

# Identification of MOSOVO offenders

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This module provides MOSOVO officers and staff guidance to ensure offenders are managed at the appropriate level and category under MAPPA. It explains the qualifying period for which offenders should be supervised and provides an explanation of a threshold offence.

The term offender is used to refer to an individual with a conviction or caution for a criminal offence and who falls within one of the three MAPPA categories.

## Types of offender

There are a number of types relevant to managing sexual and violent offenders which are explained below. Identification of offenders is largely defined by national policies and legislation (for example, MAPPA Guidance, Sexual Offences Act 2003).

## Registered sexual offenders (MAPPA Category 1)

A registered sexual offender (RSO) is a person required to comply with the notification requirements set out in the [Sexual Offences Act \(SOA\) 2003, Part 2](#).

This is either by:

- a conviction for a relevant offence in the SOA 2003 Schedule 3 (thresholds may apply – see threshold table)
- becoming subject to an order imposed under the SOA 2003 Part 2 (see [Court orders and notices for further information](#))
- being convicted of breaching a sexual risk order (SRO) or sexual harm prevention order (SHPO) (see [Court orders and notices](#) for further information)

## RSO thresholds

Not all offenders convicted of sexual offences become subject to the notification requirements. Schedule 3 of the SOA 2003 includes thresholds based on age, disposal and sentence length. For example:

A 15-year-old offender is convicted of possession of indecent photographs of children (section 1 of the Protection of Children Act 1978). If they receive a 12-month community-based sentence, they do not become subject to notification requirements. If they receive 12 months' imprisonment, they do become subject to notification requirements.

The following table summarises thresholds for the most common sexual offences. See [the SOA 2003 Schedule 3](#) and [the SOA 2003 Schedule 5](#). Other thresholds exist for offences under historical legislation.

## Thresholds for young offenders

Whether or not someone meets the threshold for notification requirements is determined by their age when they committed the offence. The length of time for which they stay on the register is determined by their age at the point of conviction or caution.

## Registered violent offenders

A registered violent offender (RVO) is a person subject to a violent offender order (VOO) under the [Criminal Justice and Immigration Act 2008 Part 7](#). An RVO may be a MAPPA category 3 offender or person identified as a potentially dangerous person (PDP). It is unlikely that they would remain under category 3 until the expiry of the VOO, which lasts from two to five years. This is because category 3 offenders can only be managed at levels 2 (that is active involvement of more than agency) and 3 (requiring multi-agency senior management oversight of risk management plans). Once category 3 management has ceased, the offender should be recorded on ViSOR as a 'PDP'.

A VOO cannot come into force while an offender is subject to a custodial sentence, licence, hospital order or supervision order. Therefore, a RVO is not ordinarily a current category 2 offender. In exceptional circumstances, an RVO could be reconvicted of an offence that makes them eligible for management under MAPPA category 2.

## Terrorist offenders

For the purposes of managing sexual offenders and violent offenders, terrorist offenders can be managed either as registered terrorist offenders where thresholds are met, or as MAPPA category 2 or MAPPA category 3 offenders. See MAPPA category 2 and MAPPA category 3 for further information.

## Registered terrorist offenders

Section 41 of the Counter-Terrorism Act 2008, and section 24 of the MAPPA Guidance provides relevant detail.

These are offenders who have been sentenced to at least 12 months imprisonment for a specified terrorist offence or have been convicted for other offences (eg, conspiracy to murder) where the court determines there is a terrorist connection.

For specified terrorist offences, see:

- Anti-terrorism, Crime and Security Act 2001 (ATCSA) – section 113
- Terrorism Act 2000 – sections 11, 12, 15 to 18, 38B, 54, 56 to 61
- Terrorism Act 2006 – sections 1, 2, 5, 6, 8 to 11

Part 4 of the Counter-Terrorism Act 2008 also applies to the following:

Section 41(b) an offence in respect of which there is jurisdiction by virtue of any of sections 62 to 63D of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc.).

