

Significant Case Review

Offender	Kevin David Rooney
Victim	Rosina Sutherland
Offences	Rape and Murder (Convicted 15 June 2012)
Reviewing Officer	DCI Phil Gachagan Police Scotland

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1. Introduction

1.1 Circumstances leading to Review

- 1.1.1 On 30 October 2011, the body of 74-year-old Rosina Sutherland was discovered within her home address at XX Longstone Park, Edinburgh.
- 1.1.2 Due to the circumstances of her death a police Major Investigation was instigated, which led to the arrest and subsequent conviction of Kevin Rooney (KR) for the rape and murder of Mrs Sutherland.
- 1.1.3 On 15 June 2012, Judge Lady Dorrian sentenced KR at the High Court in Edinburgh, to life imprisonment with a recommendation that he serves at least 21 years and 4 months before being eligible for parole. At the time of the offences, KR was a Registered Sex Offender managed under the terms of the Sex Offenders Act 2003.
- 1.1.4 Following an Initial Case Review (ICR) into the multi agency public protection arrangements (MAPPA) in respect of KR, the Edinburgh Offender Management Committee, on behalf of the Edinburgh Chief Officer's Group (ECOG) and the Edinburgh, Lothians and Borders Executive Group (ELBEG) commissioned a Significant Case Review (SCR).
- 1.1.5 The Committee will consider the report and its recommendations, and will present a summary to ECOG. ELBEG will consider the implications of the report for the Community Justice Authority area in accordance with the MAPPA guidance.

1.2 Reviewing Structure and Personnel

- 1.2.1 On 7 August 2012, DCI Phil Gachagan, Police Scotland, was appointed as the Independent Reviewing Officer.
- 1.2.2 The following professionals helped him consider and analyse the information obtained during the review:
 - Detective Inspector XXXX – West Lothian Police Public Protection Unit.
 - Group Manager XXXX – West Lothian Criminal and Youth Justice Service.
 - Team Leader XXXX – West Lothian Council Housing Department.
 - Dr XXXX – Consultant Forensic Psychiatrist, Greater Glasgow Council NHS.
- 1.2.3 These individuals provided advice on matters pertaining to their respective areas of knowledge and expertise.

- 1.2.4 Administration Support Officer XXXX - Public Protection Unit (Police Scotland, West Lothian), provided administration support.
- 1.2.5 The Reviewing Officer also received assistance from Police Constable XXXX, SA07 Risk Assessment Trainer, Police Scotland and XXXX, Service Development Officer, Adult Protection Service, West Lothian Council, who provided specialist opinions relating to risk assessment and adult protection respectively.
- 1.2.6 On 30th June 2013 the Review Group submitted its initial findings to the Edinburgh Offender Management Committee. A further request was then made for formal interviews of key members of staff to be carried out before submission of the final report.

1.3 Methodology and Aim of the Review

- 1.3.1 During the course of the review the Review Group interviewed the following key members of staff:
- MAPPAs Coordinator, Lothian and Borders
 - Senior Practitioner, Community Intervention (Housing)
 - Sector Manager, Criminal Justice Services (Social Work)
 - Criminal Justice Social Work SOLO
 - Criminal Justice Social Work SAVOLO
 - Consultant Forensic Psychiatrist (Service Co-Lead) Serious Offender Liaison Service (SOLS)
 - Consultant Forensic Clinical Psychologist (Service Co-Lead) Serious Offender Liaison Service (SOLS)
 - Detective Inspector Offender Management Unit
 - Detective Sergeant Offender Management Unit
 - Detective Constable Offender Management Unit
 - Detective Superintendent Chair of MAPPAs Level 2 (2009)
- 1.3.2 The Review Team was given access to all written and electronic material in relation to this case. They also consulted other key members of staff who provided relevant information to the Review Group including the Offender Management Detective Inspector (2010), Detective Sergeant Offender Management Unit (2010) and Detective Sergeants within the Offender Management Policy Unit.
- 1.3.3 The aim of the significant case review is outlined in the following terms of reference:
- 1.3.4 Examine the Multi-Agency Public Protection Arrangements (MAPPAs) in respect of the management of Registered Sex Offender KR, since his release from prison on 27 May 2005 until his arrest on 30 October 2011, with a focus on the effectiveness of information sharing, risk assessment,

risk management and links with housing, health, child and adult protection arrangements.

1.3.5 The outcomes sought include:

- Establish whether single and multi-agency working could have improved the risk management of the offender in respect of the risk of sexual, violent and general offending, and have delivered improved levels of public protection;
- Establish whether single and multi-agency working could have identified the risk of violence more effectively and protected KR's most recent victim as a consequence; and
- Contribute to national and local organisational learning through the dissemination of good practice identified by the review. In particular, to consider how information from the assessment and management of risk of sexual offending might inform other risk management processes.

1.3.6 The following objectives will be addressed:

- The completion of single and multi-agency chronologies;
- The identification of the extent of the relationship between the offender and Victim 'A' prior to the attack and to establish whether there were any opportunities for agencies to have identified this and intervened to protect the person;
- To identify the children/adults known to be linked to Kevin Rooney from his date of registration as a sex offender (01.09.06) and to establish what action was taken by Responsible Authorities in relation to this;
- To establish the role and responsibilities of each Responsible Authority in relation to Kevin Rooney and Victim 'A';
- To establish the nature and frequency of each agency's contact with Kevin Rooney;
- To establish whether there are areas for improvement in multi-agency public protection arrangements at national and/or local level;
- To establish whether there are any other areas for improvement in respect of other risk assessment and management policies, procedures and processes; and
- To make recommendations for national and/or local action (single and multi-agency) and arrangements for implementation

1.3.7 The review will highlight good practice and make recommendations relative to its findings intended to enhance the effectiveness of multi-agency partnership working in respect of sex offender management.

