictment and to those subject to supervision on probation or on licence) and too loose (notably in respect of category 3 offenders, which was seen as perhaps too vague a 'catch-all' category). As Chapter 1 noted, experience in England and Wales shows that Category 3 offenders constitute a minority (6%) of all

MAPPA categories (Ministry of Justice, 2007) and that clear guidelines and training have been developed to ensure that these arrangements focus on the 'critical few', irrespective of the classification criteria (Kemshall et al, 2005; Wood and Kemshall, 2007). It has also been suggested in England and Wales (Wood and Kemshall, 2007) that MAPPA involvement need not end when supervision or licence requirements end. For example, voluntary contact can be encouraged, and the police can equally maintain a 'watching brief'.

6.4 Whilst respondents also suggested that risk of re-offending and risk of harm should be clearly delineated, the LS/CMI assessment tool should be able to address such concerns. Equally, there was concern expressed from a Community Justice Authority (CJA) perspective that MAPPA classifications currently did not fully address the issue of public protection or public fear of crime, both of which are priorities of the CJAs. However, targeting of those who pose the most serious risk of harm is the main priority of MAPPA; broadening its remit to cover all eventualities would be counterproductive and could lead to possible netwidening and uptariffing of offenders.

6.5 There is also a need for stricter gatekeeping and screening mechanisms for reviewing and possibly downgrading risk. For example, experience in Scotland thus far suggests that MAPPA level 2 sex offenders are currently a burgeoning group with no clear rationale for their inclusion at that level. There was also concern by MAPPA coordinators in particular that level 1 offenders could not be easily monitored for either downgrading or upgrading. National consistency was deemed desirable in how workers perceive each level of risk (very high, high, medium and low), not least when different agencies, and indeed different geographical areas (e.g., urban versus rural) have different risk tolerance and threshold levels. It was seen as both welcomed and important to have clear guidelines from the Scottish Government and the Risk Management Authority on risk levels, not only for staff across the main agencies but also for sentencers. The MAPPA guidance also notes that risk levels should also reflect the level of management required from agencies as well as the level of risk posed by the offender.

6.6 Chapters 3 and 4 highlighted several differences between sex offenders and violent offenders which were considered to make working with the latter within the context of a risk of violence assessment framework somewhat problematic. For example, violent offenders were, perhaps mistakenly, seen as more heterogeneous, less compliant, less selective/consistent in their choice of victim and more prone to offending under the

influence of drugs or alcohol. Equally, the literature review suggests that much of the legislation relies on the capabilities of the assessors to ascertain risk levels, yet there is no clear-cut distinction between who may be violent and who may be sexually aggressive. Certainly, violent offending is more culturally and geographically specific and less amenable to prediction of future risk, but without further research on the characteristics and motivations of both sexual and violent offenders, it cannot be assumed that MAPPA will be any more challenged by the inclusion of violent offenders than it currently is with sex offenders.

*Recommendation 1: that the Scottish Government and the Risk Management Authority carry out active dissemination and briefing on the MAPPA guidance in order to establish a complementary language of risk, risk definitions and risk level classifications across all agencies working with violent offenders in MAPPA;*

*Recommendation 2: that specialist training for staff on risk definitions, classifications and levels of risk be undertaken; in the short term, the 'Assessing and Managing Risk' CD Rom recently completed by Hazel Kemshall and colleagues for the Risk Management Authority could be used to help practitioners to operationalise appropriate criteria;*

*Recommendation 3: that categories of offender and levels of risk within each MAPPA category be monitored on an annual basis so as to ensure that resources are targeted at the appropriate levels and that movement between levels of risk is based on sound risk assessment, management and review;*

*Recommendation 4: that the operation of MAPPA in Scotland be evaluated within the next 12-24 months and on a regular basis thereafter to review the operation of risk definitions, levels and classifications and to examine the processes of identification, referral and assessment of both violent and sexual offenders.*

## **ORGANISATIONAL ARRANGEMENTS**

### ***Quality assurance and accountability***

6.7 Kemshall et al (2005) and Wood and Kemshall (2007) note that the MAPPA classifications in England and Wales have been most effective when set in the context of good guidance, training, quality assurance and inter-agency commitment. Likewise, respondents at interview suggested that greater worker consistency and effectiveness would enhance quality assurance and accountability, although they also suggested that whilst intra-agency mechanisms were relatively robust, there was less clarity about such mechanisms for inter-agency working. However, clear guidelines, protocols and

legislation would ensure better quality assurance and accountability systems across agencies and geographical boundaries.

