

# **THE DERWENT INITIATIVE**

promoting an inter-agency response to sexual offending

## **ELDERLY SEX OFFENDERS IN SOCIAL AND HEALTH CARE**

**A Scoping Report by  
The Derwent Initiative  
and  
The Community Safety Research Unit  
Northumbria University  
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**Report prepared by the Community Safety Research Unit at  
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# SECTION 1

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## 1. Background and Approach

### 1.1 Introduction

This section outlines the background to the scoping exercise. It details the aims, objectives and outcomes associated with the study as finally agreed by The Derwent Initiative and the Community Safety Research Unit. It also describes the approach adopted including the methods used.

### 1.2 Key Findings

- In 2003 TDI expressed concern as to the experiences of elderly sex offenders in the health and social care systems
- The CSRU in partnership with TDI agreed to conduct a scoping exercise in order to identify relevant issues and outcomes, including the potential for further research on this topic area
- Triangulation of method was used involving secondary documentary data collection and analysis, interviews and the organisation of a workshop

### 1.3 Background

During 2003, The Derwent Initiative (TDI), in correspondence with a number of local Social Services operating in the North East of England, identified possible and potential difficulties faced by elderly sex offenders in the social care system, particularly those experiencing mental health problems and learning disabilities. This group of sex offenders aged sixty-five years and older include those on the Sex Offender Register, either for offences committed recently

or for offences committed some time ago, and those whose registration has expired. The age of sixty-five and above was identified as appropriate in that it is the age at which potential income levels reduce significantly as a result of retirement for those in work. It is also acknowledged as an important age after which the need for various support services including health and social care often increases.

Specifically, TDI highlighted the possibility that sex offenders over the age of sixty-five years may not be receiving the relevant health and social care services that they are entitled to within the North East of England. This may be a consequence of a number of factors that combine to either limit elderly sex offenders' ability to access services (a consequence of age) or limit the possibility that service providers will offer a service to these people (a consequence of discrimination as a result of their age or known offence background) or a combination of both. Potentially significant factors in this context include the:

1. Placing of sex offenders on the Sex Offender Register, sometimes for life
2. Decision to disclose such information to potential providers
3. Increase of private provision and the decrease of Local Authority provision
4. Combination of a criminal record with mental health or learning disability problems
5. Balancing of care needs and public protection issues
6. Lack of knowledge about the increase/decrease in risk of different categories of offender
7. Lack of information and guidance to Social Workers

Armed with the idea that potentially the health and social care needs of sex offenders over the age of sixty-five years are not met under present arrangements, and willing to fund a study to examine the evidence to support or refute it, in the summer of 2003 TDI approached the Community Safety Research Unit (CSRU) based in the Sociology and Criminology Subject Group at Northumbria University.

Following discussion with the CSRU, it was agreed that the CSRU in partnership with TDI, would conduct a scoping exercise in order to identify relevant issues and outcomes, including the potential for further research on this topic. More particularly, the research brief agreed by the TDI and CSRU proposed the scoping of the extent to which the concerns raised by TDI can be evidenced, and to examine the potential for an in-depth analysis of the experience of elderly sex offenders in the social care system.

#### **1.4 Aims, Objectives and Outcomes**

The original research idea, formulated by TDI, upon which this scoping study was originally based, concerned the possibility that elderly sex offenders may not be accessing the support, care and health services to which they are entitled. The main research questions concerned the reasons why this may be the case, and the extent to which discretionary decision-making within and across relevant agencies could create the potential for discriminatory practice.

The objectives of the research were:

1. To conduct an international literature search and review on elderly sex offenders, risk assessment and the social care system
2. To establish the nature and extent of sex offender registration across the UK and the patterning of gender and age within this population. Regional analysis will form a central component of this exercise
3. To assess whether elderly sex offenders receive the same treatment and provision of social care and health services as other individuals within the same age category who are not on the Sex Offender Register
4. To identify the key issues relating to elderly sex offenders' access to social care provision in the North East

Proposed outcomes of the scoping exercise included an empirical study informed by an:

1. Understanding of the academic and scholarly research in this area
2. Awareness of current policy developments and public and political concern about sex offenders and society
3. Estimation of the size of the population affected at the present time and in the future
4. Assessment of the level of care and support provided to elderly sex offenders
5. Identification of the issues and blockages which may serve to constrain the provision of services to elderly sex offenders

## 1.5 The Approach Including Methods Used

Triangulation of method was proposed by TDI and CSRU. Two reasons can be given for this:

- First, it is accepted that utilising more than one data collection method ensures that the problems associated with one strategy may be compensated for by the strengths of another
- Second, different methods are appropriate in different research situations and for collecting different types of data

For the purpose of the scoping exercise, it was originally agreed that the methods to be used would include<sup>1</sup>:

- Secondary documentary collection and analysis
- Unstructured interviews
- Questionnaire survey

*Secondary documentary collection and analysis.* The proposed purpose of secondary documentary collection and analysis was that:

- First, it would allow for the generation of quantitative and, in places, qualitative data to determine the nature, extent and patterning of the elderly sex offender population. Some data and information was received from Northumbria Police regarding the demographic composition of the elderly sex offender population. The information received was confidential and as a result it has not been presented in this current report. Nevertheless, this information did inform both the approach and the thinking in conducting the scoping exercise and in the writing of this report.

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<sup>1</sup> Jupp, V. Davies, P. Francis, P. (2000) Doing Criminological Research London: Sage provide a good discussion on the methods used in this scoping exercise.

- Second, regional, national and, where appropriate, international scholarly and academic literature would help conceptualise and contextualise the scoping exercise. This was carried out and is presented in Section Two. Three points can be made in relation to this exercise. First, while there is a wealth of information on sex offenders and sex offending, including academic and scholarly research, there is very little written on or about elderly sex offenders or on their experiences and behaviours. Secondly, the literature that is available on elderly sex offenders and sex offending can be crudely divided into those that take as their starting point the view that sexual offending by the elderly is an activity that is a consequence of factors associated with old age, and those that suggest that as sexual activity decreases with age, so does sex offending. Third, much of this literature is American and either fairly old, written during the mid-to-late twentieth century, or predominantly from a psychological / social psychological perspective, with little if any sociological and criminological research.
- Third, it would help develop knowledge of the policy and practice informing both work with, and the provision of services to, elderly sex offenders in the community. Understanding and assessment of the political and policy context helped immeasurably in the development and delivery of the scoping exercise.
- Fourth, it would help inform the design, delivery and content of the complementary methods including the administration of interviews and questionnaires

*Unstructured interviews.* Unstructured interviews - otherwise known as non-standardised interviews – were proposed because they are

often utilised to identify the main groups to be sampled; to identify topics to be analysed; to lend insight into how both should be defined; and to help establish a variety of opinions concerning a particular topic. Unstructured interviews were carried out with ten relevant practitioners working with elderly sex offenders in the North East region. They were mostly administered one-to-one, and served a number of purposes. Firstly, they allowed for the collection of data that provide a detailed and full expression of practitioners' views; and secondly, they were valuable for discovery. It is well acknowledged that non-standardised interviews are useful to find out what things are happening rather than necessarily to identify the frequency of predetermined kinds of things that the researcher already believes can happen. In this sense, non-standardised interviews enabled dialogue about the extent to which the needs of sex offenders over the age of sixty-five years may not be met under present arrangements.

*Questionnaire survey and analysis.* Questionnaire surveys generate data in a reliable and systematic fashion. Originally, it was proposed that the design and delivery of a questionnaire survey to a representative sample of local practitioners working in relevant local agencies and organisations would allow for the collection of data on their experiences and perceptions of the nature and provision of services to elderly sex offenders. Questionnaires would also thus help identify key issues relating to current practice.

However, as the scoping exercise developed it became apparent that the questionnaire survey method would be incapable of engaging in sufficient depth with the sometimes highly complex matters being explored. As a result, the methodology additionally incorporated the bringing together of key local stakeholders in a participatory and inclusive environment with the aim of sharing

knowledge and experience. This resulted in the organisation and delivery of a workshop on elderly sex offenders.

*Workshop on elderly sex offenders.* On June 14<sup>th</sup> 2004, TDI and the CSRU hosted a workshop at the Gateshead Civic Centre entitled Elderly Sex Offenders. The aim of the day was to provide a forum for discussion and reflection within which the CSRU and TDI could disseminate its research and consult with relevant interested representatives of local / regional agencies and organisations<sup>2</sup>. The objectives of the day were fourfold:

- To disseminate research findings
- To consult about gaps in knowledge and report findings
- To explore ways of taking research forward
- To build upon what we know and what are the next steps.

Forty people attended the workshop representing a range of agencies and organisations including the criminal justice system and the health and social care systems. The structure of the day is as outlined in box 1.a.

**Box 1.a. Structure of Elderly Sex Offenders Workshop**

- Welcome and Introduction – Judy Hughes, Director, TDI
- The Scoping Exercise – CSRU
- Elderly Sex Offenders – Gail McGregor, Consultant Forensic Clinical Psychologist, Sexual behaviour Unit, St. Nicholas Hospital
- Policing Sex Offenders – Detective Sergeant Jackie Coleman, Northumbria Police

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<sup>2</sup> Agencies and organisations involved in the workshop included Society of St Vincent de Paul, Byker Bridge Housing Association, National Probation Service, Northumbria, Norcare, Stonham Housing Association, SRU/3N's Mental Health Trust, Newcastle and Whitley Housing Trust Ltd, Northumbria Police.

- Partnership Working: MAPPA – Maggie Dodds, Groupwork Manager, National Probation Service, Northumbria
- The Scoping Exercise – Workshops – CSRU (this involved dividing the workshop participants into three seminars to look at a scenario of an elderly sex offender in the community)
- Plenary – Chaired by Judy Hughes, TDI

Following an introduction to the scoping exercise by the CSRU, Gail McGregor from the Sexual Behaviour Unit, St Nicholas Hospital outlined what is known about sex offenders, and offered some insight into the older sex offender; Detective Sergeant Jackie Coleman of Northumbria Police outlined the police approach to working with elderly sex offenders, and Maggie Dodds from the National Probation Service outlined the probation approach to working with elderly sex offenders and the multi-agency arrangements in place.

Beyond these plenary presentations, a number of reflections on the process and practice of managing elderly sex offenders were shared with the audience by the CSRU. In doing so, the aim was less to provide definitive answers than to provoke constructive discussion and debate that helped further shape the completion of the scoping exercise and the production of the final report. There were two main methods through which this was achieved. First, the CSRU identified a series of issues that had arisen during the course of our research. Second, through the use of a case study approach delivered and facilitated in small group sessions, attendees explored decision-making processes and practices within the context of partnership working and information sharing.

## **1.6 Key Messages**

- There is a need for research into the nature and experiences of elderly sex offenders in the health and social care systems
- Bringing together participants in informal workshops provides a useful forum to explore issues and themes arising from an examination of elderly sex offenders in the health and social care systems

# SECTION 2

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## 2. The Research and Policy Context

### 2.1 Introduction

This section develops understanding of the academic and scholarly research on elderly sex offending as relevant to this scoping exercise. It outlines some of the key research themes and issues associated with the literature on older sex offending. The section also outlines the current policy context as well as highlighting a number of points associated with the political context within which the scoping exercise was carried out.

