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**To Presiding Judges, Resident Judges, Justices' Clerks and Bench Chairmen.**

## Prolific and other priority offenders programme

As you know, the Government has put in place a new scheme to tackle the 5,000 most prolific and other priority offenders (0.5% of active offenders) who are thought to commit a disproportionate amount (10%) of all crime each year. The main plank of the scheme is the identification, monitoring and management by the police and Probation Service of those alleged to be prolific offenders or offenders deserving of priority attention for other reasons and identified as such in each locality by various factors chosen locally. That part of the scheme is not a matter for the courts.

However, an important and very welcome part of the scheme makes provision for the specific support and rehabilitation needs of the offender to be met as an incentive for the offender to change his or her behaviour. The Probation Service, who will "case manage" the offender, will be able to draw upon relevant agencies and services to meet these needs. On sentence of such a person, a programme providing for those specific needs will be offered to the sentencer as an option which is likely to provide far more to underpin the offender undergoing a community sentence than is currently available.

I have been provided with draft guidance to probation officers about the preparation of reports for such offenders. This distinguishes between, on the one hand, information (including that based on intelligence) that they will receive from the police and others for purposes such as the monitoring of offenders under their management and the allocation of resources, and, on the other, verifiable information (such as details of previous convictions) which it is proper, fair and relevant to put before the court.

I am writing to you at the same time that this guidance is being sent to the Probation Service so that there is clear agreement on the principles to be applied when reports are prepared; I have provided a copy of this letter to the Probation Service.

(1) It is inappropriate for any person, including in particular probation officers, to inform a court which is to try or sentence a person alleged to be a PPO that he is alleged to be a PPO or that the programme being offered is a programme for PPOs. The allegation that someone is a PPO is merely an allegation; it may be based on intelligence and factors which vary from district to district. It is therefore not relevant to the sentence of the court and potentially prejudicial to a defendant.

(2) The timely hearing and sentencing of all cases, including those where the prosecution consider the defendant is a PPO, is always an objective of the judiciary in managing the business of the criminal courts.

a. In those cases where the defendant (alleged to be a PPO) pleads guilty or is found guilty, there is little difficulty in ensuring that he is sentenced as quickly as possible. No issues of giving priority to a person alleged to be a PPO arise from the standpoint of the judiciary.

b. However, where a person is alleged by the prosecuting authorities to be a PPO and pleads not guilty, then the question may arise as to whether such a case should be treated for the purposes of listing as needing expedition.

c. Again, in most courts, the issue should not cause any difficulty, as a court will wish to deal with all its cases as speedily as possible. In most cases a person alleged to be a PPO is likely to be in custody and the normal rules for expediting such cases will deal in almost all cases with any issue of expedition.

d. However, in those courts where this is not the case, or where the person alleged to be a PPO is on bail, it must be for the court to decide upon the competing demands of the business before it – such as the need to try cases involving child witnesses quickly. Clearly the speedy trial of a person on bail who has a long record of offending is highly desirable, as there is an obvious risk of further offending.

e. For this purpose, therefore, it may be permissible to identify to the listing officer (and, if need be, to a judge or magistrate who is not going to try the case) the fact that the person is alleged to be a PPO so that the case can be dealt with in accordance with the considerations laid down by the court in its listing practices.

(3) Although the fact that a defendant is alleged to be a PPO is irrelevant to the sentencer, and should not, as I have said, be mentioned to the court, it is right that the a court should be provided with full details of the offending history of the defendant (as shown by his antecedents), an analysis of such offending, his response to previous sentences, his current circumstances and a risk assessment, together with the options available. If the Probation Service consider that there is for such a defendant (or any other defendant not alleged to be a PPO) a specific programme that is most likely to reduce the risk of future offending (as an alternative to a lengthy prison sentence), then

there should be provided to the court full details of the programme that will reduce that risk, so that the court can see that a sentence involving such a programme may be the appropriate sentence.

I very much welcome the fact that additional resources and services are to be made available to support such programmes. I also am glad that clear guidance is being given to the Probation Service as to what may be included in reports. The guidance given should ensure that courts are not provided with information that is impermissible to put before them, but will have available the information which it is proper to place before the court.

This letter is being copied to Court Managers and Area Directors so that they can ensure that their staff are familiar with the procedure to be followed.

Yours sincerely,