6.8 The literature suggests that the greater the level of inter-agency cooperation, the higher the consensus ratings of risk of violence and, as was suggested by respondents in Chapter 5, the higher the confidence and commitment of each agency in making defensible decisions. The introduction of MAPPA procedures seems to have been helpful here, both in terms of increased information sharing and increased confidence due to joint decision making and shared responsibility. Whilst all agencies expressed a desire for greater understanding across agencies of their roles, remits and cultures in meeting multi-agency expectations, it was acknowledged that there were often variations in culture, policy or practice which created challenges for inter-agency cooperation. The literature review also found evidence of failures in information sharing and a lack of a common or complementary language of risk, with workers tending to make assumptions about the knowledge and practice base of their colleagues in other agencies.

6.9 In the spirit of social inclusion and collaboration, several respondents suggested that other partners not perhaps adequately involved currently in the assessment process should be represented, including offenders themselves, victims, sheriffs and court personnel. It was also considered helpful to have a named liaison person in each agency with specific knowledge and expertise in the assessment and management of violent offenders. However, there are obviously resource and training implications for this. Protocols were seen in both the literature and the qualitative interviews as promoting more effective multi-agency working, though legislation or protocols which required joint working between agencies also needed to be complementary with the existing legislative capacities of agencies to deliver.

*Recommendation 5: that all agencies are required to establish protocols and memoranda of agreement covering processes for the identification, classification, referral and assessment of violent offenders within MAPPA prior to violent offenders coming on stream;*

*Recommendation 6: that the Information Sharing Steering Group Concordat be revised to include violent as well as sexual offenders;*

*Recommendation 7: that the powers and statutory responsibilities of each agency are compatible with any inter-agency requirements, in terms of joint assessments, home visiting, enforcement and breach of conditions;*

*Recommendation 8: that joint training be delivered on the remits and responsibilities of the varying agencies involved in violence risk assessment, to enable a greater understanding of the limitations and opportunities for multi-agency working.*

## **Training**

6.10 Training was a major issue for respondents in this research, both within and between agencies. There was some criticism of the timing of training events, not least when training in the sex offender arrangements within MAPPA will be ongoing two years after their implementation. It was hoped that similar training in violence risk assessment could happen before rather than concurrent with the introduction of violent offenders into MAPPA. It was also seen as important to not only train workers in the risk assessment tools but also in the wider concept of risk, in risk formulation and in theories of risk and violence. Multi-agency training and the national resourcing of such training was also deemed imperative.

*Recommendation 9: that training be funded nationally, via the Scottish Government and the Risk Management Authority, that it be undertaken across as well as within agencies, that it include the concepts and theories of risk and risk formulation and that it is delivered well in advance of violent offenders coming on stream in MAPPA.*

*[see also Recommendations 2 and 8 above]*

## **Resources**

6.11 The fears of respondents about the number of violent offenders who would be eligible for MAPPA inclusion may be unfounded, given the stable number of violent versus sexual offenders in MAPPAs in England and Wales since its implementation there. However, there was concern that violent offenders could not be subsumed within existing arrangements without further financial resources and interventions.

*Recommendation 10: that an audit of existing numbers, staffing, budgetary and other constraints within existing MAPPA arrangements be carried out across the 8 CJAs to ascertain projected estimates of resources once violent offenders come on stream;*

*Recommendation 11: that ViSOR, if found to be effective following the pilot evaluations, be made more 'user friendly' and compatible between agencies and that each agency has access to secure e-mail systems and other necessary IT requirements for effective multi-agency working.*