### 2.2 Key Findings

- While there is a wealth of research and writing on sex offenders and sex offending, including academic and scholarly research, there is very little written on or about elderly sex offenders or on their experiences and behaviours
- The literature that is available on elderly sex offending and elderly sex offenders can be crudely divided between those that take as their starting point the view that sexual offending by the elderly is an activity that is a consequence of factors associated with old age, and those that suggest that as sexual activity decreases with age, so does sex offending
- It is important to recognise that important changes have occurred in the way that sex offenders are managed and these changes will have far reaching impact upon the practice of making decisions about sex offenders in relation to a range of issues, including the provision of health and social care.

## 2.3 Age, Sociology and Social Research

The boundary between the health and social care services has been, as Lewis<sup>3</sup> points out, an important focus for both social research and policy reform across many western and northern European countries. In particular in the UK, attention has been directed at the traditionally sharp divisions between the centrally funded NHS and locally run social services. Within the context of the current study on older sex offenders in the social and health care systems, this division may become sharper still. In particular, we seek to explore if the boundaries – set in stone in the immediate post-war period, and leading to ongoing political and practical tensions in relation to service delivery, have any bearing on the management, treatment and provision of services to groups which may at once be both 'vulnerable' and 'dangerous'.

The research literature indicates that it is generally those older people with less acute or intermediate needs who lose out the most, either by being rationed out, ignored or treated inappropriately. In response to academic research and political lobbying the government, under the NHS Plan, set aside £900 million for investment in 'intermediate care and related services', and ring-fenced £50 million for intermediate care within the social services<sup>4</sup>. Some commentators remain sceptical about the extent to which new money will be able to address the existing divisions between the social and health care fields.

Our interests lie with the provision of social and health care to a population of individuals who have a history of sex offending –

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<sup>3</sup> Lewis, J. (2001) 'Older People and the Health - Social Care Boundary in the UK: Half a Century of Hidden Policy Conflict', in Social Policy and Administration, 35, 4: 343-359.

4. Lewis, J. IBID: 356

either recently emergent or discovered, or documented throughout the life course. Research of this nature poses a number of interesting and, in the current context of increased social and health care spending, and considerable reform, salient issues for discussion. One of these is the relevance of age as an area for sociological and policy-oriented analysis. Overlooked in much of the sociological literature, and virtually absent from criminological discussion beyond discussions of the rationality of fear of crime, the issue of older people and criminal victimisation has become an area of ongoing – if still sporadic – academic interest only in the past 10-15 years. Over this period, a number of scholars have sought to highlight the problems of ‘crime, abuse and the elderly’, the murder of older people, the plight of older prisoners, and criminal victimisation and older people more generally<sup>5</sup>. Media attention to cases of what many journalists and some scholars term ‘elder abuse’ is commonplace in media coverage. Public interest has been heightened by high profile cases, most notably GP and serial killer Harold Shipman. However, the issue of older people as perpetrators of crime remains under-explored.

In an ageing population, with the average life expectancy longer now than at any period in history, the issue of older people’s offending behaviour – as well as their experiences as victims of crime – becomes increasingly pertinent. Indeed, after a spate of media stories of old age pensioners taking to armed robbery and what some enterprising journalists term a wave of ‘Grey Crime’, evidenced both in the UK and the US, it seems that the time is right to discuss the relationship between (old) age and criminality. Thus it

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<sup>5</sup> See for example the work of Brogden, M. and Nijhar, P. (2000) Crime, Abuse and the Elderly, Cullompton: Willan; Brogden, M. (2001) Geronticide: Killing the Elderly, London: Jessica Kingsley Publishers; Wahidin, (2003); Pain, R. (2004) Age and Victimisation in Davies, P. Francis, P. Jupp, V. (eds.) Victimisation: Theory, Research and Policy Basingstoke: Palgrave; Davies, P. Francis, P. Greer, C. (2005) Victims, Crime and Society London: Sage

is in a context of social and health care as issues for continuing research and debate, and age, crime and criminality as an area of escalating sociological interest, that the current study is situated.

## **2.4 Researching 'Age' and Sex Offending**

There is a wealth of research and scholarly literature that provides for a depth of historical, comparative and contemporary understanding about sex offenders, their crimes and victims and the political and policy response to them<sup>6</sup>. Much of this research and scholarly writing straddles a number of academic discipline areas including psychology, sociology, political science, criminology, health and mental health, with some studies providing a multi-disciplinary analysis. Methodologically a range of approaches can be identified, as can the variety of methods used. Overall, it is a continually evolving and developing subject area, highly political in application, deeply emotive in content and heavily informed by and often connected to the development of practice.

Recent research within both clinical and sociological traditions has begun to explore sex offending by women and children of both genders<sup>7</sup>. In large part, however, sexual offending is a matter of men committing sexually abusive acts against women and children. Not least because of its highly gendered nature, some of the most significant contributions to the sociological understanding of sex crime have come from feminists. Indeed, it was only with the growing influence of the women's movement in the 1970s that the previously 'hidden' problem of violence – including sexual violence – against women and children was recognised as a serious problem demanding sustained political, academic and public attention.

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<sup>6</sup> Thomas, T. (2000) Sex Crime: Sex Offending and Society, Cullompton: Willan.

<sup>7</sup> Matravers, A. (ed.) (2003) Sex Offenders in the Community: Managing and Reducing the Risks, Cullompton: Willan.

Though feminist perspectives are diverse, a powerful theme has been the conceptualisation of sexual violence as the extension of a patriarchal order in which women are systematically subjugated by men to positions of dependency and subordination. Male behaviour towards women, including sexual victimisation, has been viewed as existing along a 'continuum', with rape and sexual assault at one end and, for example, limiting women's career opportunities near the other. These behaviours differ only by degree, rather than in kind, and all are seen as serving the same ultimate purpose of controlling women<sup>8</sup>.

Some feminist approaches advocate working with victims – or, as radical feminists prefer, 'survivors' – of sex crime and criminal justice practitioners. Others retain a deep suspicion, particularly of police attitudes, and avoid interacting with official agencies. Some feminists seek to achieve a balance between victims' and offenders' rights, while others see the latter as relatively unimportant. Whatever the differences between approaches, their collective impact has been enormous. Feminism has been central in securing improvements in the treatment of sex crime victims in the criminal justice system, increasing the quality and availability of advice and support, and raising social awareness about the 'normality' of much male (sexual) violence against women and children.

A number of feminist approaches, however, appear to lose at least some of their sociological purchase when applied to older sex offenders. Though they may differ considerably in other ways, all

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<sup>8</sup> Kelly L. (1988) Surviving Sexual Violence. Cambridge: Polity Press

feminist theories are rooted, fundamentally, within the relations and structures of power that exist within a patriarchal social order. It does not seem too controversial to suggest that, with the onset of old age, those power relations change. That is not to suggest that older male sex offenders may not be perfectly capable of manipulating and at times abusing their carers – many of whom, lest it be forgotten, are women. Indeed, exploring the extent to which this may happen and the structures put in place by various social and health care agencies to minimise risk is one of the issues of interest in this study. Rather, it is to acknowledge that old age brings with it decreased autonomy, and increased dependency. In this context, the issue of power relations need to be approached with extra caution.

In clinical terms, attempts to explain sex offending from within the medical profession have been diverse, focusing variously on psychiatric and psychoanalytic theories, biochemical imbalances, and genetic abnormalities. For many, a range of interventions underpinned by the 'cognitive-behavioural' approach offers the most promising outcomes, particularly with child abusers. This approach, which combines social and psychological explanations of behaviour, starts from the assumption that individuals perpetrate sex crime because they choose to, but, due to various cognitive distortions, may not believe their actions are wrong or may be in denial about the harm caused. The aim of cognitive behavioural interventions is to address these distorted cognitive processes through the development of 'avoidance' and 'coping' mechanisms, increasing social competence, and encouraging empathy with the victim. Evaluations appear to indicate that, while the urge to re-offend cannot be removed, it can in certain circumstances be managed<sup>9</sup>.

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<sup>9</sup> Beckett, R (1994) 'Cognitive-Behavioural Treatment of Sex Offender' in T. Morrison, M Erooga and R.C. Beckett (eds.) Sexual Offending Against Children: Assessment and Treatment of Male Abusers, London: Routledge

Such 'evidence', however, relating to cognitive behavioural and other treatment approaches, continues to be questioned by sceptics. The main problems with effective evaluation and establishing 'what works' relate to methodology, validity and programme integrity<sup>10</sup>, though the political context of researching an issue as emotionally charged and controversial as sex offending should not be overlooked.

Hansen<sup>11</sup> suggests that three general approaches have predominated in the research on what works: a) large, well-controlled single site research groups; b) pooling of small studies through meta-analysis; and c) detailed examination of within-treatment change on dynamic (changeable) risk factors. No single approach is likely to be sufficiently comprehensive to reveal on its own what works with sex offenders. It is with this in mind that Hansen contends that 'it is only through the accumulation of consistent results from diverse studies that we are able to learn what works in sexual offenders'<sup>12</sup>.

One of the major problems in assessing 'what works' with sex offenders is disaggregating the effects of 'treatment' (or otherwise) from other influences that may have contributed to the finding, whether positive or negative. Though there does appear to be a growing body of evidence of research which indicated that 'treatment' can in certain circumstances be an effective measure against recidivism, sceptics may always claim that any 'successes' evidenced by treatment evaluation may have been precipitated by

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<sup>10</sup> Whitehead, P. and Thompson, J. (2004) Knowledge and the Probation Service London: Wiley

<sup>11</sup> Hansen, R. K. (1997) How to Know What Works with Sexual Offenders Sexual Abuse: A Journal of Research and Treatment 9(2)

<sup>12</sup> Hansen, R. K. (1997: 129) How to Know What Works with Sexual Offenders Sexual Abuse: A Journal of Research and Treatment 9(2)

factors external to the programme itself. Even meta-analysis of treatment programmes, which appears to further support the effectiveness of treatment, is only as reliable as the quality of the individual studies of which the analysis is comprised. Since this quality varies considerably, more studies incorporating an adequately rigorous design and methodology are needed before sceptics are likely to be convinced.

As yet, there has been relatively little cross-fertilisation between these two literatures on sex offending – clinical and sociological. It is one of the aims of this scoping exercise to point to fruitful avenues for future research and to encourage an approach to understanding sex offending – within the particular context of older sex offenders – which is both more reflexive and more holistic than some of the highly quantitative clinical studies and some of the highly politicised sociological ones.

## **2.5 Research on Elderly Sex Offending**

For the purpose of this project a number of salient themes can be identified from the research and scholarly literature on sex offenders and sex offending. These themes include age and sex offending and older and / or elderly sex offenders; risk, recidivism and reconviction, particularly in relation to old age; and partnership and multi-agency working including professionals and organisations. Many of these areas have not generated the depth of research and writing that other areas relating to sex offending have – such as media representation<sup>13</sup> – and are certainly less well defined than some of the more ‘mainstream’ areas of research on sex offending. Moreover, some of the research – particularly in relation to elderly

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<sup>13</sup> Greer, C. (2003) Sex Crime and the Media: Sex Offending and the Press in a Divided Society, Cullompton: Willan.

sex offenders is fairly old and was published some time ago. It is also worth stating that the research on health and social care is again particularly broad and varied, and for the most part does not offer assessment of sex offenders. In this review, we have focused our attention on relevant literature relating to elderly sex offending, age discrimination and the health and social care system.

Connections between the variable old age and sex offending remain a sideshow within much of the research and scholarly literature. Clark and Mezey<sup>14</sup> commented thus, 'little has been written about the elderly child sex abuser', and we would suggest that little has been written about the elderly sex offender generally. Moreover, we would further suggest that the literature that is available is underdeveloped and does not collectively provide a thorough overview and review of the key issues.