1.3.8 On 23 August 2012, the reviewing officer met with key members of Mrs Sutherland's family.

1.3.9 XXXX.

1.3.10 XXXX.

1.4 Multi-Agency Public Protection Arrangements

1.4.1 Multi-Agency Public Protection Arrangements, or MAPPA, are a set of statutory partnership working arrangements introduced in 2007 under Section 10 of The Management of Offenders etc. (Scotland) Act 2005. The purpose of MAPPA is public safety and the reduction of serious harm. In Scotland MAPPA brings together the Police, Scottish Prison Service (SPS), Health and Local Authorities, in partnership as the Responsible Authorities, to assess and manage the risk posed by sex offenders and mentally disordered restricted patients.

1.4.2 The Police, SPS and Local Authorities are required to jointly establish arrangements for the assessment and management of risks posed by sex offenders who are subject to notification requirements (SONR) under the Sexual Offences Act 2003, whilst health boards are required to establish joint arrangements for the assessment and management of risk posed by mentally disordered restricted patients.

1.4.3 A number of other agencies are under a duty to co-operate (DTC) with the Responsible Authorities. These include housing providers, the voluntary sector and the Children's Reporter.

1.4.4 The Violent and Sex Offender Register (ViSOR) is a national IT system the main function of which is to facilitate inter-agency communication and ensure that the responsible authorities contribute, share and store critical information about MAPPA offenders. It improves the capacity to share intelligence and supports the immediate transfer of key information when these offenders move between areas.

1.4.5 As outlined in the Scottish Government Guidelines 2012, MAPPA are founded on the basis of targeting resources where they are most required to maximise public safety. There are three Levels of MAPPA management and the responsible authorities, in consultation with their local MAPPA co-ordinator, must evaluate cases to ensure that they are managed at the appropriate Level.

1.4.6 The three levels are:

Level 1 Routine Risk Management

Level 2 Multi-agency Risk Management

Level 3 Multi Agency Public Protection Panels (MAPPP)

1.4.7 The Scottish Government introduced new MAPPA Guidance in April 2008, which was then superseded by the current national guidance introduced in January 2012.

2. Victim – Rosina Sutherland

- 2.1.1 Mrs Sutherland was a 74-year-old female who lived alone at XX Longstone Park, Edinburgh. Her home, a mid-terraced bungalow, was part of a sheltered housing development situated on the west side of Edinburgh. XXXX.
- 2.1.2 XXXX.
- 2.1.3 XXXX.
- 2.1.4 XXXX.

3. Offender – Kevin David Rooney (XXX)

XXXX

3.5 Sex Offender Registration

- 3.5.1 On 7 June 2004, KR, then aged 17, was convicted at the High Court in Edinburgh of two charges of lewd, indecent and libidinous practices and behaviour towards two young boys. He received a two-year prison sentence.
- 3.5.2 XXXX.
- 3.5.3 KR was released on 27 May 2005, when he was immediately subject to the Sex Offender Notification Requirements (SONR) for 10 years.

4. Chronology of Key Events

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- 4.7.24 Later that day [27/10/2011] he presented as homeless and was booked into a Guesthouse in the Longstone area of Edinburgh. The housing officer responsible for arranging this accommodation failed to inform the Housing SOLO (Sex Offender Liaison Officer) or the police that he had moved.
- 4.7.25 About 2210 hours on Saturday 29 October 2011, KR left the guesthouse and was seen by a member of staff walking southwards in Longstone Road in the direction of the Longstone Inn. The Longstone Inn is only a short distance from the home address of Mrs Sutherland.
- 4.7.26 About 0205 hours, the following morning (Sunday 30 October 2011), KR was detained by the police in Liberton Road, Edinburgh in relation to an earlier unrelated incident in Lasswade Road. On being detained, he was found to be under the influence of alcohol and intimated that he had committed a murder in the Longstone area.
- 4.7.27 Mrs Sutherland's body was discovered later that day and KR was subsequently arrested and charged with her murder.

5. Analysis of Circumstances and Key Findings

5.1 Significant Factors

5.1.1 The Review Team identified the following aspects as being of particular significance in this case:

- Housing Allocation Policy
- Temporary Accommodation
- Environmental Risk Assessments
- Sexual Offences Prevention Orders (SOPOs)
- Risk Management
- Risk Assessments
- Sex Offender Liaison Service (SOLS)
- Adult Protection

5.2 Housing Allocation Policy

5.2.1 Experts agree that, in addition to effective monitoring, stable housing contributes to reducing the risks posed by sex offenders under MAPPA.

‘Support, coupled with stable accommodation, can help to address the risk factors associated with further offending, and allows individuals to benefit from supervision and other forms of treatment’

(National Accommodation Strategy for Sex Offenders in Scotland)

5.2.2 The National Accommodation Strategy for Sex Offenders (NASSO) forms part of MAPPA and explains how housing contributes to those arrangements. In particular, the NASSO focuses on assessing and managing the risks that sex offenders under MAPPA may pose by living in a particular community, location and property.

5.2.3 The City of Edinburgh Council has a very limited stock of dispersed temporary accommodation and it is often necessary to place offenders in B&Bs. The Council commissions certain B&Bs, which are solely used by them as temporary accommodation (i.e. no members of the general public reside there). Due to the pressures and volume of people presenting as homeless in Edinburgh, accommodation is provided in whatever temporary accommodation is available.