## A RISK OF VIOLENCE ASSESSMENT FRAMEWORK

6.12 The lessons learnt from current MAPPA arrangements could greatly inform the implementation of a violence risk assessment framework. MAPPA was generally seen as a positive, constructive and effective means of both encouraging inter-agency collaboration and managing the risks posed under certain offender categories, once those definitions and classifications had been ironed out. It was generally felt that the framework used for sex offenders currently within MAPPA could be replicated for violent offenders, but existing MAPPA arrangements would need to be fit for purpose through having a standardised initial assessment tool, clear criteria for the target group in terms of referral and assessment and further training and multi-agency collaboration on risk classifications and definitions across and within agencies. Some respondents felt that there needed to be dedicated staff for violent offenders as there were for sex offenders, who were expert in that field. However, the literature review and experience in England and Wales suggests that this may be counterproductive since many of the issues in the assessment and management of both violent and sexual offenders are similar and to separate them out into two streams may result in a dilution of the support given to both. However, it may be beneficial for MAPPA coordinators to take on a more proactive sifting role than the administrative one envisaged for them in the current arrangements (Kemshall et al., 2005), and to have the skills to differentiate between violent and sexual offenders where necessary.

6.13 There are challenges to the establishment of a violence assessment framework, not least the heterogeneity of violent offending, and the fact that a proportion of offenders will present with non-violent offences but still cause concern. Practitioners in this study were seeking a general, 'all embracing' risk assessment tool to enable the early and 'resource lean' identification of violent offenders for further in-depth risk assessment and potential referral to MAPPA. It is unlikely that the current 'wish-list' of our respondents can be met (and potentially this may never be possible). However, an initial risk assessment tool for violence could be adapted from those currently available and piloted for use within MAPPA. Such a tool should meet as many as possible of the criteria set by McIvor and Kemshall (2002) and those used in the *Risk Assessment Tools Evaluation Directory* (RATED) (RMA, 2006). From the tools reviewed in this report, the primary candidate is LS/CMI, although HCR-20 (currently in use for mentally disordered offenders) has the potential for adaptation to a wider group of offenders. Whilst some mental health colleagues prefer RAMAS, that tool is more comprehensive,

larger, and would potentially require more extensive independent evaluation prior to use, not least in Scotland. Its transferability to a rather more heterogeneous violent offender group would also need to be proven.

*Recommendation 12: that the Risk Management Authority, in consultation with Criminal Justice policy leads, should consider the adoption of a single initial risk assessment tool for use across all agencies;*

*Recommendation 13: that the use and effectiveness of the tool should be evaluated after a two year period.*

6.14 A range of risk assessment tools specific to different types of violent offence and offender will be required following initial screening to facilitate comprehensive referrals to MAPPA. A number of tools have been reviewed in this study and in more detail by Farrington and colleagues in their concurrent study in terms both of such tools' usefulness in assessing differing types of violent offending and of their relevance to differing populations and ability to respond to the diversity and 'subtlety' of violence. Further, the RATED document (RMA, 2006) has already established the 'track-record' and utility of a number of these tools. It is reasonable to suggest that this should be the starting point for selecting and endorsing a range of violence assessment tools for use by MAPPA. All such tools will require some degree of training or briefing, and this will have short-term costs and consequences for MAPPA personnel. However, the long-term benefits of more accurate risk assessments and better matching of interventions and risk management plans to risk factors should outweigh such costs.

*Recommendation 14: that MAPPA personnel will need training in the use of specialist violence risk assessment tools, as documented in the Risk Management Authority's RATED report, and that such training be provided in consultation with the Risk Management Authority, drawing on its own training programme and the commissioned CD Rom 'Assessing and Managing Risk'.*

6.15 Risk assessment tools will need to be supported by the provision of full and compatible information from varying agencies about the offender in order to assist professionals in making informed judgements at all stages of risk assessment and management. Such structured professional judgements are seen to provide 'value added' to risk assessment and management in both the literature review (De Vogel and De Ruiter 2006; Douglas and Ogloff 2003; Tiffin and Caplan 2004) and in the qualitative interviews for this and previous studies (see Kemshall et al 2005; Wood and Kemshall 2007).