Section 41(e) an offence in respect of which there is jurisdiction by virtue of section 17 of that Act (extra-territorial jurisdiction in respect of certain offences committed outside the United Kingdom for the purposes of terrorism etc.).

Note: Part 4 guidance is under review. MOSOVO officers and staff should refer to the local force Counter Terrorism Unit for further advice.

### **MAPPA category 2 (violent and other sexual offenders)**

The National Probation Service (NPS) or Youth Offending Service (YOS) are the 'responsible authority' under MAPPA and, therefore, have overall responsibility for the management of this

group of offenders. This category includes both violent offenders and other sexual offenders. See [\*\*MAPPA guidance\*\*](#).

Although overall responsibility for management of these offenders falls to the NPS or YOS, the police have an important role to play in managing these offenders.

Category 2 offenders managed at MAPPA levels 2 and 3 have police representation at MAPPA meetings. It is vital that attending officers have fully prepared for the meeting, bringing any relevant information from police systems in order to inform the risk assessment.

Chief officers should ensure that there are local procedures in place to inform frontline staff about this group of offenders. This includes offenders being managed at level 1. This allows the managing agency to be made aware of any relevant intelligence or arrests. For example:

Offender X resides in the community on life licence for a domestic-related murder being managed at MAPPA level 1. He has been living in the community for 10 years and the NPS have no current concerns which would necessitate referral to management at MAPPA level 2 or 3. Local police officers become aware that this offender has a new partner. A local marker on this nominal ensures that the local police officer feeds this vital information to the NPS to inform their risk assessment with a view informing the new partner of offending history under the [\*\*domestic violence disclosure scheme \(DVDS\)\*\*](#).

## **MAPPA category 3 (other dangerous offenders)**

Offenders may fall into MAPPA category 3 (other dangerous offenders). These are offenders who have been cautioned for or convicted of an offence which indicates they are capable of causing serious harm and require multi-agency management at either MAPPA level 2 or 3.

Once management at MAPPA level 2 or 3 is no longer required, they are no longer a MAPPA category 3 nominal. Therefore, there is no level 1 management of this group. Any agency may be responsible for the management of a MAPPA category 3 nominal (for example, police, probation, YOS, mental health services).

## **Potentially dangerous person**

No legislation exists that defines this group or type of offender. A potentially dangerous person (PDP) is a person who has not been convicted of, or cautioned for, any offence that places them into one of the three MAPPA categories but whose behaviour gives reasonable grounds for believing that there is a present likelihood of them committing an offence that will cause serious harm.

The decision to nominate an individual as a PDP should be taken with any other relevant agencies that may currently have, or previously have had, dealings with that nominal. The decision taken has to be approved by the police superintendent within the business area responsible for MOSOVO.

## Prolific and other priority offenders

Prolific and other priority offenders (PPOs) are those who commit a disproportionate number of acquisitive crimes compared with the general offending population. A small proportion of PPOs have previous convictions for violent or sexual offences and may pose a risk of serious harm. Where this is the case, the force MOSOVO unit should manage risk in accordance with APP and the Ministry of Justice (2016) [MAPPA Guidance](#) (Version 4.1) (hereafter referred to as the MAPPA Guidance). Any specialist department in the force with responsibility for PPOs should be involved as appropriate.

## Defining the period of management

In most cases, the period of management is clearly defined by national guidance (MAPPA) and legislation (SOA 2003, Counter-Terrorism Act 2008, and the Criminal Justice and Immigration Act 2008 for VOOs). Periods of management are set out below by category and where there are certain considerations to be made these have been included.

## Registered sexual offenders (RSOs)

The length of time for which an offender remains subject to notification requirements depends upon the disposal and length of sentence in relation to a conviction for a relevant offence in Schedule 3. They are managed by the police for the following periods:

Where the offender is...	they will be subject to the notification requirements for...
sentenced to 30 months or more imprisonment (including life)	an indefinite period.
admitted to a hospital subject to a restriction order	an indefinite period.
sentenced to imprisonment for a term of more than six months but less than 30 months	10 years.
sentenced to imprisonment for six months or less	7 years.
admitted to hospital without a restriction order	7 years.
cautioned	2 years.
given a conditional discharge	the duration of the conditional discharge.
given any disposal (such as a community punishment or fine)	5 years.