One reason given for the paucity of academic and scholarly research on elderly sex offenders is the perception that sexual offending amongst old people is but one outcome of growing old. In this view, elderly sex offending is often associated with the onset of psychological and social problems in old age<sup>15</sup>. Explanations forwarded to explain why old age may be associated with the perpetration of sexual offending, often for the first time, include that as individuals enter old age they are more likely to suffer from an organic brain disorder such as dementia and / or that sexual offending may be a consequence of changes in the prostate of men. Other studies suggest the role alcohol can play in the motivation and perpetration of sexual acts amongst the elderly; that elderly

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<sup>14</sup> Clark, C. and Mezey, G. (1985: 357) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

<sup>15</sup> Hucker, S. J. and Ben-Aron, M. H. (1985: 212) Elderly Sex Offenders in Langeuin, R. (eds) Erotic Preference Gender Identity and Aggression in Men New Research Studies Hillsdale New Jersey Lawrence Erlbaum Associates offer a useful review of these explanations.

sex offenders are themselves victims of child seduction; that the act is a means to bolster a 'flagging sense of masculinity'<sup>16</sup>; and / or that the act is a consequence of the social problems that accompany old age including loneliness and isolation, together with reduced income.

Many dispute the view that sexual offending arises in old age specifically. For example, Clark and Mezey<sup>17</sup>, suggest that sexual arousal to children does not arise *de novo* in old age – 'We would concur with the comment by Soothill et al (1976) that sex offenders 'have a long lasting "Achilles' heel" normally held in check by compensatory satisfactions or pressures but liable to re-emerge in times of stress' and that old age and infirmity may lead to such long standing impulses re-emerging and being re-enacted'. Hucker and Ben-Aron<sup>18</sup> report that although a quarter of their study group had previous convictions for sexual offences, 'one may speculate that some of the older offenders have had a life long attraction to children and that they were apprehended only infrequently or that they managed to keep the sexual impulses under control'.

## 2.6 Risk, Recidivism and Age

A further reason given for the paucity of literature on elderly sex offenders is a belief that sexual desire decreases with age and thus sexual offending decreases with age<sup>19</sup>. As a result, so the argument

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<sup>16</sup> Hucker, S. J. and Ben-Aron, M. H. (1985) Elderly Sex Offenders in Langeuin, R. (eds) Erotic Preference Gender Identity and Aggression in Men New Research Studies Hillsdale New Jersey Lawrence Erlbaum Associates

<sup>17</sup> Clark, C. and Mezey, G. (1997: 367) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

<sup>18</sup> Hucker, S. J. and Ben-Aron, M. H. (1985: 220) Elderly Sex Offenders in Langeuin, R. (eds) Erotic Preference Gender Identity and Aggression in Men New Research Studies Hillsdale New Jersey Lawrence Erlbaum Associates

<sup>19</sup> see for example the discussion in Clark, C. and Mezey, G. (1997: 357-359) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

goes, there are very few elderly sex offenders. This is a view that can be found in a range of research on sex offending carried out during the mid-to-late twentieth century<sup>20</sup>.

More recently, research on risk, recidivism and reconviction has attempted to examine the extent to which risk of offending decreases with age. Although a more developed area of research, this is not specific to the study of 'elderly' sex offenders, but rather part of a broader assessment of the nature of risk, often measured, amongst other factors, by rates of recidivism and reconviction. Such studies move beyond an assessment of older people and sex offending, to an attempt to understand the nature of sexual offending over the life course. Some are predictive studies based upon clinical research; some are retrospective assessments based upon analysis of recorded reconviction rates.

A number of studies have attempted to evaluate the relationship between sexual aggression and age, with some suggesting that as individuals journey through the life cycle, their potential for sexual offending decreases<sup>21</sup>. Such findings support more general studies of human sexuality and ageing that indicate a decline in male sexual behaviour as they become older. Clark and Mezey<sup>22</sup> report, the 'widely held view is that sexual abuse arises because of frustration of libidinal urges. Sexual offending would thus be assumed to become less frequent in the elderly, consequent upon an implicit

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<sup>20</sup> see for example Radzinowicz, L. (1957) Sexual Offences London: Macmillan; Gebhard, P. Gagnon, J. H. Pomeroy, W. B. Christenson, C. V. (1965) Sex Offenders: An Analysis of Types New York: Harper and Row

<sup>21</sup> Clark, C. and Mezey, G. (1997: 357) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September; Goodwin et al (1983); Barbaree, E. H. Blanchard, R. and Langton, M. C. (2003) The Development of Sexual Aggression Through the Life Span The Effect of Age on Sexual Arousal and Recidivism Among Sex Offenders Annals New York Academy of Sciences 989: 56-71

<sup>22</sup> Clark, C. and Mezey, G. (1997: 357) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

reduction in sexual interests and impulses'. For Goodwin et al<sup>23</sup>, repeat offending is rare in old men who are compensating for physiologic impotence.

That sexual desire decreases with age is not a view that is universally supported across research and scholarly writing. Hanson and Bussiere<sup>24</sup> suggest that indicators of deviant sexual interests including the number of prior sexual offences, phallometrically measured sexual arousal to children, for example, consistently predicted sexual recidivism. Age was identified as a moderate predictor of sexual recidivism<sup>25</sup>. In contrast, Barbaree *et al*<sup>26</sup>, in a review of two studies, one into sex offenders' erectile responses, and one on sex offenders released into the community over a period of five years, suggest that sexual aggression decreases with age, and that offenders released at a later life stage and at an older age were less likely to recommit sexual offences and sexual recidivism decreased as a linear function of age at release. Barbaree et al go on to identify a number of problems with much of the current research literature on sex offending, most notably that it has been carried out on younger age groups, that old age has not been used as a variable and that there is a clear need to focus more specifically upon elderly sex offenders.

Hanson<sup>27</sup> identified that the recidivism risk for sexual offenders decreases with age, but that the pattern was not large and that it

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<sup>23</sup> Goodwin, J. Cormier, L. and Owen, J. (1983) Grandfather-Granddaughter Incest: A trigenational View Child Abuse and Neglect 7: 163-70

<sup>24</sup> Hanson, K. and Bussiere, M. T. (1998) Predicting Relapse: A Meta Analysis of Sexual Offender Recidivism Studies Journal of Consulting and Clinical Psychology Vol 66. No. 2: 348-362

<sup>25</sup> see also Hanson, K. (1997) How to Know What Works with Sexual Offenders Sexual Abuse: A Journal of Research and Treatment 9(2)

<sup>26</sup> Barbaree, E. H. Blanchard, R. and Langton, M. C. (2003) The Development of Sexual Aggression Through the Life Span The Effect of Age on Sexual Arousal and Recidivism Among Sex Offenders Annals New York Academy of Sciences 989: 56-71

<sup>27</sup> Hanson, K. (2002) Recidivism and Age: Follow Up Data From 4,673 Sexual Offenders Journal of Interpersonal Violence Vol. 17. No. 10: 1046-1062

differed for different offender categories, including rapists, child molesters and incest offenders. Unlike rapists and to a lesser extent child molesters, 'Extra-familial-child-molesters show relatively little decline in their recidivism risk until after the age of 50. Sexual offenders released after the age of 60 showed very low recidivism rates'<sup>28</sup>. Hanson reports that, 'There were few sexual offenders of any type in the advanced age categories (11% of the total sample was older than 50), and their recidivism rates were generally low (less than 10%). This decline in late adulthood can be attributed to the confluence of decreasing sexual drive and decreasing opportunity. Perhaps the most salient factor for the oldest age groups, however, would be increasing ill health and eventual death'<sup>29</sup>. However, he does acknowledge that '...research has yet to examine the extent to which reductions in sexual recidivism risk should be expected for older offenders who remain in good health'<sup>30</sup>. Hanson also makes the point that his findings can also suggest either that with age comes different routes to happiness, or more worryingly in his view, that age produces a more specialised offender able to avoid detection.

Hood et al<sup>31</sup> in their research into sex offenders emerging from long-term imprisonment, take as their starting point reconviction rates (it has already been noted that one criticism here is that as sex offenders become older they become more specialised and sophisticated and more effective at avoiding detection). Hood et al<sup>32</sup> suggest that 'as far as reconviction is concerned the findings of this

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<sup>28</sup> Hanson, K. (2002: 1059) Recidivism and Age: Follow Up Data From 4,673 Sexual Offenders Journal of Interpersonal Violence Vol. 17. No. 10: 1046-1062

<sup>29</sup> Hanson, K. (2002: 1059) Recidivism and Age: Follow Up Data From 4,673 Sexual Offenders Journal of Interpersonal Violence Vol. 17. No. 10: 1046-1062

<sup>30</sup> Hanson, K. (2002: 1059) Recidivism and Age: Follow Up Data From 4,673 Sexual Offenders Journal of Interpersonal Violence Vol. 17. No. 10: 1046-1062

<sup>31</sup> Hood, R. Shute, S. Feilzer, M. Wilcox, A. (2002) Sex Offenders Emerging from Long Term Imprisonment British Journal of Criminology Vol. 42: 371-394

<sup>32</sup> Hood, R. Shute, S. Feilzer, M. Wilcox, A. (2002: 371) Sex Offenders Emerging from Long Term Imprisonment British Journal of Criminology Vol. 42: 371-394

study reinforce those of other follow up studies, all of which have demonstrated that the probability of a serious sexual offender being reconvicted for a sexual (and also for a serious violent) offence is relatively low, even for those who have victimised children and have been at liberty for a considerable number of years’.

## **2.7 Elderly Sex Offenders**

Whatever the evidence on the propensity and frequency with which individuals become involved in sex offending during later years of the life course, the nature of that involvement, and the data supporting or refuting such evidence, there remains a lack of research on older sex offenders. This is surprising given that studies identify that sex offenders who come into contact with service providers represent all age groups of the life course<sup>33</sup>, and that sex offending is certainly not something that is the preserve of younger age groups, nor of a specific gender. Age remains either a hidden variable, and / or one that is inadequately examined in relation to sex offending, and / or one that is lost in broader psychological research studies, although there are a handful of studies that do attempt to offer some discussion of older sex offenders.

Clark and Mezey carried out a descriptive study of thirteen child sex abusers over the age of sixty-five. This age category was chosen because, in their view, it is the age at which for many there is a loss of income associated with retirement, alongside a change in social status and social role. The purpose of the study was to describe the characteristics of elderly child sex offenders and their offences in order to consider any differences between them and their younger counterparts. Clark and Mezey’s findings indicate that while there

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<sup>33</sup> Henn et al 1976 cited in Clark, C. and Mezey, G. (1997) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

was some similarity with other child sex offenders of differing ages, in terms of the seriousness of the abusive behaviours described, as well as in terms of their low levels of psychiatric illness and particular organic disorders, in their sample, elderly sex offenders differed in terms of being of a higher socio-economic status, having stable backgrounds and reporting low rates of personal sexual victimisation – ‘the overall picture is of socially skilled and well-adjusted offenders’<sup>34</sup>. They suggest that these factors may contribute to their apparent skill in avoiding detection, and that they may also go some way to explain why elderly sex offenders are less likely to receive a custodial sentence upon conviction (as a consequence of their age and frailty) as well as their ‘prestige’ and lack of ‘risk’. ‘The willingness of the courts to impose non custodial sentences on elderly sex abusers may reflect a more lenient attitude taken on account of their age and infirmity as well as an assumption that they are unlikely to represent a risk to children in the future. It may also represent an appreciation of the different needs of the elderly offender’<sup>35</sup>. On the subject of risk, Clark and Mezey suggest that ‘while it is difficult to interpret the recidivism rate in an elderly sample due to their high mortality, the present study would suggest that elderly sex offenders are determined and persistent’<sup>36</sup>.

