



Ministry
of Justice

The Right Honourable
Dominic Raab MP
Deputy Prime Minister
Lord Chancellor & Secretary of State
for Justice

██████████
Partner
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7 January 2022

Dear ██████████,

**FISHMONGERS' HALL INQUESTS: RESPONSE TO PREVENTION OF FUTURE DEATHS
REPORT ISSUED BY HHJ MARK LUCRAFT QC**

Thank you for sending me the Report on Action to Prevent Future Deaths (PFD), issued by His Honour Judge Mark Lucraft QC, following the completion of the Inquests arising from the deaths into the Fishmongers' Hall terror attack.

I am grateful to you for bringing these matters to my attention, and for the work of HHJ Lucraft QC in thoroughly exploring the tragic events of 29 November 2019. My sympathies are with all the victims of the attack, including the families of Saskia Jones and Jack Merritt, and with all those affected.

Please accept this response on behalf of the Ministry of Justice. Comments on each of the specific recommendations are annexed to this letter.

If there are any further matters of concern, then please do not hesitate to raise these.

Yours sincerely

RT HON DOMINIC RAAB MP

Fishmongers' Hall Prevention of Future Deaths report:
Ministry of Justice response to recommendations

MC4 - Addressed to the Secretary of State for Justice

It is a matter of concern that Learning Together could operate courses in prisons in the way it did without being given information about the risk profiles of offenders joining courses. Consideration should be given to whether further procedures can be put in place to ensure or at least encourage some such information to be shared with higher education providers working in prisons.

Response to MC4:

- We accept this recommendation.
- Following the events at Fishmongers' Hall all activity with Learning Together was paused.
- Ahead of any decision to restart we are designing a new framework to clearly define the roles and responsibilities of prisons and universities when they work in partnership to deliver learning where students study alongside serving prisoners or those released on licence. This will include guidance setting out the responsibility for risk assessment and the circumstances in which risk information will be shared. We expect to complete initial work in January 2022 and will then consult with prisons and universities to ensure it meets requirements with the ambition of having it in place by April 2022.
- We are considering what additional safeguards might be required and the implications for other civil society and third sector organisations working in partnership with prisons.

MC5 – Addressed to the Secretary of State for Justice, the Secretary of State for Education, the Office for Students, the University of Cambridge and Learning Together

Consideration should be given to whether further measures of risk assessment and management can be introduced for any higher education programmes running in prisons which involve continued contact with offenders after their release into the community.

Response to MC5:

- We accept this recommendation.
- The framework referred to in MC4 will set clear expectations about roles and responsibilities of prisons and universities entering into partnerships and clear expectations around protocols for further engagement with ex-prisoners in the community. This will include reference to risk assessment guidance that has been developed for partner organisations who hold events where prison leavers may be invited to attend.

MC6 – Addressed to the Secretary of State for Justice

Notwithstanding the measures which the NPS has put in place since the attack, there remains cause for concern that ERG 22+ assessment reports may be prepared by a CTPO without the direct involvement of a forensic psychologist. Consideration might usefully be given to (a) requiring that every such report be completed by a forensic psychologist or (b) requiring that every such report on an offender in the community is either prepared by, or subject to detailed critical review by, a forensic psychologist.

Response to MC6:

- We accept option (b) of this recommendation.
- We have reviewed best practice relating to the delivery of ERGs in the community. We agree that forensic psychologists should be directly involved in every ERG assessment carried out in the community.
- The optimal delivery model is one that makes best use of both forensic psychologists, who have expertise in structured professional judgement and risk assessment tools, and CT probation specialists, who have expertise in the management of community-based risk. Through this blended approach, ERGs in the community will be completed by CT probation specialists or forensic psychologists depending on the case characteristics (e.g., forensic psychologists will complete ERGs where there are significant mental health or other complex needs). Each will provide a formal critical review of the other's ERG assessment.
- We believe that this will provide the best ERG delivery model. It maximises the skills and experience of our specialist staff and means that we will always deliver ERG assessments to the highest professional standard.
- All psychology and probation staff now go through the same assessed pass/fail training to complete ERGs, and from the start both sets of staff have been assessed as having sufficient baseline skills from their professional training to complete these assessments after the ERG specialist training.
- A Quality Assurance process for ERG assessments will be available from April 2022.
- We have strengthened our current operational processes with the introduction of a Standard Operating procedure (SOP), drawing upon several guiding principles to provide all Extremism Risk Guidance trained assessors, supervisors and staff involved in the management of terrorist cases with guidance regarding the completion of ERGs in HMPPS.