5.2.4 The following is an extract from the 2008 MAPPA Guidance:

'In some areas, in cases where the sex offender is considered to be of low risk, Bed and Breakfast (B&B) accommodation has been used in the absence of suitable alternative accommodation. But it is imperative that B&B accommodation should not be used to house sex offenders irrespective of the risk level associated with the offender because it is not possible to manage risk in a B&B establishment. If suitable accommodation cannot be found in an area, the Responsible Authorities should examine alternatives in other areas.'

5.2.5 In 2012 the NASSO advises the following in respect of accommodation for sex offenders under MAPPA:

'In some areas, where the Responsible Authorities have assessed the risks, landlords have used Bed and Breakfast (B&B) accommodation where there is no other housing. Landlords should avoid this wherever possible because of the problems of managing risk in a B&B establishment. Where landlords can remove such risks by booking the entire establishment then B&B accommodation may be manageable. But, this must be a housing of last resort and the Responsible Authorities should examine alternatives in other areas before reaching a decision.'

5.2.6 In the six years and five months that had elapsed since his release from prison on 27 May 2005, KR served a further ten short-term prison sentences totalling three years. This does not include numerous periods of remand. For the rest of the time, he was effectively homeless and was accommodated on a temporary basis at a variety of hostels and bed and breakfast establishments.

5.2.7 One of the most important issues noted by the Review Group was KR's lack of stable accommodation. It was of particular concern to find that in the twelve months preceding the murder of Mrs Sutherland, KR is known to have resided at **twenty-one different addresses**. Eighteen of those were temporary bed and breakfast type establishments.

5.2.8 The review Group noted that since 2007 the Housing SOLO had communicated to partners that the long-term objective was to accommodate KR at a Hostel that supported homeless persons before providing him with a permanent tenancy. The minutes of the RMCC on 18 January 2010 confirms that this was still the case.

5.2.9 This supported hostel provides accommodation to homeless people over the age of 16 years. Residents are offered advice and practical and emotional support around independent living, social skills, education and training. They are also given advice and support around substance misuse and other issues that have contributed to their homelessness as

well as individual support plans to prepare them for moving to suitable longer-term accommodation. Follow up support as part of the resettlement process is also offered.

- 5.2.10 A successful placement at this type of hostel in one of its satellite flats with private facilities could have provided KR with stable accommodation with appropriate support for his complex needs. Unfortunately he was never offered a place here and all other attempts to house him in communal supported accommodation failed due to his inability to follow accommodation rules or integrate with other residents.
- 5.2.11 The Review Group felt that more focus on providing KR with his own tenancy and appropriate support, similar to that offered at this type of hostel, could have assisted with his transition to independent living.
- 5.2.12 It is recognised that housing provision for sex offenders is a contentious issue and that a person should not receive priority housing purely on the basis of their status as a sex offender. Allocations must be made after careful consideration of the offender's risk to the public and the type of accommodation that will provide the best opportunity for effective monitoring of the individual under MAPPA.
- 5.2.13 The City of Edinburgh Council does not operate a 'traditional housing waiting list' as such but utilises a 'choice based lettings' system.
- 5.2.14 In the case of an individual who has been imprisoned, their case is closed for the duration of the sentence. When they are released, if they are entitled to a priority, they would restart on the base points.

- 5.2.15 Applicants can bid for any eligible properties and their place on the short list depends on how many points they have accrued. In terms of priority groups, the points are as follows:

Priority Group	Points
Urgent Gold (delayed discharge)	85,000 + 1 point per day from date of registration
Gold (mobility/health assessed needs)	80,000 + 1 point per day from date of registration
Silver – homeless (statutory duty)	40,000 + 1 point per day from date of registration
Silver – overcrowding	40,000 + 1 point per day from date of registration (capped at 40,365)
Silver – under occupation	40,000 + 1 point per day from date of registration
Silver – demolition	40,000 + 1 point per day from date of registration
Silver – exceptional housing need	40,000 + 1 point per day from date of registration
Waiting time only	1 point per day from date of registration

Example:

Mr X was awarded silver priority a year ago. He has 40,365 points. He breaches an order and is given a custodial sentence, which lasts 12 months. During his time in custody, he continues to accrue a point per day but loses his silver priority (40,000 points). When he is released he will have attained 730 points. If he is re-assessed as statutorily homeless his silver priority status is reinstated and he receives the 40,000 priority group points. However, he loses the 730 points accrued over the previous two years and is back to the base points (40,000).

- 5.2.16 KR was constantly homeless. Due to regular custodial sentences he would rarely have accrued a sufficient number of points to achieve an offer of housing.
- 5.2.17 However, in 2005 and 2006 he was offered tenancies but was unable to take up residence due to being returned to prison. The only other time he accrued sufficient points to receive an offer of housing was in October 2011, just prior to being arrested for the murder of Mrs Sutherland, when he had been at liberty for over a year.