6.16 Minimum standards for a MAPPA referral and for information required by a Multi-Agency Public Protection Panel (MAPPP) have been set by Kemshall et al (2005) for English and Welsh MAPPA and are to a large extent already reflected in the Scottish MAPPA Guidance. These are transferable to the Scottish context. The '*Standards and Guidelines for Risk Assessment*' (RMA, 2006) and the '*Standards and Guidelines: Risk Management of Offenders subject to an Order for Lifelong Restriction*' (RMA 2007) outline key criteria for risk analysis and risk formulation, and whilst both these standards relate to offenders under the Order for Lifelong Restriction (OLR), they state best practice standards that are, in principle, transferable to other categories of offender. These standards and their consistent use will be crucial to formulating an evidenced view of the level of risk presented by individual offenders, their subsequent classification under MAPPA, and the risk management plans subsequently devised and delivered.

*Recommendation 15: that the Risk Management Authority, in partnership with Criminal Justice MAPPA leads, issues and disseminates minimum standards for referral and panel information, using current Scottish MAPPA Guidance and the RMA standards.*

6.17 Risk formulation guidance, as outlined by the Risk Management Authority, could helpfully inform the decision making and risk planning of MAPPA, at all levels, but particularly at levels 2 and 3. There is potential for the structure and content of risk formulations to assist with appropriately deciding risk levels and in informing subsequent plans. At level 2 it has the potential to 'test' whether cases actually do meet the criteria for level 2 or whether they can be managed at a single agency level, and to potentially reduce the tendency for inflation at level 2 in the early stages of MAPPA operation (a tendency identified by Kemshall et al, 2005). Respondents in the present study identified inflation at level 2 as a pressing issue and feared the increase in inflation once violent offenders were incorporated into MAPPA. Early action to combat this is therefore required. MAPPA risk levels should be based on robust and rigorous assessments of the nature of the violence, its severity in the past and its potential severity in the future, the imminence of the risk, its frequency and likelihood. The RMA's standards and guidelines for risk assessment and risk formulation in informing risk management require all these elements to be considered; they should be core to all subsequent case reviews and may assist in the appropriate down-grading (and indeed up-grading) of risk.

*Recommendation 16: that the Risk Management Authority should encourage the development of a comprehensive risk management plan that is informed by the risk assessment process and the subsequent risk formulation and is reviewed through ongoing risk assessment.*

6.18 Risk management plans should be well targeted and matched to the identified risk factors (Kemshall et al, 2005). Chapter 3 contains reviews of effective approaches to risk management in both theory and practice. Effective approaches to risk (drawn from extensive literature reviews) have been significantly embedded into the MAPPA Guidance and the RMA's *Standards and Guidelines: Risk Management of Offenders subject to an Order for Lifelong Restriction* (2007). There is potential both to revise and extend the Guidance and the Standards in line with emerging research. However, the short term objective should be the active dissemination of best practice, with training and support for staff in effective risk management. Equally, risk management plans for violent offenders should be subject to evaluation, including trends in recidivism rates following MAPPA involvement. The key components of a violence assessment and management framework, based on the above, is set out in Figure 1 below.

*Recommendation 17: that the Risk Management Authority disseminates and supports training in risk management; in the short term this could be delivered through existing and planned programmes, and the CD Rom, 'Assessing and Managing Risk';*

*Recommendation 18: that evaluation research on the impact of MAPPA risk management plans on violent offender recidivism should be commissioned.*

6.19 This report aims to inform the development and implementation of a violence assessment and management framework for use not only in MAPPA but also in the wider context of criminal justice interventions. The report drew on an extensive international literature review as well as in-depth interviews with key personnel in the relevant agencies, namely, social work, SPS, the police, the Parole Board, forensic mental health and victim agencies. The findings suggest that the seriousness and varying impacts of violence are indeed a challenge to both risk classification, assessment and management, but that there is a strong commitment within and between agencies to further the aims of multi-agency arrangements such as MAPPA and to build on the success of MAPPA to date in addressing the needs of offenders, agency personnel and the wider public.