These principles include:

- The ERG will be completed by trained qualified staff. In custody, the ERG assessment will usually be completed by a trained psychologist. In the community, the ERG assessment will usually be completed by trained CTPOs. Forensic psychologists will complete ERGs in the community where the offender has significant mental health or complex needs.
- The ERG must be completed by a CTPO or psychologist who has not had a therapeutic or management relationship with the offender being assessed.
- An ERG assessment will be completed to inform any significant points of progression for the offender. Significant points of progression are considered to be the points where progression will result in significantly less supervision or oversight of the

offender. For example, release or move from approved premises to other accommodation.

- We will monitor how well these processes work to ensure high standards of ERG and will review the SOP in 18 months.

MC7 – Addressed to the Secretary of State for Justice

It is a matter for concern that MAPPA panels managing even the most serious offenders may not have the benefit of hearing directly from a forensic psychologist who has prepared an ERG report shortly prior to the offender's release. Consideration should be given to introducing procedures or guidance to require or encourage the attendance of such a psychologist at appropriate MAPPA panel meetings.

Response to MC7:

- We accept this recommendation.
- Psychologists are routinely attending MAPPA meetings to present their report where invited.
- We will update the MAPPA statutory guidance by April 2022, to make it a requirement that psychologists attend MAPPA meetings – and, specifically, to require them to be invited to present their ERG assessment to the MAPPA meeting. The updates will form part of a wider revision of the chapter on meetings in the MAPPA Guidance.
- Furthermore, each unit in the Probation Service National Security Division (NSD) has a dedicated forensic psychologist working alongside a team of probation practitioners. The revised statutory MAPPA Guidance will stipulate that psychologists will provide professional advice and attend all meetings at MAPPA Level 3 (the highest level) and inform all core group meetings. A core group will bring together a smaller group of professionals across a range of specialisms to support the effective management of the offender. This will ensure that the assessment of the offender's risk and the plan to manage that risk benefit from their professional advice.

MC8 – Addressed to the Secretary of State for Justice

The facts of this case give rise to concern that an OASys risk rating for an offender may be changed without the offender manager completing the full assessment exercise (using the structured form) and that the change may be recorded without proper rationale. Given the importance placed on the risk ratings in management of dangerous offenders, this requires specific consideration.

Response to MC8:

- We accept this recommendation.
- We will issue an instruction to staff by January 2022 that sets out the requirement that changes in recorded risk level must be informed by completing a formal risk assessment and may never be reduced without such an assessment regardless of wider resource constraints.

- We recognise there are times when resources must be prioritised on acting in the face of escalating risk. Therefore, where agreed by a senior manager, a probation practitioner will be able to indicate they judge that risk has escalated to a new level based on new information and take necessary action in the face of escalating risk prior to completing a full structured risk assessment on the approved tool. However, the updated formal risk assessment should follow as soon as practical, to ensure that the assessment and associated risk management plan are comprehensive.
- Formal risk levels must not be reduced without the use of the approved risk assessment tool to ensure any reduction is supported by a structured critical thinking process and risks to the public are not overlooked.

MC9 – Addressed to the Secretary of State for Justice

This case gives rise to concern that offender managers may take significant decisions to give approvals under licence conditions without those decisions being properly reasoned and recorded. Consideration should be given to ensuring, by means of NPS guidance, that offender managers always (a) record a rationale for giving any permission for approval, variation or relaxation in relation to licence conditions and (b) in the case of offenders subject to Level 2 or 3 MAPPA management, record whether or not the decision has been taken with express approval from the MAPPA panel.