In a study of elderly sex offenders carried out by Hucker and Ben-Aron<sup>37</sup>, elderly sex offenders had a significantly lower reconviction rate for sex offences that unmatched younger controls. The purpose

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<sup>34</sup> Clark, C. and Mezey, G. (1997: 364) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

<sup>35</sup> Clark, C. and Mezey, G. (1997: 364) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

<sup>36</sup> Clark, C. and Mezey, G. (1997: 365) Elderly Sex Offenders Against Children: A Descriptive Study of Child Abusers Over the Age of 65 The Journal of Forensic Psychiatry Vol. 8 No. 2 September

<sup>37</sup> Hucker, S. J. and Ben-Aron, M. H. (1985) Elderly Sex Offenders in Langeuin, R. (eds) Erotic Preference Gender Identity and Aggression in Men New Research Studies Hillsdale New Jersey Lawrence Erlbaum Associates

of the study was to examine the 'many conflicting assertions in the limited literature about the elderly sex offender'<sup>38</sup>. Their study concluded by confirming some of the existing literature, refuting others and flagging up some areas for further research. Particularly it identified some personal biographical history of sexual problems amongst sex offenders throughout the life course; little difference between the sample and the general population in relation to the prevalence of organic brain disorders; and that the social problems of growing older – including increasing loneliness and isolation 'might affect the judgement of these men so that they act upon deviant impulses that they normally kept under control'<sup>39</sup>, but they do identify this as an area in need of further research.

## **2.8 Elderly Sex Offenders, Risk and Needs Assessment**

Whatever the methodological robustness of these studies, and for that matter their 'relevance' to present day 'thinking' in relation to working with this group of offenders, this brief review does highlight a number of themes relevant to this current study. These include the nature and type of individual and social characteristics associated with older people, the potential needs of older sex offenders specifically in relation to health and social care; and the impact old age can have on assessing risk. Specifically this study considers the relationship between knowledge about elderly sex offenders and how that knowledge influences policy and practice. For example:

- What is known about elderly sex offenders?

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<sup>38</sup> Hucker, S. J. and Ben-Aron, M. H. (1985: 213) *Elderly Sex Offenders* in Langeuin, R. (eds) *Erotic Preference Gender Identity and Aggression in Men New Research Studies* Hillsade New Jersey Lawrence Erlbaum Associates

<sup>39</sup> Hucker, S. J. and Ben-Aron, M. H. (1985: 221) *Elderly Sex Offenders* in Langeuin, R. (eds) *Erotic Preference Gender Identity and Aggression in Men New Research Studies* Hillsade New Jersey Lawrence Erlbaum Associates

- Who has access to this knowledge?
- Do mechanisms exist to translate this knowledge into practice?
- How do these mechanisms operate?
- Are elderly sex offenders discriminated against in the health and social care systems?

There is little if any research on elderly sex offenders, discrimination and the health and social care system. However, a recent report into tackling age discrimination in health and social care identified the presence of age discrimination within health and social care<sup>40</sup>. This report provides ample illustration of discrimination as involving formal age discrimination associated with policies restricting access to particular units, facilities and treatments by the setting of upper or lower age limits, and hidden discrimination which has developed through custom and practice in particular agencies and organisations.

When assessing whether discrimination against elderly sex offenders seeking health and social care does take place, a number of questions arise:

- What is the process (if any) through which the health and social care system becomes aware of the background of the elderly person presenting himself or herself for treatment, support and advice?
- What factors does the health and social care system take into account when dealing with known elderly sex offenders, and do they in any way constitute discrimination?
- If discrimination can be identified, is the discrimination based upon an assessment of the perceived risk of the offender to the

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<sup>40</sup> Roberts, E. Robinson, J. Seymour, L. (2002) Old Habits Die Hard Tackling Age Discrimination in Health and Social Care London: King's Fund Publishing

provider and / or their other customers, and / or as a consequence of the grounds of the age of the person?

## **2.9 Decision-Making in Context**

These questions highlight the central importance of understanding the context of and the nature of decision-making in relation to elderly sex offenders seeking health and social care. It is necessary to recognise that important changes have occurred in the way that sex offenders are managed in the community, and that these changes will have far reaching impact upon the practice of making decisions about sex offenders in relation to a range of issues, including the provision of health and social care. Key amongst these changes is MAPPA. The MAPPA have grown out of the development of closer working between areas and agencies, principally the police and probation services, in the 1990s. As the MAPPA Guidelines indicate<sup>41</sup>:

*A number of high profile cases and key pieces of legislation (culminating in the Criminal Justice and Court Services Act (2000)) gave impetus to that development. Moreover, various pieces of research<sup>42</sup> into the development identified those features that were crucial to the effectiveness of public protection.*

*Sections 67 and 68<sup>43</sup> of the Criminal Justice and Court Services Act (2000) imposed duties upon the police and probation services (the Responsible Authorities) in each of the 42 areas of England and*

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<sup>41</sup> Home Office (2004) MAPPA Guidance London: Home Office

<sup>42</sup> Including, Home Office Special Conferences Unit (1997), Maguire, M., Kemshall, H., Noakes, L. and Wincup, E. (2001) Risk management of sexual and violent offenders: The work of Public Protection Panels. Police Research Series. Paper 139. London: Home Office; and, Mclvor, G. and Kemshall, H. (2002).

<sup>43</sup> The legislation requires the Responsible Authority in each Area (i) to establish arrangements to assess and manage the risks posed by sexual and violent offenders; (ii) to monitor those arrangements and make necessary changes; and, (iii) to prepare and publish an annual report on the MAPPA.

*Wales to establish the MAPPA. The legislation (Section 67(6)) also empowered the Home Secretary to issue guidance to the Responsible Authorities on how their MAPPA duties should be discharged. To reinforce the importance of this Guidance to the Responsible Authorities, it is issued to the National Probation Service (NPD) as a Probation Circular; and to Police Forces with the full endorsement of Association of Chief Police Officers (ACPO). MAPPA was introduced in April 2001.*

*The publication of the first annual reports during the summer of 2002 reflected what had been achieved in developing the new statutory public protection arrangements. Having started from different points of experience and expertise in public protection work, areas have developed at different speeds. Also, the nature of this work involves the establishment of some quite complex arrangements and cultural changes to enable co-operative working in practice as well as in name. Inevitably therefore, there is a lack of consistency in the MAPPA between areas.*

*The new MAPPA guidance seeks to achieve improved consistency around a MAPPA Framework<sup>44</sup> that will establish a commonality of approach and practice – a consistent definition of risks and the means of managing them; and a framework common to all areas which enables a consistent approach to risk identification, assessment and management. It is expected that such a framework*

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<sup>44</sup> These are:

- Greater professional confidence in the multi-agency management of risk;
- The work we will do to establish national standards to underpin and support the development of good practice;
- The more effective and efficient management of cases across Areas;
- Consistency in the way we communicate public protection work to the public – and we all recognise the difficulties in explaining this complex but important part of our public service;
- The effective development and sharing of good practice; and,
- Effective links with other agencies both within the MAPPA (as we anticipate the provision made to strengthen these in the Criminal Justice Bill) and outside, for example with Area Child Protection Committees (ACPCs).

*will allow for stronger and more consistent relationships to local child protection arrangements.*

*The new MAPPA Guidance describes three phases of MAPPA development. The third phase is supported by the Criminal Justice Act (2003) that introduces new requirements for the MAPPA.*

- (i) Phase 1 (April 2001 – Autumn 2002): the setting up of the MAPPA, which because they built upon the inter-agency co-operation that the Sex Offender Act (1997) prompted, began prior to their formal inception in April 2001;*
- (ii) Phase 2 (Autumn 2002 – January 2004): distilling the learning from the first year's operation and the first annual reports, preparing and implementing this Guidance;*
- (iii) Phase 3 (January 2004 – Annual reports 2005): preparing and then implementing the 'duty to co-operate' and 'lay Adviser' provisions contained in the Criminal Justice Bill; and using the HMIC and HMIP inspection of public protection (scheduled for late 2003) to inform the development of national standards and performance criteria.*

*The Guidance substantially provides the framework, within which in the next phase of MAPPA development new national standards and performance measures will be drawn up.*

*The MAPPA Framework comprises four functions*

- the identification of MAPPA offenders;*
- the sharing of relevant information among those agencies involved in the assessment of that risk;*
- the assessment of the risk of serious harm; and,*
- the management of that risk.*

Appendix 3<sup>45</sup> illustrates these functions diagrammatically in a simplified linear form.

### **2.10 Key Messages**

- There is a need for cross fertilisation between clinical and sociological approaches to understanding elderly sex offending and sex offenders in order to encourage an approach to understanding which is both reflexive and more holistic than some of the highly quantitative clinical studies and some of the highly politicised sociological ones
- There is a need to develop understanding about age, risk, recidivism and reconviction in relation to older sex offenders
- There is a need to examine the impact of recent changes in the way sex offenders are managed particularly in relation to their needs and experiences of health and social care provision.

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<sup>45</sup> Home Office (2004: 42) MAPPA Guidance London: Home Office

# SECTION 3

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## 3. Decision Making and Elderly Sex Offenders

### 3.1 Introduction

This section is concerned with identifying key outputs of the scoping exercise including the various themes highlighted during the course of the study. It assesses the decision making processes involved in the provision of care and support to elderly sex offenders.

### 3.2 Key Findings

- An over-arching theme in relation to the management of elderly sex offenders is decision-making, which is highly individualised, leans heavily on professional skills, judgement and experience and on high levels of collaboration
- Formal decision-making is quite clearly described, and in general terms, responsibility in relation to registered sex offenders lies with the responsible authorities. Within these formal structures there are a number of more informal layers of decision-making
- There is an axis of complexity of decision making which includes the relationship between the formal and informal, actuarial and risk assessment, and information management.

### 3.3 Decision-Making

An over-arching theme in relation to the management of elderly sex offenders is decision-making. The safety of the public and of the offenders themselves is contingent on a complex series of decisions beginning with conviction and sentence and particularly in the case of elderly sex offenders, decisions that are made unilaterally by a

single agency or within the context of formal and informal multi agency partnerships. Here we first describe part of the apparent axis of this complex decision-making as described to us, and then go on to look at particular elements of that decision-making that have been emphasised. What emerges is a picture in which a strong structure demands accountable and shared decisions but within which the decision-making process is highly individualised and leans heavily on professional skills, judgement and experience, and high levels of collaboration between key agencies.

*'...you can have all the procedures in the world, but it doesn't mean that its going to work just because you have got procedures - its like protocol, it will end up in the bottom drawer somewhere if nobody pushes them forward...'* (Interview 4)

### **3.4 Axis of Complexity**

*Formal v Informal.*

The Formal: Accountability for decisions in the sense of responsibility for making final decisions is quite clearly described. In general this responsibility in relation to registered sex offenders lies with the police and probation. Indeed, some would say that no other agency has clear understanding about lines of responsibility and an overview of the processes.<sup>46</sup> Registration is with the police and the courts prescribe the length and level of registration. The level and length of registration determines the level and length of police contact with the offender. Similarly, during community sentences, prison sentences and periods of license after prison the Prison Service and in particular the National Probation Service have specific responsibilities in terms of assessment and contact. On release from prison, registered sex offenders on license are the responsibility of both police and probation. It is logical therefore

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<sup>46</sup> Multi Agency workshop 14<sup>th</sup> June 2004

that the police and probation services are designated the 'Responsible Authority' in Multi Agency Public Protection Arrangements (MAPPA). Throughout the period of license the probation service has powers of recall i.e. can decide that the risks of further offending are such that the offender should be recalled to prison. Throughout the period of the registration the Responsible Authority has the power to decide that levels of risk have changed and so levels of supervision / surveillance must be reviewed.