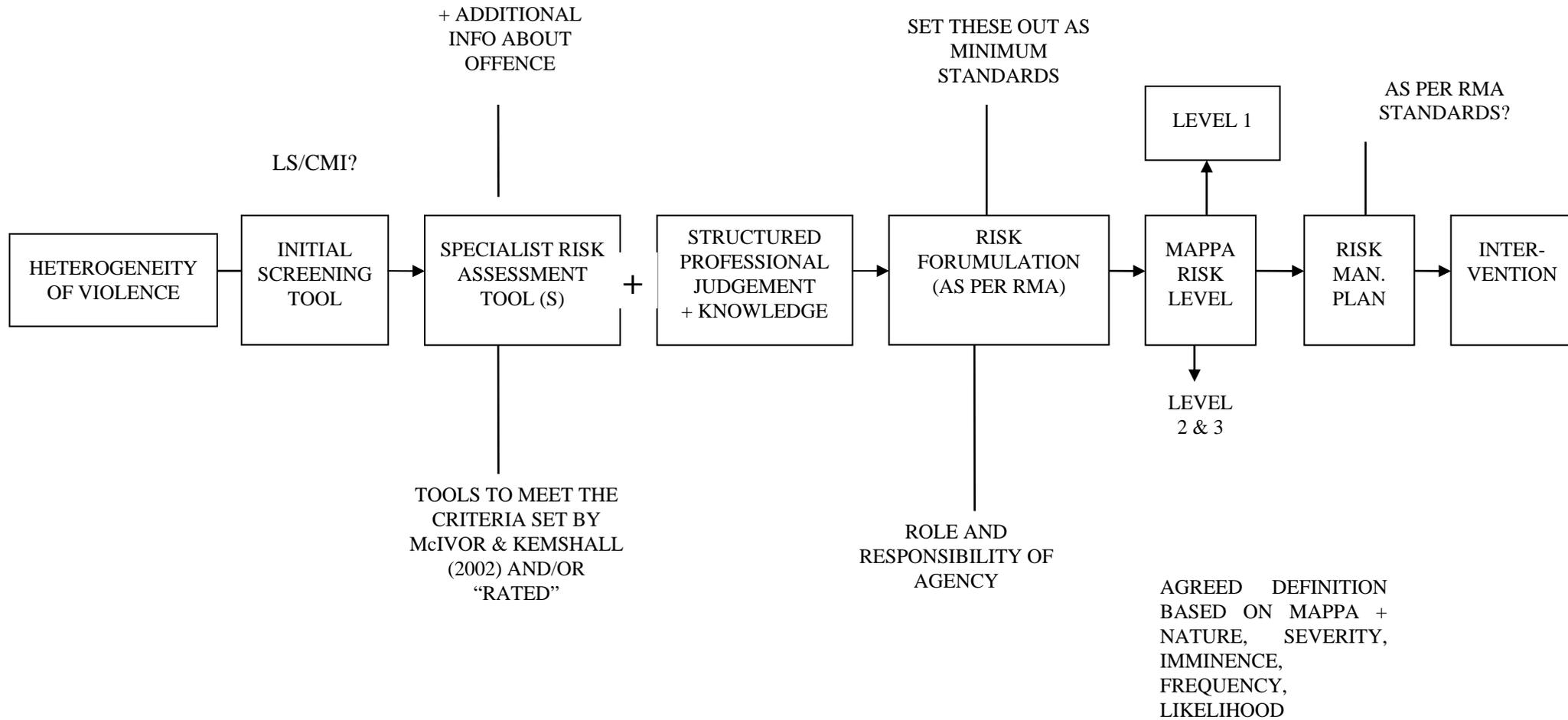


Figure 1: A Violence Assessment and Management Framework

## **APPENDIX 1: PHASE I - INTERVIEW SCHEDULE**

### **ASSESSING RISK OF VIOLENCE: A FRAMEWORK FOR PRACTICE**

Initials of respondent:

Agency:

Date:

The University of Strathclyde has been commissioned by the Risk Management Authority to undertake a study of risk of violence, including an evaluation of current and developing research, policy and practice and issues of commonality or difference between agencies in relation to risk assessment of violent offenders. This initial phase of the work includes interviews with key agencies in relation to policy and practice and I would like to ask you for your views about approaches to risk of violence assessment, inter-agency cooperation and your views of the procedures adopted for assessing risk of violence within and between agencies in Scotland. The interview should not take longer than an hour and I would ideally like to tape record our discussion, if that is acceptable to you. The information you give us will be treated in confidence and no names will be mentioned in the report that we submit to the Risk Management Authority.

#### **GENERAL OVERVIEW**

1. Could you tell me what your role is in relation to risk of violence assessment in this agency? Designation, length of time in post.
2. How would you define risk of violence? Does your agency have a specific 'working' definition?
3. What are your agency's reasons for doing risk of violence assessments?
4. How do you use such assessments in your agency?