Response to MC9:

- We accept this recommendation.
- We have published guidance on Licence Variation and Authorisation. A draft version of the Licence Conditions Policy Framework is currently being considered by stakeholders and will update and consolidate all changes into policy following the Royal Assent for the Police, Crime, Sentencing and Courts Bill, expected in February 2022. This Framework will set out expectations of probation and prison staff in relation to both changes in licence conditions and the specific authorisation which must be obtained before an offender is permitted to undertake an activity which would otherwise be prohibited by the licence. One of the key policy changes will be the introduction of a requirement that practitioners ensure that any discussions and decisions around whether or not to vary a licence condition or authorise activity outside of a condition are recorded in case notes on NDelius. The Framework will also cover other mandatory actions, such as discussing with partner agencies and stakeholders any proposed changes to licensed supervision.
- In August 2021, the NSD issued its Delius Gold Standard Guidance which emphasises the importance of recording any decisions making. The Guidance also sets out the expectation that summaries of key discussions at MAPPA should be recorded on NDelius and that senior probation practitioners must be consulted about key case management decisions.

MC10 – Addressed to the Secretary of State for Justice, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

The facts of this case give rise to concern that important decisions on approvals, variations and relaxations in relation to licence conditions may be taken without clearly reasoned discussion and decision-making in MAPPA panels. This issue could be addressed by requiring MAPPA minutes to record any discussion or decision on such a matter. In addition, for the benefit of future inquiries and reviews, consideration should be given to having digital audio recordings made of all MAPPA meetings.

MC11 – Addressed to the Secretary of State for Justice

This case gives cause for concern that an offender manager and/or MAPPA panel participants could approve a permission, variation or relaxation in relation to a licence condition without directly addressing the potential risks involved. Consideration should be given to whether there can be further guidance to ensure that the risks as well as the potential benefits of such decisions are carefully examined.

Response to MC10 and MC11:

- We accept these recommendations.
- The guidance referred to in MC9 above sets out clear expectations for probation practitioners to engage with MAPPA partners when making decisions about licence conditions.
- We updated the MAPPA statutory guidance chapter on managing terrorists in July 2021 in response to several of the recommendations made by ██████████ in his Independent Review of MAPPA and Terrorist Risk Offenders. The new revised guidance states explicitly that significant decisions made at MAPPA meetings should be clearly recorded, along with the rationale underpinning them.
- Relevant parts of the statutory MAPPA Guidance will be amended and re-issued in April 2022, with an updated template for minutes of MAPPA meetings and guidance of the digital recording of MAPPA meetings.
- The National MAPPA Team is currently reviewing the meeting template and associated guidance so that it better supports both the process and the recording of decision making including that related to licence conditions. The documents will be available for formal consultation this month with publication due by April 2022. We will consider the use of audio recordings and are already consulting with stakeholders on the audio-recording meetings. We will formulate guidance, taking into account the legal and logistical complexities relating to audio recording the sensitive information exchanged in meetings by April 2022.
- Assessment of risks involved in amendments to licence conditions was included in the guidance on Licence Variation and Authorisation and was distributed in December 2021. This will be included as part of the Licence Conditions Policy Framework update due in February 2022.
- The final decision for applying/removing/authorising a licence condition is not made by MAPPA: these decisions will be recorded on case management systems, including where stakeholders have been involved including MAPPA and the Police. The new model introduced by the NSD will enable greater oversight of cases and decision-making by Senior Managers. Management oversight will be monitored through performance and quality assurance measures.
- New guidance was introduced in December 2021 which ensures that decisions to vary or relax licence conditions must always be subject to an up to date and reviewed

assessment of the risk at the time that the relaxation comes into force. For TACT offenders, the process for sharing information has been strengthened by the JCTPPH and a more co-ordinated approach to managing offenders has been implemented as part of the CT Step Up Programme.

MC12 – Addressed to the Secretary of State for Justice

The facts of this case give rise to concern that probation officers may give insufficient regard to instances of dishonesty in self-presentation by extremist offenders. Consideration should be given to having this aspect of assessment emphasised in training of offender managers.

MC13 - Addressed to the Secretary of State for Justice

Based on the facts of this case, there is cause for concern that probation officers may attach excessive weight in their management of extremist offenders to “compliance” (i.e. absence of evidence of breach of licence conditions and polite behaviour). Consideration should be given to training and guidance warning offender managers about placing too much reliance on this feature.