- 5.2.18 He had been considered for eleven properties between 2005 and 2011 however these had been deemed unsuitable for risk management reasons.
- 5.2.19 It was therefore important to find suitable accommodation for KR in an effort to break his cycle of offending and homelessness. The Review Group felt that the adoption of a sensitive letting policy could have provided a solution.
- 5.2.20 The NASSO advocates a **'sensitive letting policy'** by Social Landlords, in cases where Responsible Authorities have identified restrictions on placing a sex offender under MAPPA in certain properties. Such restrictions must be necessary to minimise risk to the community and the Responsible Authorities should disclose sufficient information to the social housing providers in the neighbourhood to allow them to make appropriate allocations.
- 5.2.21 The Allocations Practice Guide for Social Landlords published in March 2011 describes sensitive letting as occasions when social landlords depart from their routine allocation practice. In effect instead of allocating a property to the applicant at the top of the list (the person with the most housing need, as defined by its allocation policy) it considers the suitability of the applicant for the vacancy, on the basis of the information it has about the applicant and the knowledge it has about the property, its location or neighbours.
- 5.2.22 The Review Group noted the efforts made by the City of Edinburgh Council Housing Department in trying to provide KR with supported accommodation and a permanent tenancy to help with his transition to independent living. However it was felt that more could have been done to prioritise this.
- 5.2.23 It was apparent, from emails sent to partners, that the Housing SOLO (Sexual Offences Liaison Officer) faced real challenges as KR could not stay out of trouble long enough to obtain a permanent tenancy or adequate housing support and was either unable or did not know how to circumvent the choice based lettings policy. They evidently shared their views with partner agencies but there is no evidence to suggest that a determined effort was made to overcome the problem by adopting a 'sensitive let' (5.2.20) approach in this case.
- 5.2.24 A housing manager, interviewed as part of the SCR, was clearly of the opinion that the forum for raising the possibility of applying a sensitive let in KR's case would have been an RMCC. It is of note that no RMCC was convened in KR's case after 18 January 2010. This is discussed in more detail later in the report.
- 5.2.25 The Review Team noted frustration generally amongst key members of staff interviewed in relation to KR's housing situation. Most agreed that KR would not have been able to sustain his own tenancy without support

and some felt that he should not be prioritised over members of the public with a similar housing need.

- 5.2.26 It is understood that the Housing and Regeneration Department is presently in advanced discussion with Criminal Justice Social Work with a view to procurement of housing stock to be utilised in cases similar to that of KR's. This is viewed by the Review Team as a positive step in addressing appropriate housing for homeless RSOs and could prevent individuals like KR being unable to obtain permanent accommodation in situations like this in the future.
- 5.2.27 KR is a complex individual who lived an extremely chaotic existence. It would be difficult to predict whether he would have adapted to a placement at a Supported Hostel or to living independently in his own tenancy. Similarly, there were no guarantees in relation to sustainability. If a 'sensitive let' had been discussed formally at the appointed RMCC or MAPPA meetings, KR may have received appropriately supported accommodation at an early stage, which if successful, could have made him more stable and led to a reduction in his risk of harm.
- 5.2.28 It is worth noting that after several years as a homeless person living in temporary accommodation, KR was scheduled to move into his first permanent tenancy on 31 October 2011, the day after his arrest for the rape and murder of Mrs Sutherland.
- 5.2.29 As previously stated, sensitive letting and housing support should be integral to the implementation of a housing strategy in relation to homeless RSOs. If a housing support worker had been allocated to him in advance of his release from prison, a resettlement plan could have been implemented. A support worker may also have identified a need to implement the sensitive letting policy and raised it at an appropriate level at an early stage. KR was only allocated support three days before he was due to sign for his tenancy when permanent accommodation had been identified for him.
- 5.2.30 We have made a recommendation that dedicated housing support workers be allocated to homeless sex offenders at an earlier stage in their management within the community with a view to securing appropriate stable accommodation as part of the risk management plan.

Recommendation 1

City of Edinburgh Council to consider introducing a procedure to provide dedicated support, such as the Neighbourhood Support Service, to support homeless sex offenders managed under MAPPA, prior to their release from prison, to ensure that suitable accommodation and appropriate support is in place at an early stage to provide stability as part of the risk management plan.

5.3 Temporary Accommodation

- 5.3.1 On 27 October 2011, KR was accommodated at a guesthouse in the Longstone area of Edinburgh, having failed to adhere to a curfew set at his previous accommodation, another Hostel in Edinburgh.
- 5.3.2 The guesthouse in Longstone is one of the premises that CEC commissions solely for use by them as a temporary accommodation (i.e no members of the general public reside there).
- 5.3.3 The City of Edinburgh Council has a strict Temporary Accommodation Booking-in Policy. The procedure is recorded electronically on their Housing Information System (HIS) and ensures that Housing Officers follow a step-by-step computer guide when processing cases. This is an effective way of recording decisions and considerations when placing a client into temporary accommodation. The system guides the user through a series of fields until the process is complete and the client has been successfully booked into the accommodation.
- 5.3.4 Once the electronic booking-in process has been completed, tabs appear on the screen containing a series of questions that require to be answered for housing benefit purposes. One of the questions invites the user to check if the Housing SOLO or other agencies require notification of placement.
- 5.3.5 Warning notes on the front screen of the HIS record relating to KR, contained important information about his status as a sex offender and the fact that he was the subject of a SOPO. It also provided the user with clear instructions to contact the Housing SOLO before an offer was made. In addition, it instructed that any change in KR's circumstances were to be passed to the Housing SOLO or the police officer managing him if the Housing SOLO could not be contacted.
- 5.3.6 These instructions were not followed when KR was offered his last placement at the guesthouse in Longstone.
- 5.3.7 Notwithstanding the notification requirements placed on KR by virtue of the Sexual Offences Act 2003, his SOPO clearly prohibited him from:
- 'residing in any accommodation whether temporary or permanent, without the prior approval of the Director of Social Work and the Chief Constable'.***
- 5.3.8 Failure by the Housing Officer to inform the Housing SOLO or Police of KR's new accommodation meant that neither his supervising police officer nor Housing SOLO were aware of KR's new temporary address for the three days immediately prior to the murder of Mrs Sutherland. In order to reduce the possibility of human error, the Review Group has recommended that a mandatory notification tab be introduced to the City of Edinburgh Council Housing Information System.