#### **RISK ASSESSMENT PROCEDURES**

5. What are the procedures for implementing a risk of violence assessment in your agency?
6. What are the procedures for monitoring a risk of violence assessment in your agency?
7. Do you have specific guidelines for risk of violence assessment? [take note to get copy]
8. Do you think your procedures are compatible with those of other relevant agencies?
9. What risk assessment and screening tools would you use or recommend?
10. What are their strengths/weaknesses and advantages/disadvantages?
11. How is the level of risk determined (e.g., actuarial or professional judgement or both)?
12. In what ways does your response vary according to the assessed level of risk (e.g., low, medium, high)?
13. Are you familiar with RA3 and 4, LSI-R, LS/CMI and HCR-20?

14. If so, what do you see as their strengths/weaknesses and advantages/disadvantages?
15. How useful/flexible are the above tools in terms of specific groups (e.g., young people, women offenders, first time offenders, those with mental health problems, substance misuse, etc.).
16. Do you see any difficulties for practitioners in terms of using actuarial tools alongside professional judgement?
17. In what ways does current legislation affect your agency's work in relation to risk of violence (e.g., Criminal Justice Scotland Act; Custodial Sentences and Weapons Bill; Management of Offenders Act; Data Protection Act; Human Rights)?
18. What procedures are in place for quality assurance?
19. What procedures are in place for accountability?

#### INTER-AGENCY COOPERATION

20. What joint assessment procedures do you have in place for inter-agency working in relation to risk of violence assessment?
21. Although at an early stage, what do you consider are the strengths and limitations of MAPPA (including guidance, legislation, risk assessment tools, inter-agency cooperation)?
22. Which would you say are – and should be - the key agencies involved in MAPPA in Scotland?
23. How has MAPPA been implemented [in your agency/in your area]?
24. What is your opinion of the potential of MAPPA in terms of cooperation and information sharing, notably in relation to risk of violence assessment?
25. Is there a shared understanding of risk and of violence between all the relevant agencies (e.g., definition, threshold, level of risk, language, response)?
26. Do all the relevant agencies agree on the type and reliability of risk assessment tools for violent offenders (in principle and in practice)?
27. What is your perception of inter-agency accountability (standards, monitoring, review and managing mistakes)?
28. What are your agency's aims for the future in terms of risk of violence assessment?
29. To what extent are these aims compatible with other relevant agencies' aims?

#### KEY ISSUES AND TENSIONS

30. What do you feel are the key issues in assessing risk of violence both from a policy and a practice perspective?
31. What do you feel are the key tensions in assessing risk of violence both from a policy and a practice perspective?

## FINAL QUESTIONS

32. Are there any other issues that we haven't raised already that might be relevant, or is there anything else that you would like to say in relation to risk of violence assessment?
33. Could you possibly supply me with copies of the relevant documents that your agency refers to in respect of risk of violence assessment?
34. Finally, could I ask you who the key practitioners are in your agency in respect of risk of violence assessment as we will want to interview staff within the next couple of months about practice issues and about specific risk assessment tools?

## APPENDIX 2: PHASE III - INTERVIEW SCHEDULE

### ASSESSING RISK OF VIOLENCE: A FRAMEWORK FOR PRACTICE

Initials of respondent:

Agency:

Date:

The University of Strathclyde has been commissioned by the Risk Management Authority to undertake a study of risk of violence, including an evaluation of current and developing research, policy and practice and issues of commonality or difference between agencies in relation to risk assessment of violent offenders. We have undertaken a literature review and interviewed key policy people about risk of violence assessment. This final phase of the work involves discussions with key practitioners undertaking risk of violence assessments, and I would like to ask you for your views about approaches to risk of violence assessment, inter-agency cooperation and your views of the procedures adopted for assessing risk of violence within and between agencies in Scotland. The interview should not take longer than an hour and I would ideally like to tape record our discussion, if that is acceptable to you. The information you give us will be treated in confidence and no names will be mentioned in the report that we submit to the Risk Management Authority.

General:

1. Could you tell me what your role is in relation to risk of violence assessment in this agency? [Designation, length of time in post].