*'So if I get a referral and I say I'm not quite sure what level of risk he is at the minute, I need more information. I need to know from his previous housing provider what's happened when he's been there - has he been interested in children - has he been going out... and I can't decide whether to manage him at level 1 or level 2 at the minute. So we'll call everybody together who has got information. We'll have that - probation will chair it - we'll have that meeting and after that meeting we'll decide yes, this man needs to be managed at level 2. So the information sharing is just really to facilitate the decision on what level of management he's going to be managed on' (Interview 4)*

Ultimately, raised levels of risk to the highest level bring the case under the direct scrutiny of the Multi Agency Public Protection Panel (MAPPP). The numbers brought under the scrutiny of the MAPPP is comparatively small (6% of total cases nationally; 34 out of a potential number of 1113 in Northumbria in 2002/3).

As the 'Responsible Authority' police and probation are responsible for the key decisions upon which collaboration with other agencies is contingent:

- Probation conduct risk assessments on all sex offenders appearing before the courts and continue to assess risk throughout the ensuing sentence. During prison sentences this is done in collaboration with the Prison Service (soon to become part of the 'Responsible Authority')<sup>47</sup> and during community sentences with registered offenders in collaboration with the police. This assessment process is central to an initial decision about the level of risk posed to the public by each individual. The vast majority of cases are assessed as 'standard' risk and this means that the case will generally be managed by a single agency as part of registered sex offender procedures (typically, regular police contact) or as part of probation supervision (on license or community supervision, involving National Standards of contact and planned work on the offender's 'internal controls'). While cases are at this standard level, collaboration is on an information-sharing basis and is generally between police and probation, focused on monitoring levels of risk. The 'Responsible Authority' owns the process of risk assessment at this stage and the decision to refer the case to a higher level (to a Risk Management Conference or to a MAPPP) is triggered by the decision of police and / or probation that the risk to the public has increased to the appropriate level for such action. (In 2002/3 there were 117 Risk Management Conferences in Northumbria and 34 cases referred to the MAPPP of which 19 were registered sex offenders).

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<sup>47</sup> MAPPA guidance was first issued in March 2003. Revised Guidance published in October 2004 (see Appendix 1) includes the Prison Service as part of the Responsible Authority.

- Risk Management Conferences in Northumbria are chaired by probation. The chair of the conference in conjunction with the referring police or probation officer makes the decisions about who should attend the conference.

*'...occasionally you get GP's at risk management conference..... If there are mental health issues then you might have a CPN there or somebody from the community learning disability team or a psychiatrist who might have done a report in prison. You might have the prison staff there. So all these people come together'.*

*'Nine times out of ten the housing provider would attend because they would be invited. I can't think of many ... where the housing provider isn't invited, because they have also got quite a lot of information to share - especially if they have got link workers. They tend to have quite a lot of information so - the issue is the ones where they are not managed at level 2 or 3, so there's no meetings held about them, how many of them are in accommodation where the housing provider doesn't know they're a sex offender. Yeah, potentially there are a lot because when the police come in to register they wouldn't automatically think that I must tell the council or the bed and breakfast owner or whatever, that he's living there. Hopefully they have been trained that they would consider the implications of that accommodation' (interview 4)*

- The Risk Management Conference will decide to raise the level of intervention to level two if more than one agency needs to be involved in the risk management plan or can refer the case to a MAPPP if the risk is considered great enough or allow the case to continue to be dealt with at level one, by a single agency.
- MAPPPs are again chaired by probation (a senior manager). Decisions here are about the shape of detailed multi-agency

plans to manage risk to the public. Again the decisions about who to invite to the MAPPP lie with the chair of the panel, informed by the views of the referring officer or referring Risk Management Conference.

*'The people who would normally attend would be detective inspectors of police, managers, social services, housing managers, psychiatrists, senior managers from health – whatever really is required at that senior level. So its those people who carry the responsibility to be able to make things change quickly'*

(Interview 6)

Decisions made by the Risk Management Conferences and by MAPPPs are recorded in minutes of each meeting and include agreed Risk Management Plans. <sup>48</sup>

*' If you have a risk management meeting you must come up at the end of it with an actual plan for how to manage'* (Interview 3)

The outcomes of these processes appear to be remarkably successful. In 2002/3 only four offenders dealt with under MAPPA were charged with sexual or violent offences; one was a prosecution following disclosure by the sex offender's family of historical abuse, one was a minor arson offence committed by a young offender, one was a violent offender convicted of burglary and one was charges of conspiracy to commit rape and indecent assault detected before any child was harmed.

*'The first one that we - my current post - it was as a response to the person that came down from Scotland. When the panic button*

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<sup>48</sup> As part of this research we have not had access to these minutes and so cannot comment upon the composition of those groups or the decisions made by them.

*was pressed, a MAPP meeting was convened and we were invited along to that to take part. Interestingly for that situation because the police knew well that the person had told lies on their application form to get a property, the police were actually very concerned that we terminated the tenancy and the person would disappear again. So they didn't put pressure on us but they were forceful in saying to us look, if you stick with it and if you keep this person where we know the person is, we will bend over backwards to try and help to support the person. That has proved to be the case. This particular case worker has been actually superb and we have been able to maintain somebody for maybe two years now.'*  
(Interview 2)

The Informal: Within these formal structures for decision-making there are a number of ways in which professional but essentially informal processes take place. The first of these is at the level of 'information sharing meetings'. It is here that access to MAPPA is controlled by the two key agencies. At this point a single agency (police and /or probation) holds the case (as either statutory supervision and/ or registration). It is here that the decision is made to refer cases to a higher level (Risk Management Conference or MAPPP) or in the vast majority of cases, the decision not to do so. High-risk assessment scores will see some cases referred automatically into these higher levels of engagement. For the most part however the decision to refer upwards sits with the supervising probation officer (in the case of statutory supervision) or with the Sex Offender Liaison Officers (in the case of registered sex offenders).

*'In Northumbria it is very pro-active management by the sex offenders liaison officer, its not just having their names on a register and forgetting about them, they then obviously work out*

*the level of contact they will have and its very, very pro-active management and that was demonstrated last year when we looked at the numbers of registrations that had been breached and had been followed up. That shows good pro-active management.'* (Interview 6)

Of course the probation service works with sophisticated risk assessment tools and to some extent this will play a part in identifying when higher-level intervention is required. Similarly the police have their own ways of identifying increased risk. Nevertheless these decisions, perhaps first to consult with line managers, perhaps to share information with the other Responsible Authority (police or probation) or to refer to a Risk Management Conference must be seen in the context of individual staff responding to information and making judgements in relation to their knowledge, understanding and experience.

*'Because unless somebody tells us we have absolutely no way - we cannot search databases to find out. We accept everybody at face value - subject to perhaps asking the previous landlord for the conduct of their tenancy, but even then they may not know. We tend to be the last ones to find out because usually it is somebody else who is concerned about the person in question who approaches us for information or to confirm whereabouts.'* (Interview 2)

These day-to-day decisions and actions are at the heart of the MAPPA and a study of these processes would warrant a separate and significant piece of research.

Perhaps the most significant area of informal process at the higher levels of the process is in the chairing of the Risk Management Conferences and MAPPPs. There is little prescription in relation to

who should participate in these decision-making groups. Police and probation will always be there but the processes and rationale for other agency involvement is less clear. We would expect to find high levels of pragmatism in this decision-making process, a clear willingness to involve other agencies perhaps tempered by a desire to keep the process manageable. Again a study of these processes would be useful and informative and might provide some measure of the success of the responsible authority in promoting and managing a multi agency approach to risk management.

*Actuarial and situational risk assessment.*

Another axis of complexity in the decision-making process is related to the processes of risk assessment. There are number of features to this process that raise interesting issues and questions:

Variable tools: There is a range of risk assessment tools available to the responsible authority. OASys is a generic risk of harm assessment tool that should trigger further specialist risk assessment tools. The key specialist and actuarial tool for sex offenders is Risk Matrix 2000 and it uses the same risk categories as OASys. The appropriate assessment tool for offenders under 18 is ASSET. This is used by Youth Justice Teams and there are enough common elements between OASys and ASSET that age 18 information can be drawn across the two systems. Probation and the prison service use the OASys (risk of harm) and Risk Matrix 2000 (risk of reconviction) assessment tools. Meanwhile the complex literature on the risk assessment of sex offenders indicates that different tools are most effective (and predictive) in different circumstances.

Situational assessment: Although some situational / clinical assessment is part of the OASys system, dynamic situational assessment only takes place while offenders are being directly supervised or when triggered by information as part of the risk management process. This triggering relies upon the skills and the knowledge of individual offenders and is largely the responsibility of Sex Offender Liaison police officers and supervising probation officers and leads to a Risk Management Review or a MAPPP.

*'But the level of risk is dynamic so if the level is level 1 when he comes in to register - everything seems OK, but that's on the static - the actuarial factors. However if when he (the liaison officer) goes to the house he sees things that aren't quite right, he might reassess the risk and say well actually although he has been low level risk, its going up now because of all the other dynamic factors are changing the risk assessment - I need to do something about it. It probably needs a Risk Management Conference that means he's up the level of risk to level 2. So there's a conference at which point the dynamic factors are discussed in terms of how they are affecting the risk.'* (Interview 3)

The extraordinarily low rate of offending of registered offenders seems to indicate great strengths in the process.

*'In general they just go and knock on the door. Obviously they are trained officers, most of them have been doing that specific job for a long time. They are trained to assess dynamic risk factors - that's what they are there to do. So when they go, obviously they are looking at; has he got a computer all of a sudden; are there kids toys in the corner; like suddenly Winnie the Pooh pictures turn up on the wall, you know, so they ask, has he got kids coming in and if he has they need to address that. So when they go in, although*

*they've got no legal obligation to let the police in under the Sex Offenders Act, we can't force our way in - most of them are so compliant that they let you in. And you can't search through the house. However, a lot of them will say, yeah, yeah, come and have a look, you know. It's all very, very compliant. And in fact because a lot of sex offenders, not just elderly, are socially isolated, that they actually relish the contact with the police sex offenders liaison officers because its like a friend and so many of them feel like that.'* (Interview 3)

Research access to the liaison and supervising officers and to the review meetings and panels would throw more light on the relative use of formal, informal, actuarial and clinical processes.

Discretion. To what extent is individual and group discretion part of these decision-making scenarios? Individual supervising probation officers, police liaison officers, Risk Management Conferences and MAPPPs make decisions that are primarily driven by notions of safety; primarily the safety of the public but also the safety of the offenders themselves. Does this mean that discretion is usually exercised in a particular way i.e. erring on the side of caution? i.e. do decisions over emphasis the protection of the public and / or even disregard the rights of the offender?