Recommendation 2

The City of Edinburgh Council to consider updating its Housing Information System with a mandatory notification tab that requires to be completed with details of the name and time that an agency representative is informed before the booking-in process can be finalised.

- 5.3.9 As a consequence of the above notification failure, the Review Group considered there to be a need for training provision for Housing SOLOs and Housing Officers in respect of information sharing and the aforementioned NASSO. However, it understands that a comprehensive programme of joint MAPPA training was embarked upon in 2012 and is ongoing. This is good practice and the Review Group has no recommendations to make in this regard.
- 5.3.10 The Review Team noted a lack of contingency planning for breaches of curfew by KR while residing in temporary accommodation. It acknowledges that housing officers were informed if KR had failed to reside at the approved accommodation overnight or had been refused entry for missing the accommodation curfew. However, this was usually on the next or subsequent days following the breach by which time KR may have committed offences XXXX.
- 5.3.11 The CEC does not disclose to B&B owners that a sex offender has been placed in their premises unless the risk assessment deems it necessary. The disclosure of a Registered Sex Offenders status requires the authority of the Chief Constable. However B&B managers know that on occasions offenders may be placed in their accommodation by the CEC but are not informed of who these individuals are or their criminal history.
- 5.3.12 It would have been good practice to include a contingency plan as part of KR's risk management in responding to breaches of his accommodation curfew. This would not have required third party disclosure under MAPPA but merely a request that staff called Police as soon as it was discovered KR had failed to return to his B&B. An immediate response could then have been triggered involving officers on patrol keeping a look out for KR or carrying out proactive searches of known haunts in an effort to trace him.
- 5.3.13 Contingency plans are routinely considered as part of the risk management strategy, particularly when an offender is the subject of a SOPO or other restrictions. They are implemented on a case-by-case basis depending on the risk and restrictions placed upon the offender.
- 5.3.14 A contingency plan such as this may have contributed to reducing KR's risk to the public, prevented offending and detected breaches of his SOPO conditions in real time.

- 5.3.15 We do not have any specific recommendations to make on this subject but have highlighted it as a useful tactic to adopt in similar future cases, especially when certain offenders are housed in temporary homeless accommodation.

5.4 Environmental Risk Assessments

- 5.4.1 An environmental risk assessment is used to identify housing-related risk and informs decisions on manageable housing for each offender that will minimise the risks to the community. The assessment brings together information on the offender, proposed property and location and nearby households, to enable a decision on housing an offender to be made that will minimise the risks to the community.
- 5.4.2 The guesthouse in Longstone was one of many private Bed and Breakfast establishments used by the City of Edinburgh Council, solely as a temporary accommodation provider. The guesthouse offered six bed spaces for adults only and was staffed at night by a single employee. The only conditions placed on KR related to the CEC Temporary Accommodation Agreement
- 5.4.3 The current national MAPPA guidance suggests that environmental risk assessments should be completed every time a sex offender managed under MAPPA Level 2 or 3 is considered for a new tenancy. The lead responsible authority for Level 1 cases should also consider the need for an environmental risk assessment taking into account the risks the offender may pose, public protection issues or the high profile nature of the case.
- 5.4.4 Guidance on environmental risk assessment protocols was not fully published until 2012. However, the 2008 MAPPA Guidance included references to accommodation for sex offenders under MAPPA and a need for local authorities to provide appropriate accommodation following a risk assessment by the responsible authorities.
- 5.4.5 There is no record of environmental risk assessments being carried out in respect of KR. This is not surprising due to residing almost exclusively in B&B accommodation since 2009. The only apparent condition placed on him by the Responsible Authorities was to reside in adult male only accommodation.
- 5.4.6 KR rarely lived at a particular residence long enough for an assessment to be meaningful, which is one of the reasons the use of B&B establishments as emergency accommodation to house sex offenders is not ideal.
- 5.4.7 The Review Team acknowledges that following the Murder of Mrs Sutherland the Housing SAVOLO Team commenced a programme of environmental risk assessments of B&Bs currently used by the CEC's Temporary Accommodation Service.

- 5.4.8 These risk assessments relate only to physical factors e.g. proximity to schools, playgrounds, nurseries (Council and private) etc. As the clientele will vary from day to day, it is not possible to risk assess the other residents, however, this will ensure that predatory child sex offenders are not placed in B&Bs near children.
- 5.4.9 Where an early assessment indicates that a B&B would not be suitable under any circumstances for an offender, alternative appropriate accommodation is identified as a priority.
- 5.4.10 The Review Team views this as good practice and is in line with current MAPPA guidance.

5.5 Sexual Offences Prevention Orders (SOPOs)

- 5.5.1 Not all sex offenders under MAPPA are the subjects of SOPOs and not all SOPOs are the same. They are applied for and granted by the court but only if deemed necessary to control or regulate the behaviour of an offender, where no other means of control or regulation exists, to protect the public from serious sexual harm.
- 5.5.2 At the time of KR's SOPO being granted, orders could only restrict the offender from doing anything specified in it. However, on 1 November 2011, legislation changed that allowed SOPOs to include positive obligations that compel an offender to carry out specified acts.
- 5.5.3 The SOPO and interim SOPO also requires the offender to notify their details to the police as set out in the Sexual Offences Act 2003.
- 5.5.4 Well conceived SOPOs containing appropriate conditions relevant to the specific circumstances and identified risks of a particular sex offender can be used to good effect as part of the risk management plan.
- 5.5.5 Conversely, a SOPO that fails to address important elements of a sex offender's lifestyle, behaviour, deviant sexual tendencies and risk to the public, can be difficult to enforce and consideration may be given to seeking variations to its conditions.
- 5.5.6 The Police applied for the following prohibitions in respect of KR's SOPO:
1. Approaching, speaking to or communicating in any way, either directly or indirectly with a child or children under the age of 16 years of age.
 2. Entering any children's play area, children's leisure areas, school or nursery grounds.
 3. Residing in any accommodation whether temporary, permanent or otherwise without the prior approval of the Director of Social Work and Chief Constable of the area in which he is residing.