For those who committed the offences when they were under 18, the above period is halved (except in the case of 'indefinite notification').

For a suspended sentence, duration should be calculated in the same way as imprisonment. For example, an offender sentenced to a two-year suspended sentence shall be subject to notification requirements for 10 years.

Offenders who become subject to notification requirements due to an order (SHPO, SRO) are subject to those requirements for the duration of the order.

Offenders who are subject to notification requirements because they have breached an SHPO or SRO are subject to those requirements for the length of their order.

## Extended sentences – R v Wiles [2004] EWCA Crim 836

This Court of Appeal judgment altered the interpretation of the law around the length of notification requirements for offenders with extended sentences under the Powers of Criminal Courts (Sentencing) Act 2000 section 85. The Court of Appeal in R v Wiles found that the term 'sentence of imprisonment or detention' includes the extension period and is not confined to the custodial term.

For example, where an offender was sentenced to two years' imprisonment and two years' extended sentence, the police should calculate the notification period based upon four years' imprisonment. This makes the offender subject to notification requirements indefinitely.

ACPO and Home Office guidance was issued in April 2005. It advised that for as long as R v Wiles remains in force, the police should comply with the judgment. This means that any period of extended sentence needs to be considered when:

- assessing whether or not a sentence threshold in Schedule 3 to the Sexual Offences Act 2003 is met, and
- calculating the notification period under section 82 of that Act

R v Wiles introduced a new interpretation of how existing legislation should be read. Forces should apply the judgment retrospectively for as long as sections 76 and 85 of the Powers of Criminal Courts (Sentencing) Act 2000 have been in force, namely since 25 August 2000.

## Review of indefinite notification requirements – R. (on the application of F) v Secretary of State for the Home Department [2010] UKSC 17

On 21 April 2010, in the case of R. (on the application of F) v Secretary of State for the Home Department [2010] UKSC 17, the Supreme Court ruled that indefinite notification without the possibility of a review was incompatible with the European Convention on Human Rights. Working in conjunction with the police, the government has resolved this situation by introducing the provision for offenders who qualify to apply for a review through the Sexual Offences Act 2003 section 91A.

This gives offenders the right to seek a review of their indefinite notification regime but only once they have completed a minimum period of time subject to the notification requirements. This is 15 years from the point of first notification following release from custody for the index offence for adults and eight years for juveniles.

## Registered violent offenders

RVOs are subject to police management for the duration of their order and will have a ViSOR record.

## Registered terrorist offenders

Chapter 24 of MAPPA Guidance explores the detail of management for terrorist and domestic extremists. For further advice contact local force specific questions regarding timescales of offender management contact local force Counter Terrorism Unit.

## MAPPA category 2 (Violent and other sexual offenders)

The overall management of these offenders is by the NPS and YOS and will be for the duration of their management by that agency (for example, until the end of their licence, end of their community order).

## MAPPA category 3 (other dangerous offenders)

MAPPA category 3 offenders are only managed by the relevant agency while they are subject to MAPPA level 2 or 3 meetings. This is defined by MAPPA Guidance. All will have ViSOR records which will be archived once the period of active management at level 2 or 3 has finished.

## PDPs

PDPs are managed until (one of the following):

- the PDP becomes an active MAPPA case
- there is no longer a present likelihood of serious harm
- after formal review, management as a PDP is no longer necessary

The decision to 'de-register' a PDP and therefore end their 'active management' is taken by a police officer not below the rank of inspector. This decision should be taken after consultation with partner

agencies where appropriate. At this point, the ViSOR record is archived. (See ViSOR standards).

## Tags

Sexual and violent offenders