Response to MC12 and MC13:

- We accept these recommendations.
- The OASys Guidance for TACT and TACT related offenders, dated April 2018 stated: *“Extremist offenders can have a well-rehearsed script in relation to their offending and may not be open or candid about their thinking, associations and affiliations. They may also have been advised by extremist associates how to respond to professionals”*. We encourage report authors and case managers to take a triangulation approach whereby they consider a range of sources including the offender's account to understand the risk. In addition, the core group approach will guard against conditioning and manipulation as the group will provide check and balances for all decisions.
- This Guidance has recently been reinforced by specific training and strengthened by further bespoke guidance. Training in relation to ‘Safeguarding Against Conditioning and Manipulation’ for probation practitioners took place on 15 and 29 March 2021. NSD guidance has been provided to staff setting out expectations for supervision, highlighting the importance of “Professional Curiosity” and the need to explore key risk issues. In addition, MAPPA meetings will be co-chaired by Counter Terrorism Police (CTP), bringing a Police perspective to decision making.
- Current Probation Service policy is a blended supervision model which includes both office visits and home visits. In addition, expectations for ERG delivery have been clarified such as completion of assessments by those not responsible for case management in order to provide other perspectives to risk assessment.
- The Counter Terrorism and Sentencing Act 2020 legislation came into effect on 29 June 2021. This gave the power to conduct polygraph examinations on any offender under statutory supervision convicted of a relevant terrorist offence as defined in section 28(4A) and (4B) of the Act. We are now using polygraph examinations to support the monitoring of compliance with licence conditions and information obtained during testing is used by probation practitioners to refine and improve risk management plans.
- The reduced caseloads in NSD enable Senior Probation Practitioners (SPPs) to provide greater management oversight of cases. SPPs countersign all OASys assessments and provide regular supervision for Probation Practitioners (PPs) creating opportunities to review cases and ensure PPs are taking a balanced view.

MC14 – Addressed to the Secretary of State for Justice, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

This case gives rise to concern that an extremist offender may be permitted to attend an event or venue without there having been proper communication between the probation and police officers responsible for managing the offender and the event organisers and/or venue hosts. Consideration should be given to encouraging such communications within the training and guidance given to probation officers and police responsible for managing extremist offenders.

Response to MC14:

- We accept this recommendation.
- MAPPA guidance requires disclosure to be considered at every discussion, and disclosure will be made where the MAPPA agencies conclude that the offender's risk may be effectively managed only by making disclosure to specified individuals or bodies. We will revise the guidance, so that it states explicitly that consideration must be given to disclosure to an event host organiser, where relevant, which would facilitate wider discussion outside MAPPA around event security. The MAPPA minutes template is being updated so that decisions on disclosure are more clearly recorded.
- The presence of CT Police in MAPPA will provide an access route to the National CT Security Office, which is a police-hosted unit that supports the Protect and Prepare strands of CONTEST.
- Probation practitioners should gather as much information as possible about any event that an offender requests to attend. This may inform risk assessments and decisions on offenders taking part in activities and events. This information can be passed to police colleagues and MAPPA for consideration. Additional learning resources have been provided to Probation staff about disclosure under MAPPA.
- Specific guidance for probation officers responsible for managing extremist offenders will be implemented by the NSD.

MC15 – Addressed to the Secretary of State for Justice

The facts of this case give cause for concern that a terrorist offender on licence, who was subject both to strict licence conditions and to a priority investigation, could obtain and use Class A drugs without that being detected. Consideration should be given to whether further steps can be taken to facilitate random drug testing of offenders on licence (especially those who have committed serious offences), including both those living in approved premises and those living independently.