4. Engaging in any employment, voluntary, paid or otherwise without first notifying the Director of Social Work and Chief Constable of the area in which he is residing.
5. From approaching, communicating with directly or indirectly, or following any female in a public place who is not known to him with the exception of permitting the Defender to carry out a business transaction or to disengage from communication instigated by any female not known to him.

5.5.7 On 27 March 2007, a full SOPO was granted in respect of KR, which contained the following restrictions:

1. Prohibits the defender from approaching, speaking to or communicating in any way, either directly or indirectly, with a child under the age of 16 years of age.
2. Prohibits the defender from entering any children's play area, children's leisure area, school or nursery grounds.
3. Prohibits the defender from residing in any accommodation whether temporary or permanent, without the prior approval of the Director of Social Work and the Chief Constable of the area in which he resides.
4. Prohibits the defender from engaging in any employment, voluntary, paid or otherwise, without first notifying the Director of Social Work and Chief Constable of the area in which he resides.
5. Prohibits the defender from following any female in a public place.

5.5.8 KR was arrested on six occasions for breaching conditions of his SOPO.
XXXX

XXXX

5.5.24 At 1345 hours on 14 May 2011, KR was seen by police officers standing behind a female at a junction busy with pedestrians and vehicular traffic in the centre of Edinburgh, when he started gesticulating with his hands, dropping them to his waist and making motions of a sexual nature. He then began moving his waist back and forth, simulating sex. The female crossed the road without noticing KR who then started blowing kisses and muttering.

5.5.25 KR did not approach or attempt to make contact with the female, however, his actions were concerning and may have constituted a breach of his SOPO condition that prohibited him from following any female in a public place.

5.5.26 After seeking advice from the OMU, the officers warned KR regarding his actions and no action was taken. The details of the incident were added to ViSOR.

- 5.5.27 Many of the decisions made in relation to possible breaches of KR's SOPO were done at an operational level, with management oversight, where professional judgement was exercised when deciding appropriate courses of action.
- 5.5.28 The Review Team has highlighted the foregoing incidents as evidence of the confusion that existed in relation to KR's SOPO and why it was important to review the conditions attached to it, however has no recommendations to make in this regard.

5.6 Risk Management

- 5.6.1 The largest proportion of sex offenders under MAPPA, even those that are deemed high risk, are managed at MAPPA Level 1 (Routine Risk Management). In Scotland, the police manage the vast majority of Level 1 cases. If the risk requires more complex multi-agency management then the offender should be referred to Level 2.
- 5.6.2 The Review Group noted that KR had been referred to Level 2 shortly before his release from prison on 23 September 2009. He was discussed at the MAPPA Level 2 Meeting on the 17 September 2009 where it was agreed by those present that KR's level of risk was high:
- 'There are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact could be serious.'** – MAPPA National Guidance*
- 5.6.3 It was also noted from the Level 2 minutes that KR had been referred to the Sex Offender Liaison Service (SOLS) XXXX.
- 5.6.4 A risk management plan was agreed and a review date was set for the 19 November 2009. However, KR was arrested and remanded in custody on 29 October 2009 for breaching a condition of his SOPO (see previous section). Consequently he was removed from the agenda prior to the risk management plan being reviewed.
- 5.6.5 On 11 November 2009, a MAPPA notification form was submitted to the MAPPA Co-ordinator from the Integrated Case Management (ICM) Co-ordinator at the Scottish Prison Service (SPS) XXXX. The ICM Co-ordinator recommended that KR be managed at MAPPA Level 1 (Routine Risk Management – National MAPPA Guidance). KR was still a remand prisoner at this time and his release date was unknown. Although he had been removed from the 19 November Level 2 agenda, his management Level was still considered to be Level 2 on his release.
- 5.6.6 There is no record of any other intervention or support provision noted on ViSOR. The Review Group noted that several incidents within prison although referred to on ICM Mappa Notifications, were not recorded by SPS on ViSOR. The failure to record significant prison incidents on

ViSOR can lead to a breakdown in information sharing and may affect future risk assessments.

Recommendation 3

The Scottish Prison Service should ensure that all key events relating to a sex offender under MAPPa while in custody are fully recorded on ViSOR.