*'It just depends on how serious they consider the risk to be. We get involved if there is serious concern about somebody's offending previously or a future risk of offending, if somebody is known to social services who they consider to be a low risk, they'll not necessarily tell us, because of issues of confidentiality - so everybody is caught in this trap of confidentiality and should we tell somebody else or should we not, who needs to know and why. So we tend to find out if somebody has a real concern'. (Interview 2)*

Alternatively, do processes of dialogue and ultimately information sharing and discussion in Risk Management Conferences and MAPPPs displace the notion of discretion in favour of shared responsibility and accountability? Will such shared responsibility always tend to generate cautious decisions? Is such caution ever or even sometimes unfair to the offender?

### *Information Management*

Information sharing: The MAPPA operates within a particular tension; on the one hand, they are premised on the notion that risk can be managed most successfully by agencies working together; on the other hand they must operate carefully within clear guidelines in the sharing of information.

- There must be lawful authority to do so (i.e. need for legal advice)
- It must be necessary (open to wide interpretation)
- It must be proportionate (again a difficult issues of interpretation)
- It must keep shared information safe and secure (exercising control of information in relation to confidentiality and data protection)
- It must be accountable (which presumably means taking responsibility for the reasoning underpinning the decision to share information and may even extend to taking responsibility for the consequences of information sharing).

These guidelines create a climate of caution in the sharing of information and yet the Responsible Authority also needs to make defensible decisions to withhold information. However clear the guidelines and however rigorous the risk assessment these are not

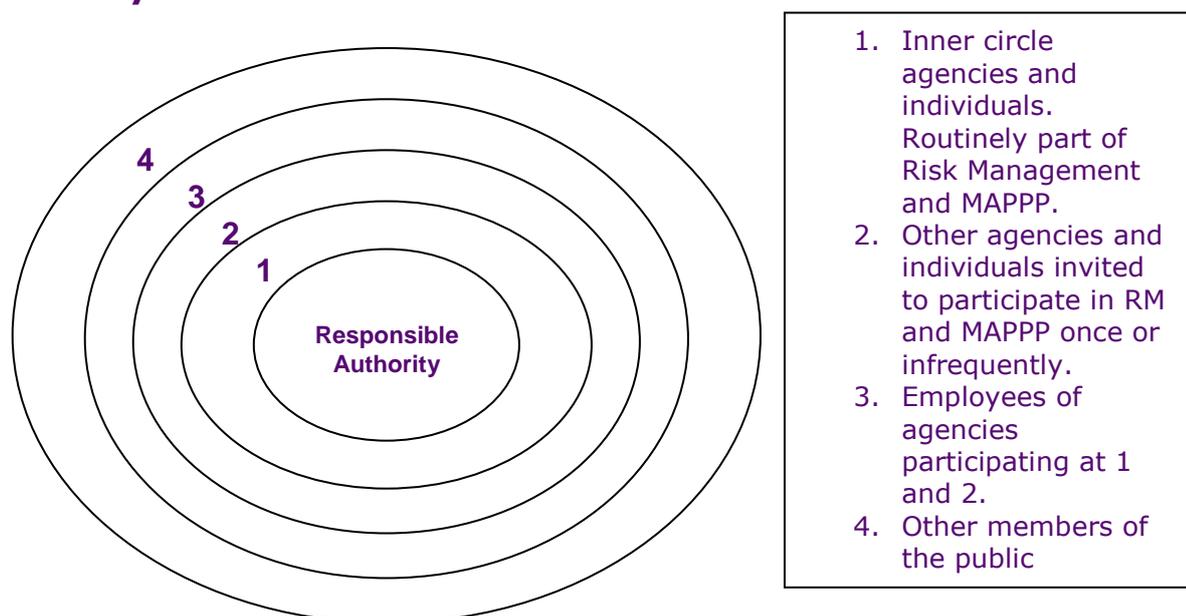
mechanical decisions but must involve judgement and probably some element of risk taking. It could be argued that the involvement of professionals from a wide range of relevant agencies would enhance the decision-making process and ensure that ultimate decisions were better informed from drawing upon a greater pool of knowledge and experience. These decisions would include what information to share, with whom it is shared, and the benefits to public and / or offender from sharing it. The broader the range of people involved the greater the credibility of decisions made and the more transparent the lines of accountability. In addition, partner agencies beyond the Responsible Authority bring a range of cultures and traditions in relation to confidentiality and information sharing.

Layers of information access: The Responsible Authority holds information pertaining to the MAPPA and in practice this means the police and the probation service who jointly staff the MAPPA unit where all registration information is logged, coordinated and stored. Beyond police and probation the next layer of information sharing is with agencies invited to participate in Risk Management Conferences and MAPPPs. Some agencies are regularly involved in such meetings (e.g. housing providers, Youth Offending Teams [YOTs], Social Services). Other agencies are invited to such meetings much less frequently or indeed not at all. Risk Management Conferences and MAPPPs might decide as part of their plans to share information with particular people; these may be agency managers, workers from particular agencies, family members or members of the public.

What emerges is a picture in which information is carefully managed across various layers of access. (See fig 1 below). At the heart this access is part of a sharing and decision-making process and takes

place between a limited number of people from a limited range of agencies. Access and sharing becomes a more complicated process when moving beyond what are largely specialist individuals or agencies. New agencies and individuals need to be inducted into the processes and protocol of the MAPPA and the information shared may lead to those individuals and agencies addressing issues that may be new to them e.g. how to best manage the information themselves within the agency at the same time as playing a part in the risk management. There is then a significant separation of layers between agencies; there are agencies that have a track record of dealing with and sharing information (and that as a result have worked out how to do it effectively e.g. they ensure an internal clarity of responsibilities and accountability), and there are agencies not involved or which have rarely been involved in the process and for whom each involvement must be treated as a special (and potentially difficult) scenario raising all sorts of new issues for the individuals and agencies concerned. This is particularly relevant in the management of elderly sex offenders because as they get older sex offenders increasingly need to access services and support from a whole new range of individuals and agencies.

**Figure 3.1 Layers of information access**



This notion of 'layers' of access to information raises a number of questions.

- Which agencies and individuals outside of the Responsible Authority participate most frequently in RMCs and MAPPPs? Does this vary between different areas within Northumbria and nationally?
- What distinguishes agencies and individuals at 1 and 2? Is this a complex distinction to make? Does such a model actually reflect practice?<sup>49</sup>
- In general terms are level 2 participants more likely to be general health and social care providers? As a consequence do older sex offenders increasingly draw in these agencies to the MAPPA? If so, what preparation and support do they get?
- How is the information managed within level 1 and level 2 agencies? Are there differences in philosophy and/or approach? Are the concerns in relation to sharing information within agencies the same across level 1 and level 2 agencies? Are there any tensions between the need to know and the right to know?
- At levels 3 and 4 is it possible to manage the flow of information? Are sanctions available to control this? Are they exercised?

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<sup>49</sup> New MAPPA Guidance (2004) See Appendix 1, reflects the strengthened provisions of the Criminal Justice Act (2003) introducing the notion of a 'duty to cooperate with the Responsible Authority' for a range of social care agencies. There is no evidence in this scoping study that such pressure was required to enforce cooperation but in time the requirements may well impact on the layers of access described above.

### **3.5 Key Messages**

- Beyond the formal decision making processes, an examination of the 'day-to-day' decisions and actions at the heart of MAPPA would provide assessment of the informal processes of decision making in relation to elderly sex offender management
- Research into the process of actuarial and situational risk assessment would throw light on the relative use of formal, informal, actuarial and clinical processes
- Research is required on the sharing of information across various layers involved in the various levels of decision-making.

# SECTION 4

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## 4. Emergent Themes and Discussion

### 4.1 Introduction

From the data we have collected about this complex decision-making process a number of themes emerge that are pertinent to our interest in elderly sex offenders. It identifies the issues and blockages that may serve to constrain the provision of services to elderly sex offenders.

### 4.2 Key Findings

- A range of themes and issues emerge from an assessment of decision making that may serve to explain constraints in the provision of services to elderly sex offenders
- The business of collaboration and partnership working between agency representatives and agencies and organisations is complex, sensitive and difficult, and underpinned by factors of power, culture, and structure and organisation
- In considering the social and care needs of elderly sex offenders in the community perhaps it is important to acknowledge that not all risk can be managed and that there are difficult decisions to be made about where to draw the line in attempting to do so. Drawing such a line inevitably involves some level of calculated risk taking and again highlights the tensions between public protection and the offenders' rights

### *Partnership work.*

In recent years there has been much debate and emphasis on the benefits of partnership working within the areas of Health and Social Care, and the Criminal Justice System. Failure of partnership is often cited when systems break down and things go wrong. e.g. when someone has not received support following a hospital discharge; when a child identified at risk is systematically abused by family members; when the body of an elderly person (known to social services) is found at home having died from hypothermia; or when a man is released on licence from prison only to abuse and kill a child.

The analysis of these failures indicate deficiencies in systems, processes, role clarity, communication, record keeping and sharing and management as well as failings of individual and corporate responsibility.

However, notwithstanding mistakes and deficiencies, the fact is that in practice the business of collaboration and partnership between agencies and between representatives of different agencies is complex, sensitive and difficult. Anna Loxley (1997)<sup>50</sup> describes a range of competences for successful collaboration and sees the potential fault lines in collaboration and partnership being unresolved differences. *'Division develops into difference and difference into differentials, that is relative difference, which require to be defended and perpetuated and justified because they are construed as representing values and power relationships in a society.'* (Loxley, 1997 p50). She analyses these differences in relation to three factors: power, culture and structure and organization. These provide a useful tool for the analysis of partnership in MAPPA.

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<sup>50</sup> Loxley, A. (1997) Collaboration in Health and Welfare Jessica Kingsley

Power: Here the questions are essentially related to whose will prevail. Who defines the problem? Whose terms are used? Who controls the territory? Who invites others? Who decides resource need and allocation? Who influences policy makers? Issues of professional domain and competition may arise. In the MAPPA, power lies unequivocally with the Responsible Authority, in other words with Police and Probation (and now the Prison Service). This power is unequivocal because it is allocated by legal statute. This clearly creates two tiers of agencies involved in the MAPPA, those that are part of the Responsible Authority and those that are not. In that many in this 'outer circle' of agencies are required to cooperate with the MAPPA<sup>51</sup>, the nature of the partnership and collaboration is quite distinct.

*'it wouldn't only be police that would be involved in managing and decision-making, Social Services would be invited .....and information sharing would take place at a level 1 meeting'.* (Workshop 1, 14 June 2004)

*'if he is becoming more likely to re-offend, then police would involve probation and social services and it may get to a stage where an inter-agency meeting is needed'.* (Workshop 1, 14<sup>th</sup> June 2004)

Issues of power *between* the agencies in the Responsible Authority appear to be minimal at this stage (pre Prison Service involvement) and this may be for two broad reasons. First, the Responsible Authority operationally is a dedicated (multi-disciplinary) team and second, that team seems to demonstrate high levels of the collaborative competences identified by Loxley (ibid). See Box 4.A.