Response to MC15:

- We are considering this recommendation to ensure that we are making best use of our drug testing abilities.
- Currently, a licence condition to comply with drug testing is considered in all cases where substance abuse is linked to the index offence. All licence conditions must meet the 'necessary and proportionate' test and current policy (PI 2014 32) states that to impose a drug testing condition/requirement:
 - i. the misuse by the offender of a specified class A drug or a specified class B drug caused or contributed to an offence of which the offender has been convicted or is likely to cause or contribute to the commission of further offences by the offender; and,*
 - ii. that the offender is dependent on, or has a propensity to misuse, a specified class A drug or a specified class B drug.*
- Intelligence-led multi agency case management will assist to identify signs that an offender may be using illegal substances, which would allow drug testing to become part of their licence conditions if it was deemed that an offender's risk of reoffending was increased by drug use.
- Terrorist offenders can be held in enhanced Approved Premises for at least 12 months post-release, where they are subject to drug testing.

MC17 – Addressed to the Secretary of State for Justice, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

Based on the evidence in this case, there is cause for concern that effective procedures are not in place to ensure that all MAPPAs meeting attendees receive meeting minutes. Consideration should be given to modifying guidance to ensure that this happens, for example by (a) providing for all MAPPAs panel participants to receive minutes by secure email (rather than by having to access an online system); (b) requiring that all acknowledge safe receipt and indicate whether or not they wish to make amendments (to include provision of "nil returns"); and/or (c) requiring attendees at the start of each MAPPAs meeting formally to confirm that they have read the minutes of the previous meeting or meetings as appropriate.

Response to MC17:

- We accept this recommendation.
- Current statutory MAPPAs Guidance is written with the expectation that MAPPAs meeting minutes be sent via secure email to those who attended the meeting and to those who were invited but did not attend as well as being stored on ViSOR. It also expects attendees who wish to ask for amendments and corrections to notify the Chair promptly and the Chair to confirm that the minutes are correct at the next meeting. It allows for the MAPPAs chair to decide not to send minutes to certain attendees and record their reasoning - this is to support exceptional attendance of an individual outside of the Responsible Authority or Duty to Co-operate agencies who can make a contribution to the meeting, but who does not have facilities for safe storage of MAPPAs minutes. We are strengthening the guidance to set a clear MAPPAs standard for the prompt distribution of MAPPAs minutes via secure email and confirmation of accuracy of minutes. Revisions

will also specify that attendees confirm receipt of minutes and confirm at the start of each meeting that they have received and read the appropriate minutes of previous meetings. This will be published by April 2022.

MC18 - Addressed to the Secretary of State for Justice, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

The facts of this case give cause for concern that some members of MAPPA panels responsible for managing extremist offenders may not be aware of important information from the offender's time in prison. Consideration should be given to (a) ensuring that the latest MAPPA F form from the prison authorities should be circulated with every subsequent set of MAPPA minutes; (b) including a section in MAPPA minutes for key up-to-date intelligence; and (c) including a further section in MAPPA minutes for a summary of the key conclusions of the most recent ERG assessment (including risk factors identified).

Response to MC18:

- We accept this recommendation.
- We will amend the document set to ensure that key information from the MAPPA F is retained for future meetings post release from custody. The new MAPPA meeting template will include a section for key up-to-date intelligence, key conclusions of the most recent ERG assessment and provide for a clear record of risk factors.
- We are also ensuring that there are processes in place to enhance the quality of the information provided.

MC19 – Addressed to the Secretary of State for Justice, the Secretary of State for the Home Department, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

This case gives cause for concern that counter-terrorism police may be in possession of intelligence or information which may be useful to the management of an offender by the MAPPA panel, but that such intelligence or information may not be brought to the knowledge of or taken into account by MAPPA agencies. This issue should be addressed, preferably by ensuring that a single police officer from any covert investigation (such as the SIO or Deputy SIO) is responsible and accountable for ensuring that intelligence and information is properly shared and taken into account. Consideration should also be given to how intelligence known only to the Security Service may be taken into account for the purposes of MAPPA management.

Response to MC19:

- We accept this recommendation.
- The Joint Counter-Terrorism Prisons and Probation Hub (JCTPPH) is a collaboration between HMPPS, CTP and the Security Service to ensure the right information gets to the right place at the right time. Launched in 2021, a major focus has been the development and operationalisation of a covert-overt bridge framework. This provides an effective, safe, process through which sensitive intelligence can be revealed and subsequently, appropriately, disclosed to support defensible decision-making regarding risk management. Originally focused on supporting better disclosure into the Parole Board, the framework is now being applied to MAPPAs where the bridge has been tested using information previously only known to the Security Service.
- The covert-overt bridge framework applies a four-stage process: Identify, Review, Reveal and Disclose (IR²D). The process takes advantage of the JCTPPH's line of sight across all the key intelligence systems in the sector. This provides the sector with – for the first time - a central point where all intelligence can be reviewed by officers from all agencies to enable decision making about how to manage national security risk.