Definition of risk:

[Show respondent the MAPPA definitions of risk of harm, serious harm and violence]

2. How do these definitions compare with your agency's working definition [if any].
3. Are these definitions compatible with other agencies' definitions (e.g., police, social work, health) in terms of threshold, level of risk, language, response)?
4. Do you agree with these definitions? [If not, what would you change about them?]
5. How and why do you differentiate between risk of harm, risk of serious harm and risk of violence?

Procedures:

6. What are your agency's reasons for doing risk of violence assessments?
7. What are the procedures for implementing a risk of violence assessment in your agency?
8. To what extent should such a process include specific groups such as women, people with mental health issues, domestic violence offenders and young offenders?
9. How do you use such assessments in your agency?
10. What are the procedures for monitoring a risk of violence assessment in your agency?

11. Do you have specific guidelines for risk of violence assessment? [take note to get copy]
12. Do you think your procedures are compatible with those of other relevant agencies?

Tools:

13. How much do you rely on risk assessment tools as opposed to professional judgement, and are levels obtained from tools ever overridden by professional judgement (upgraded or downgraded)?
14. What are your views on RA1-4 in terms of its effectiveness in screening risk of violence?
15. Has your agency used any of the following tools in preparing violence risk assessments, and if so what is your opinion of them:

Violence Risk Appraisal Guide (VRAG)  
Violence Risk Scale (VRS)  
Risk Matrix 2000 (RM2000)  
Historical Clinical Risk – 20 (HCR-20)

16. In your view, do all the relevant agencies agree on the type and reliability of risk assessment tools for work with violent offenders (in principle and in practice)?

Ranking of risk:

17. How do you grade different levels and types of violence?
18. How is the level of risk determined (e.g., actuarial or professional judgement or both)?
19. In what ways do intervention and review vary according to the assessed level of risk (e.g., low, medium, high)?
20. Which types of violent offender would you envisage being dealt with through MAPPA as opposed to the usual channels?
21. How might violent offenders move between MAPPA levels – who would lead and what emphasis would be put on each ranking?
22. Should time limits be imposed on criminal justice system involvement (including MAPPA) for violent offenders, and if so, on what criteria?
23. What are your views on the criteria and procedures for ‘downgrading’ offenders involved in MAPPA?

Quality assurance:

24. What quality assurance mechanisms do you have in place for risk of violence assessment (e.g., inter-rater reliability, supervision, research, audit, training)?
25. How are inter-agency decisions monitored in relation to risk of violence assessment?
26. What accountability procedures do you have in place for risk of violence assessment?

27. What is your perception of inter-agency accountability (e.g., standards, monitoring, review, potential conflict of interest and managing mistakes)?

#### Inter-agency cooperation

28. What are the different agency remits and cultures and how do they affect reasons for risk assessments and risk management [probe for each agency]?

29. Do you know if your agency has signed up to the Information Sharing Steering Group (ISSG) Concordat?

30. If so, how does this protocol work in practice with regard to violence risk assessment?

31. Do you have any other arrangements in place with other agencies for violence risk assessment?

32. If so, how do these arrangements work in practice with regard to violence risk assessment?

33. Is there anything that helps or hinders such arrangements (legislation, policy directives, resources, etc)?

34. What difficulties do you have in sharing (giving and receiving) information both within your own agency and between your agency and other agencies (logistics, confidentiality, timing, protocols, quality)?

#### MAPPA:

35. What do you see as the role and capacity of MAPPA in dealing with violent offenders?

36. What is your perception of the meaning and role of the 'lead agency' in MAPPA, and who should that be in respect of violent offenders?

37. What is your opinion of the potential of MAPPA in terms of cooperation and information sharing, notably in relation to risk of violence assessment?

#### Issues and tensions

38. What do you feel are the key issues in assessing risk of violence both from a policy and a practice perspective?

39. What do you feel are the key tensions in assessing risk of violence both from a policy and a practice perspective?

#### The future:

40. What are your agency's aims and expectations for the future in terms of risk of violence assessment?

41. To what extent are these aims and expectations compatible with other relevant agencies?

42. Are there any other issues that we haven't raised that might be relevant, or is there anything else that you would like to say in relation to risk of violence assessment?

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