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<sup>51</sup> 'Duty to cooperate'. See Home Office (2004) MAPPA Guidance London: Home Office Appendix 1

<b>Box 4.A. Competences for Collaboration (from Loxley 1997)</b>	
<b>Attitude</b>	<ul style="list-style-type: none"> <li>- commitment</li> <li>- process of building trust<sup>52</sup></li> <li>- legitimacy of counting the costs / benefits<sup>53</sup></li> <li>- acknowledging power relations<sup>54</sup></li> <li>- acknowledging differences in perception</li> </ul>
<b>Knowledge</b>	<ul style="list-style-type: none"> <li>- understanding social systems</li> <li>- understanding boundaries, structures and processes<sup>55</sup></li> <li>- (enough to know what you are dealing with )</li> </ul>
<b>Skills<sup>56</sup></b>	<ul style="list-style-type: none"> <li>- mapping networks</li> <li>- managing processes</li> <li>- clarifying roles and responsibilities<sup>57</sup></li> <li>- defining tasks</li> </ul>

Culture: What are the shared assumptions, shared customs and practice and understanding of the world that mark out insiders and outsiders? This culture can often be expressed in terms of priorities and values, stereotypes of others and notions of professional identity. Again the culture gap between the Responsible Authority in

<sup>52</sup> 'Used to be a precious thing with information, a lot of times it is down to individuals confidence' (Workshop 3 June 2004)

<sup>53</sup> 'Protection of the individual must also be a concern, it may be counter productive for people to know' 'there is a duty to protect him as well, when do you stop informing?' (Workshop 3 June 2004)

<sup>54</sup> 'Social services tend to keep a lot of information to themselves' (Workshop 3 June 2004)

<sup>55</sup> 'Nice to have partnerships that work and are fluid' (Workshop 3 June 2004)

<sup>56</sup> '...You can have all the procedures in the world, but it doesn't mean that it's going to work just because you have got procedures, it's like protocol, it will end up in the bottom drawer if nobody pushes them forward...'

(Interview 4)

<sup>57</sup> ' You would have a meeting because you are concerned about public safety. Initially between probation and police and you would need to sort out housing. There would need to be an inter-agency meeting to which housing is invited.' (Workshop 1, June 2004)

the MAPPAs and the 'outer circle' of agencies is likely to be wide in particular because the multi-agency dedicated team derives all of its culture from its own history and development and from the priorities and responsibilities of the MAPPAs legislation. For other agencies and for the representatives of those agencies, sex offending is a part and in many cases a marginal part of wider agency task, history and identity.

*'as long as people at strategic levels are aware so risk management can be fed into the protocol, they can identify who's at risk within their organisation and act accordingly'.* (Workshop 3 June 2004)

Structure and Organization: The significant differences here can be around length, content and nature of training. However, perhaps more significant in the MAPP partnerships are differences between more and less hierarchical, more and less structured professions. Few partners will be as hierarchical in structure as the police. The Prison Service is similarly hierarchical but the Probation Service, although an increasingly structured organization, is less so and has a quite distinctly different regime of qualification and training. The outer circle of agencies in the MAPPAs will tend to be less structured and hierarchical than the Responsible Authority and generally with more diverse organizational cultures.

Issues that this might have generated within the Responsible Authority in Northumbria have been mitigated by the structure and the professionalism of the multi-disciplinary team.

*Need to Know v Right to Know.*

There are difficult questions to be faced as care delivery agencies become increasingly involved in services to elderly sex offenders.

For example, at the time of writing, in Northumbria there are two sex offenders who are wheelchair users<sup>58</sup> and who have substantial health and social care requirements. Their management requires a wide range of agencies and individual workers and a series of complex decisions about who needs to know what. Are MAPPA accountable for decisions about who is informed within agencies or do the agencies take responsibility for this? What support is available for agencies of various sorts, drawn into the MAPPA by the needs of elderly sex offenders, in preparing for and dealing with difficult processes of information management? Is such support required? What are the training implications?

**Box 4.B. Case Example. The Care Home.**<sup>59</sup>

<b>Background</b>	Following a period of hospitalization a registered sex offender, Roger, needs residential care and negotiates a place at an appropriate private establishment.
<b>Who knows?</b>	Roger informs the police liaison officer who calls a case review meeting attended by police, probation and social services.
<b>Who needs to know?</b>	Does the care home need to know about Roger's status as a registered sex offender? Does the manager of the care home need to know? Do other members of staff need to know? Which staff? Do other residents need to know? Do the families of other residents need to know?

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<sup>58</sup> Interview 6

<sup>59</sup> In an interview with two experienced practitioners from Social Services it emerged that in pre MAPPA days, in cases similar to this the care home manager would have been informed and that at this point she took responsibility for the information management. This might involve developing strategies with care staff for working with Roger that for example precluded one-to-one contact but without sharing information about the nature of Roger's offending. For example, it might be suggested that Roger had a tendency to dependence and/or attention seeking and that this needed to be discouraged. This highly pragmatic approach attempted to address Roger's needs without the certainty that the placement would fail if staff (and their families) knew the truth.

**Professional dilemmas**

At what point does the sharing of information jeopardise the viability of a successful settlement at the home? Do any of those involved have a right to know? Is it possible to deliver residential care of this sort to Roger at the same time as sharing information with those who **need** to know?

**Issues arising**

How are these decisions dealt with in practice? How can the important professional and policy issues involved be opened up for debate and lessons learned from mistakes and from best practice? How can consistency be achieved that is both just for the offender and responsible in terms of public safety?

*The Limits of Risk Management.*

Some argue that risk management and the related dilemmas about information-sharing should be pursued to their logical conclusion. i.e. a chiropodist may need to know when they are treating a sex offender with particular predilections and by the same argument so might the local shoe shop. Do we inform the cobbler on the high street? The meals-on-wheels staff may need to know and so might the local pizza delivery firm. Where should the line be drawn? This pursuit of freedom from all risk can combine with a view of sex offenders as being essentially incorrigible to create an illimitable risk management task. In considering the social and care needs of elderly sex offenders in the community perhaps it is important to acknowledge that not all risk can be managed and that there are difficult decisions to be made about where to draw the line in attempting to do so. Drawing such a line inevitably involves some

level of calculated risk taking and again highlights the tensions between public protection and offenders' rights.

### *Sex Offender Rights*

In this climate of risk management is it possible and necessary to engage with the notion of sex offender rights? In particular are choice and access to services (particularly to services for the elderly) constrained unfairly by the ways in which sex offenders are managed, by attitudes towards the reform and / or rehabilitation of sex offenders or by disclosure practice.

Sex offender management is self-consciously focused on the notion of risk management. Although there is considerable investment in sex offender programmes designed to change sex offender behaviour these are not premised in any belief in the notion of rehabilitation or reform. Rather they are based around the idea of self-policing and self-control. To what extent does this approach constrain motivation to support sex offenders reintegration into the community?

A key issue in sex offender management is disclosure and the tension between the rights and needs (of service providers) to know. Experts have expressed the opinion<sup>60</sup> that however difficult the issues may be, no level of risk is acceptable in relation to decisions about disclosure. In practice this may well constrain access to services for sex offenders or indeed make it very difficult to achieve any level of integration with the community they live in. On the other hand, bearing in mind the range of complications possible as soon as disclosure is necessary (indeed the very processes and requirements of disclosure for the responsible

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<sup>60</sup> Interview 5

authority) there may be a strong pressure on police and probation to try and contain the work of managing sex offenders within a circle of agencies and service deliverers who are known, familiar and experienced in dealing with sex offender management issues. This again could well act as a constraint to choice and access for sex offenders.

### *Public Protection v Understanding and Risk Assessment v Harm Assessment*

The literature indicates a wide range and current research in relation to the assessment and management of sex offender risk. However there is comparatively little literature in recent years that seeks to address explanations of sex offending behaviour. What emerges as a result is a perception of sex offending behaviour as a phenomenon that exists, will continue to exist and can only be mitigated and managed rather than cured. According to this perception the sex offender does not reform or rehabilitate but rather can be persuaded and supported to control his behaviour in ways that reduce risk to the public where the sex offender fails to see the ways in which his behaviour harms others and / or minimises that harm or is simply prepared to harm others for his own gratification, cognitive behavioural programmes may raise awareness about the harm their behaviour does and give them some insight into their own patterns of thinking and behaviour. Without careful oversight further offending is always a danger and even after long periods without offending relapse is likely.

This is a knowledge culture that is powered by the drive for risk management and potentially prevents a developing understanding

about sex offending<sup>61</sup>. The literature about risk levels as sex offenders grow older seems to indicate a complex situation in which, in many cases, the risk reduces greatly. However a sex offender registered for life will be perceived as risky throughout his life even as the ageing process reduces mobility and mental capacity is failing.

The success rates of the MAPPA are extraordinarily high at present. This deserves considerable attention and investigation to try and understand what it is about the MAPPA that produces these results.

Similarly, this prevailing knowledge culture is primarily concerned with the management of risk of re-offending and comes to the notion of reducing harm as a secondary concern. This is debate that cannot be joined easily in public. The public have a simplistic view of all sex offending in which the very wide distinctions in the nature of the behaviour and in particular the very wide range of harm caused by that behaviour is largely ignored. Indeed even amongst professionals the fine grain of distinction that would be an important part of the analysis of any other type of crime seems to be approached with caution.

## **4.2 Summary**

At present there is a paucity of contemporary research into elderly sex offending. Much of that which is published is somewhat old, sometimes outdated and / or often based upon quantitative clinical trials and studies. More general research on sex offenders and sex offending that sometimes involves discussion of the concept of age

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<sup>61</sup> An interesting way of working with the potential negative consequences of this way of thinking about sex offenders is the Circles of Support approach pioneered by Quaker groups in Canada and now being piloted in Thames Valley, Hampshire and elsewhere. See Appendix 2.

can be identified in studies into sex offending, reconviction and recidivism rates. The body of already published research also fails to offer understanding of the nature and extent of elderly sex offending as well as of the various aetiological questions and those associated with dynamic and static risk factors. All too often studies remain too quantifiably 'clinical' or politicised sociologically.

Moreover, there is a paucity of research that examines the needs of elderly sex offenders and the provision of services for them. The dynamics and complexities of relationships remain under-examined. This is surprising given the wider body of literature on age discrimination in the health and social care systems. Additionally, although there is a broader body of research literature on what works that locates sex offending in the changing contemporary political and policy contexts of partnership working and programme interventions, this literature often fails to examine these in relation to elderly sex offending. Moreover, although some of the studies do get behind the formal processes involved in offender management, the vast majority of this research does not get behind the formal mechanisms of sex offender management to look at the informal mechanisms and the various factors that underpin such processes.

As a consequence, it can be suggested that the academic and scholarly research literature on elderly sex offenders, risk and service provision remains underdeveloped.

This scoping exercise has identified the importance of decision making to an understanding of the experiences of elderly sex offenders in the health and social care systems. Indeed, this report has indicated that decision-making is at the very heart of the relationship between elderly sex offenders and the health and social care systems, and thus is crucial to an understanding whether the

needs of elderly sex offenders are currently being met. Much of this decision making is formalised and structured, although much of it is also informal and dependent upon a wide range of factors, including those operating at micro and macro levels of analysis. In doing so, this scoping exercise has identified a range of questions for further clarification.

Anecdotally, it has been indicated to us that elderly sex offenders can face discrimination in relation to the provision of health and social care services but it has also been expressed that the reasons for this may be as much to do with the process of decision making as it is to do with the nature of offending and the fact that the person is an elderly sex offender. That is, it remains open to question the role age, sex offending, needs, risk and service provision play in relation to understanding whether sex offenders over the age of sixty five years of age are receiving the relevant health and social care services that they are entitled to within the North East.

As a consequence, this scoping exercise has identified the need for further research in this area. During the spring and early summer of 2005, the CSRU and TDI will be preparing a research brief for submission to extend and expand the research described in this report.