MC20 - Addressed to the Secretary of State for Justice, the Secretary of State for the Home Department, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police and the College of Policing

The facts of this case give cause for concern that security sensitive information may not be properly taken into account in decision-making by MAPPAs concerning the management of terrorist offenders. Consideration should be given to how the new procedures can best be operated to avoid this problem recurring. This might include a requirement that, wherever possible, the MAPPAs Panel Chair (or one Co-Chair) should be a member of the Core Group. It might also include a requirement for the Core Group to consider what intelligence can be supplied (perhaps in sanitised form) to the broader panel.

Response to MC20:

- We accept this recommendation.
- The July 2021 update to the MAPPAs statutory guidance chapter on managing terrorists states that for this group of offenders, formal Level 3 meetings should be underpinned by the ongoing active management of the case and by meetings between a concentrated core group of professionals involved in the management of the case. The core group may include appropriately security-cleared professionals to allow the effective management of offenders based on access to the necessary sensitive information in real time.
- It will be for the Chair of the Level 3 meeting having liaised with the JCTPPH to identify a requirement for ensuring that sensitive information is available to the Level 3 panel, which properly informs decision making and the risk management plan.
- The JCTPPH's covert-overt bridge framework will ensure the right information gets to the right place at the right time.

MC21 - Addressed to the Secretary of State for Justice, the Secretary of State for the Home Department, the College of Policing, the Chief Constable of West Midlands Police and the Chief Constable of Staffordshire Police

The facts of this case give cause for concern that MAPPA panels responsible for managing terrorist offenders may be unaware of the regularity and form of contact with police officers responsible for overt offender management. Consideration should be given to providing guidance that officers with such responsibilities should report to MAPPA panels on the regularity of their meetings with offenders and take account of any recommendations by MAPPA panels.

Response to MC21:

- We accept this recommendation.
- Chapter 12 of the MAPPA Statutory Guidance sets out clear expectations upon MAPPA agencies in relation to risk management which includes offender management activity. It states, 'Every level 2 or 3 MAPPA offender has a RMP (risk management plan) agreed by the MAPPA Chair'. The lead agency RMP and ViSOR are updated after every MAPPA meeting'. The guidance breaks the RMP down into four domains, known as the 'Four Pillars' of risk management (Supervision, Monitoring and Control, Interventions and Victim Safety). Supervision is not limited to statutory supervision by the Probation Service and the guidance is clear that information on police home visits should be included in the plan.
- We will strengthen the MAPPA meetings chapter of the statutory guidance to put beyond doubt the expectation that police share full information about regularity and outcomes of any contact and consider recommendations of the panel.

MC22 - Addressed to the Secretary of State for Justice and the Secretary of State for the Home Department

The facts of this case gave cause for concern that those involved in managing terrorist offenders on licence may lack a valuable means of addressing risks they pose, namely an ability to carry out a search on a precautionary basis. Consideration should be given to the introduction of a licence condition which could be imposed on terrorist offenders requiring them to submit to a search by a police officer without the officer establishing specific legal grounds for the search.

Response to MC22:

- We accept this recommendation.
- The Police, Crime, Sentencing and Courts Bill provides a power enables the Police to make a personal search of a terrorist offender on licence provided their licence includes a search condition. It forms one of several measures included in the Bill in response to [REDACTED] independent review of MAPPA and the management of terrorist offenders. This new power will enable the search to be conducted without reasonable suspicion and outside exceptional circumstances. For the police to use this power, we will create a new licence condition that requires offenders to submit to a personal search.
- If agreed, this will be added into the updated Licence Conditions Policy Framework when it is published in February 2022, with the Statutory Instrument and policy timed to coincide with the Royal Assent of the PCSC Bill.