- 5.6.7 On 31 December 2009, KR was released from custody at very short notice after prosecutors decided to take no proceedings against him for failing to comply with a condition of his SOPO. He was arrested a week later and sentenced to a further term of imprisonment on 7 January 2010 for Theft by Housebreaking and given a release date of 24 March 2010.
- 5.6.8 On 18 January 2010, a Risk Management Case Conference (RMCC) was held in relation to KR where he was assessed as being High Risk. Twenty one risk factors were identified and it was noted that the SOLS report was still pending. XXXX.
- 5.6.9 During the same meeting, the Offender Management Police Officer raised the issue of KR's SOPO and that he was due to meet a member of the Crown Office and Procurator Fiscal Service (COPFS) to review it. No action was raised for the result of the SOPO review to be fed back into the MAPPa at any level and as highlighted in Section 5.5, no SOPO review took place.
- 5.6.10 The minute of the RMCC was unclear as to what management level was recommended for KR but subsequent interviews of key members of staff confirmed that he was still considered to require level 2 management. However, as he was now back in custody, he was removed from the level 2 agenda of the meeting scheduled for 21st January 2010.
- 5.6.11 On 3 February 2010, the ICM Co-ordinator at HMP Edinburgh sent a MAPPa notification form to the MAPPa Co-ordinator recommending that KR be managed as a MAPPa Level 1 case and advising that his earliest release date was 23 March 2010. The MAPPa Co-ordinator believed that KR should still be managed at Level 2 on his release and sought confirmation of this from the Detective Sergeant within the OMU and the CJSW SOLO prior to adding him to the agenda of the MAPPa Level 2 meeting scheduled for 18 March 2010.
- 5.6.12 The MAPPa Co-ordinator acts as a gatekeeper and screens referrals to ensure that they are directed to the appropriate MAPPa level. MAPPa Guidance does not provide direction as to the format of the screening process and it is left to individual MAPPa Co-ordinators to devise their own procedure.
- 5.6.13 The Lothian and Borders MAPPa Co-ordinator explained that in practice he reads the referrals, RMCC minutes, ICM Minutes, Court reports and

ViSOR. Depending on the complexity of the case, if he agrees and is comfortable with the level suggested by the submitting agency, a note (including rationale) and a copy of the relevant Notification/Referral Form is placed on ViSOR. A copy of the referral form is also sent to the relevant Responsible Authority. It should be noted that the MAPPA Co-ordinator does not have the authority to unilaterally decide the MAPPA Level.

- 5.6.14 Depending on the nature of the case and the information provided to the co-ordinator, the co-ordinator may decide to send an email to the Detective Sergeant within the OMU and/or the Criminal Justice Social Work SOLO asking for their opinion as to the appropriate MAPPA level. Occasionally, they may agree to convene an RMCC where the case can be further discussed in a multi-agency setting and a decision as to the appropriate risk management level made collaboratively.
- 5.6.15 The Lothian and Borders MAPPA Co-ordinator provided details of an exchange of emails involving the MAPPA Co-ordination Unit, the CJSW SOLO and the OMU DS between 3 February and 16 February 2010 regarding the decision to reduce KR's management level, to level 1.
- 5.6.16 An email dated 3 February 2010, sent by the Co-ordinator to the OMU DS and CJSW SOLO (seen by the Review Group) clearly records that the co-ordinator believed KR should be managed at Level 2 and asked if the CJSW SOLO and OMU DS agreed.
- 5.6.17 The CJSW SOLO responded by email on 9 February 2010, highlighting that as of April 2010, CJSW would cease involvement with KR and that he would be a police only case. The email mentioned CEC was still involved in providing KR with accommodation and that SOLS was completing an assessment. The CJSW SOLO queried the need for an RMCC as there would be no multi-agency involvement. She sought guidance from the Co-ordinator as to whether or not the case should be discussed at a higher MAPPA level than an RMCC given these issues.
- 5.6.18 The MAPPA Co-ordinator responded that same day, stating that if there is no further CJSW involvement and no need for a further RMCC, as there was no active multi-agency management, then KR is a level 1. He suggested that if they (CJSW SOLO and OMU DS) were both in agreement KR would be managed at MAPPA level 1. The CJSW SOLO and OMU DS, in subsequent emails, agreed with this suggestion.
- 5.6.19 The Review Group questioned this decision as the original Level 2 risk management plan had not yet been reviewed by the Level 2 committee and the MAPPA Notification Form received from SPS on 3 February 2010 highlighted concerns by prison staff XXXX. It could also have been argued that three agencies would have actively been involved in his management on his release from prison - Police, Local Authority and Health.

5.6.20 MAPPA Guidance provides that:

'Level 2 risk management should be used where the active involvement of multiple agencies is required to manage and actively reduce the risk of serious harm posed but where either the level of risk or the complexity of managing the risk is not so great as to require referral to Level 3'.

5.6.21 There had been no positive changes in KR's lifestyle or behaviour in the community or prison since the last Level 2 meeting and within a week of being released he had been arrested for theft by housebreaking. He was still graded as 'High Risk' with 21 risk factors, the result of the SOLS assessment was pending and his SOPO was apparently under review.

5.6.22 These factors as well as his utterly chaotic lifestyle, lack of stable accommodation, XXXX, extensive record of general offending XXXX, indicated that the active involvement of multiple agencies would almost certainly be required to reduce his risk of serious harm.

5.6.23 The complexity of the case alone suggested that Level 2 Risk Management would have been the appropriate level at which to continue managing KR.

5.6.24 While acknowledging the difficult role that the MAPPA Co-ordinator has as gatekeeper to ensure that cases are ***'managed at the lowest level consistent with providing a defensible risk management plan' (MAPPA Guidance 2008 & 2012)***, the Review Group consider that, based on the MAPPA Guidance, Level 2 Risk Management would have been justified at that time. The case could at least have been discussed at the 18 March 2010 Level 2 meeting where the risk management plan would have been reviewed and a decision on the risk management level made by senior managers.

5.6.25 This argument is further supported by the comments recorded in the minutes of the aforementioned RMCC by the Police Offender Management Officer who regarded KR as being, ***'impossible to work with no matter what method they tried. He had tried being harsh with him and the police had also bent over backwards to try to help him but nothing they tried worked and they do not make any progress'.***

5.6.26 The MAPPA Co-ordinator had, in the opinion of the Review Team, been correct in his initial belief that KR required Level 2 management but in light of the email from the CJSW SOLO who had pointed out that statutory involvement by CJSW was about to cease, he amended his view. He was also of the opinion that the CEC in managing KR's housing needs and the ongoing SOLS assessment did not constitute 'active involvement' by those agencies.