#### **4.4 Key Messages**

- There is a knowledge culture that is powered by the drive for risk management and which potentially prevents a developing understanding about sex offending
- Given reported high levels of success rates of MAPPA, research and evaluation is required to understand what it is about the MAPPA that produces these results
- There is a need to explore with the public the wide distinction in the nature of the behaviour associated with sex offending and in relation to the very wide range of harm caused by that behaviour.

# RECOMMENDATIONS

**This document reports on a scoping exercise undertaken by TDI and CSRU. It identifies the need for further research and development on elderly sex offenders and the Health and Social Care system. In doing so, a number of specific recommendations have been identified as they relate to the development and implementation of a fuller research project.**

**These recommendations include:**

- To examine the process of decision making involving agencies and organisations as it applies to elderly sex offenders.
- To monitor the nature and practice of collaboration, partnership and information management as it develops through MAPPA.
- To understand the relationship between responsible authorities and relevant other agencies and organisations involved in MAPPA.
- To examine the role of MAPPA in developing and constraining collaboration and partnership between agencies and organisations.
- To explore further how MAPPA supports the process of information sharing and management between agencies and organisations
- To develop explanations for elderly sex offending, which takes account of static and dynamic risk factors.
- To develop understanding of the health and social care needs of elderly sex offenders, the provision of services for them and sex offender's experiences of accessing and using these services.

- To develop understanding of the complexities of managing risk as it applies to the health and social care needs of elderly sex offenders.
- To examine training requirements of agencies and organisations and their staff working with sex offenders.

# APPENDIX 1

## **MAPPA Guidance (Published October 2004)**

Revised guidance dealing with the provisions of the Criminal Justice Act (2003) that extend and strengthen the multi-agency public protection arrangements (MAPPA).

### **Summary**

- The Guidance emphasises the importance of the MAPPA framework;  
‘This framework is very important in supporting:
  1. greater professional confidence in the multi-agency management of risk;
  2. the work we will do to establish national standards to underpin and support the development of good practice;
  3. the more effective and efficient management of cases across areas;
  4. consistency in the way we communicate public protection work to the public – and we all recognise the difficulties in explaining this complex but important part of our public service;
  5. the effective development and sharing of good practice; and, effective links with other agencies both within the MAPPA (as we anticipate the provision made to strengthen these in the Criminal Justice Bill) and outside, for example with Area Child Protection Committees (ACPCs).’

- The Guidance describe four features of good practice;
  - ‘we have found it helpful to refer to the recent consideration of MAPPA good practice by Professor Hazel Kemshall (2003)<sup>1</sup>, in which she clarified that public protection depends upon:
    1. defensible decisions;
    2. rigorous risk assessment;
    3. the delivery of risk management plans which match the identified public protection need; and,
    4. the evaluation of performance to improve delivery.’ (pp 4-5)
  
- The Guidance describes the ‘strengthened public protection’ arrangements from Sections 325 –327 of the Criminal Justice Act (2003) and how they will be implemented. These arrangements are;
  1. including the Prison Service as part of the Responsible Authority ;
  2. placing a duty to co-operate with the Responsible Authority on a number of social care agencies providing services to offenders including health, housing, social services, education, youth offending teams, jobcentre plus and electronic monitoring providers;
  3. appointing two lay advisers to assist the Responsible Authority in each area to monitor and review arrangements locally.

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<sup>1</sup> Kemshall, H. (2003) The Community Management of High-Risk Offenders Prison Service Journal, March 2003

## **Circles of Support and Accountability**

Circles of Support and Accountability work with sex offenders in an attempt to help them avoid further offending. The idea, which originated in Canada and was run by the Mennonite Community, was first developed in 1994. In the UK The Quaker Crime and Community Justice Committee have championed the idea and this led to three Home Office funded pilot schemes being established in 2002.

'Whilst in custody, offenders who are identified as at high risk of re-offending, with low levels of support and high levels of need are matched with a circle. This individual then becomes the circle's 'core member'. The initial meeting of the circle draws up a contract of commitment to openness within the circle and confidentiality beyond. All decision-making is by consensus. The core member also promises that there will be 'no more victims' by his hand and that he will follow the laid down release plan.

Circles retain close and supportive contact with both probation and police and have to be aware of their responsibility to inform the appropriate authority when the need arises. Full circles meet weekly with the core member. Most days however, the core member will have contact with individual members of the circle. These contacts can range from a brief phone call through to a shopping trip or lunch. Levels of contact decrease over time, however should a core member's behaviour cause concern a period of intensified support and challenge may occur.'

From the Circles of Support Website (2004)  
<http://www.ccfj.org/what/circles.html>

The volunteers who make up the circles are trained in the principles, values, processes and practices of the scheme before working with a core member.

#### **‘WALKING WITH CORE MEMBERS**

The individual relationships between volunteers and core members are one of the three pillars of COSA (together with the COSA functions including the COSA meetings and the Covenant). Spending individual time with the core member often results in greater group cohesion, thus making the COSA stronger. Additionally, the COSA acts as a model for healthy relationships and a healthy community to the core member. Therefore, effort must be made by the COSA to become a community with healthy interpersonal relationships that include the ability to appreciate differences, have disagreements and care for one another. Individual relationships with the core member help to achieve some of the following goals.

- give support / help with adjustments.
- develop friendship.
- develop rapport from which to address problems and concerns.
- model healthy community.

#### **A. Developing Relationships based on friendship**

During the weeks the group is awaiting a core member they may take time for each to share their "life story".

The group may also want to tell their stories with the core member present, since they expect that his or her life will be an open book to the COSA. Therefore, each week a different person could take 20 minutes to share his / her journey. This also helps to build good group cohesion.

Friendships are based on trust, tolerance, non-judgment, dependability, forgiveness, friendliness, patience, honouring of one another, mutual growth, and many other qualities. Many of these are only realized with the passage of time and the experience of conflict and resolution. Above all, friendships should empower people rather than making them dependent.

## **B. Empowering versus Creating Dependency**

The core member has special reintegration needs of which the COSA needs to be aware and prepared to assist with. These include helping to empower a core member rather than allowing him to become dependent on the COSA to have his needs met.

Usually a core member has experienced a long period of confinement. Freedom may be intimidating. There is usually a great need for encouragement and "handholding". The dynamic tension between empowering and creating dependency must continually be assessed and adjusted.'

Circles of Support training documentation (2004)  
(<http://www.ccjf.org/what/circles.html>).

The UK schemes have been closely modelled on the Canadian Circles of Support. The Interim Report on the three schemes (Quaker Peace and Social Witness, 2003) indicate that by December 2003 only very small numbers of core members had been recruited but that all three pilots had established volunteer circles. It is clear from the report that the intention is to make the Circles of Support scheme complementary to the MAPPPs and it will be interesting to see what impact they can demonstrate in the longer term.

One of the partners to one of the pilot schemes, the Hampton Trust describes the Circles of Support in the following way on their website:

'The principal aims are :-

- To prevent re-offending by working with the police, National Probation Service and prison services
- To enhance public protection by monitoring an offender's activities and ensuring that the individual accepts responsibility and continued accountability for his behaviour
- To help re-integrate released offenders into the community by improving self-management and social skills and ensuring appropriate housing and employment opportunities

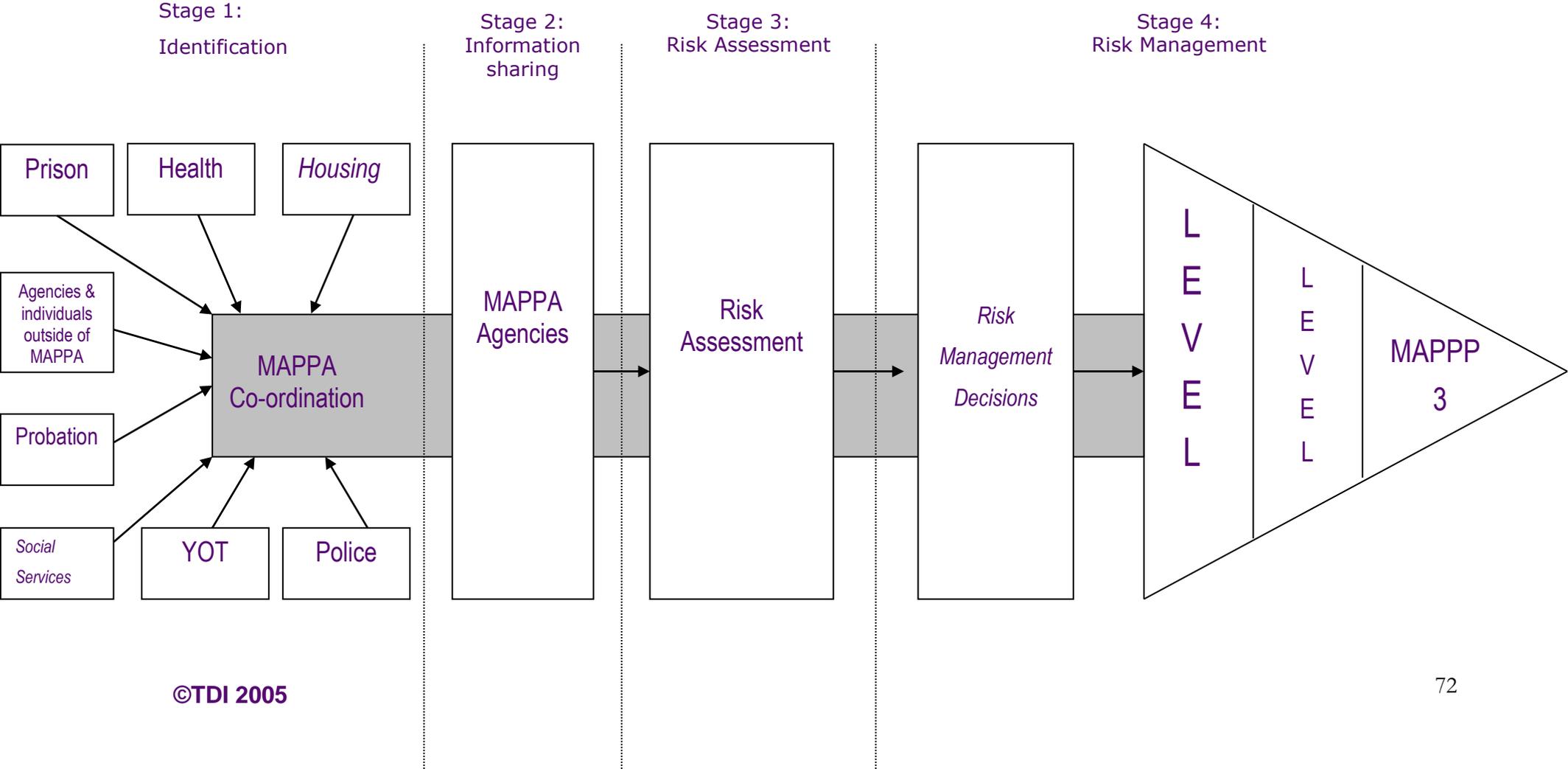
..... A group of trained volunteers will work with an offender, meeting before, or shortly after, release and agreeing to a contract setting out mutual expectations. The offender makes a commitment to taking action that will avoid re-offending and will follow a relapse prevention plan. Each volunteer makes contact with the offender once a week on a different day. The work of the Circle of volunteers is in addition to the supervision, monitoring and treatment by the police, the National Probation Service and other local organisations.'

Hampton Trust website (2004)

<http://www.hamptontrust.org.uk/circlesmain.html>

# APPENDIX 3

## THE FOUR CORE STAGES OF MAPPA (HOME OFFICE (2004: 42) MAPPA GUIDANCE



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