5.6.27 The Review Group felt that the screening process, especially where the risk management level is being reduced, requires consultation at a more

senior level. In the case of KR, discussion with senior managers would have been more appropriate given that the decision of the previous Level 2 meeting was for KR to remain at Level 2.

- 5.6.28 Had KR remained on the agenda of the March 2010 Level 2 meeting, the confusion regarding his SOPO conditions, the impending SOLS report, his vulnerability and the effect his homelessness had on his risk to the public, could have been discussed and the 'multi-agency' risk management plan reviewed accordingly.
- 5.6.29 It was opined that the MAPPA process is diluted if RSOs are referred to Level 2 meetings inappropriately, that discussions need to be meaningful and add value to the process and that operational officers are not taken away from their visits unnecessarily
- 5.6.30 The Review Group agrees with the above but is of the opinion that management levels should only be reduced following discussion at the appropriate MAPPA forum (i.e. MAPPA Level 2 cases should only be reduced to MAPPA Level 1 following review at a MAPPA Level 2 meeting) and that clearer guidance is issued in respect of the screening of MAPPA referrals. It therefore makes the following recommendations:

Recommendation 4

The Scottish Government to consider issuing guidance within the MAPPA National Guidance document that risk management levels should only be reduced following discussion at appropriate MAPPA Level 2 or 3 meetings (i.e. the management level of MAPPA 2 and 3 cases should only be reduced following review at Level 2 and 3 meetings respectively).

Recommendation 5

The Scottish Government to consider issuing clearer guidance to Responsible Authorities within the MAPPA National Guidance document on the screening of referrals to ensure that the process withstands scrutiny and decisions are defensible.

- 5.6.31 The Review Group also feels that the MAPPA Guidance could be more explicit around risk management level setting and could provide examples of characteristics that would justify referral to the most appropriate management level. This would allow practitioners to better evidence their rationale for the decisions they make.

5.6.32 The following is an extract from the Association of Chief Police Officers (ACPO) MAPPA Guidance presently used to manage violent and sexual offenders in England only:

10.4 Characteristics of Level 2 and 3 MAPPA Cases

The following provides some pointers towards the types of issues or characteristics that could be found in cases managed at these levels. It is not an exhaustive list and each case must be assessed for management at MAPPA level 2 or 3 on its merits. It is equally possible that you could find some of these characteristics in cases suitable for management at MAPPA level 1.

10.4.1 Level 2 Cases

Sexual offenders who are resistant to addressing their offending behaviour;

Violent offenders with additional risks of mental health problems and substance misuse;

Domestic violence offenders who misuse substances;

Unsuitable or unstable home circumstances;

Likely to re-offend and cause high level of serious harm to others;

There is currently a lack of effective multi-agency working and this needs to be co-ordinated to provide an effective MAPPA Risk Management Plan.

10.4.2 Level 3 Cases

Complex case;

Imminence of re-offending, the offender is more likely than not to reoffend at any time with very serious consequences for others;

Sexual offenders who have an additional risk of generic violence;

Unwillingness to address offending behaviour;

Additional police intelligence suggesting ongoing offending behaviour;

Threats to kill, kidnap and harm to known child or adult;

Children who are registered as being at risk of significant harm;

Emotional instability and substance misuse;

Mental illness, psychological disorders and/or self-harm;

Distorted beliefs and thought patterns towards particular groups and/or individuals;

Need for additional/unusual use of resources to effectively manage the case;

Potential media interest in the case.

- 5.6.33 The Review Group accepts that each case needs to be assessed on its own merits but it is of interest that XXXX of the six characteristics listed below Level 2 Cases and XXXX of the eleven characteristics listed under Level 3 Cases could have applied to KR in the lead up to the Murder of Mrs Sutherland.
- 5.6.34 The Review Group felt that being able to refer to a list of characteristics such as those that are featured in the English MAPPA Guidance could also assist practitioners in Scotland make defensible decisions in terms of management level setting. The current MAPPA Guidance in Scotland lacks sufficient detail in this area.

Recommendation 6

The Scottish Government to consider amending national MAPPA Guidance to include examples of characteristics of Level 2 and 3 MAPPA cases to assist practitioners when deciding on risk management levels.

- 5.6.35 The decision to remove him from the Level 2 agenda meant that KR, from the date of his release on 24 March 2010, was a XXXX MAPPA Level 1 case and no further RMCCs, Risk Management Plan Reviews or MAPPA meetings were held in respect of him.
- 5.6.36 Even after breaching his SOPO on 9 April 2010 and being given a custodial sentence, KR was managed as a Level 1 XXXX case on his release from prison on 24 September 2010.
- 5.6.37 He was thereafter managed as a Level 1 case until his arrest for the Murder of Mrs Sutherland. There did not appear to be a tailored risk management plan in place during this period. The only strategy was enforcement of KR's SONR and SOPO conditions as well as carrying out statutory visits and risk assessments.

- 5.6.38 This strategy did not change, as there were no further Risk Management reviews held in respect of KR. The reason for this was explored by the Review Group, which discovered that the CJSW SOLO had in fact been attempting to arrange an RMCC in August 2010, just prior to KR's release from prison.
- 5.6.39 On 11th August 2010, a MAPPA Notification was received at the MAPPA Co-ordinator's office from the SPS recommending that on his release from prison, KR be managed as a level 1 case. Discussion between the MAPPA Co-ordinator and the CJSW SOLO led to an agreement that KR be managed as a Level 1 case but that an RMCC was being organised where the management level would be reviewed.
- 5.6.40 Email correspondence between the MAPPA Co-ordinator's office and the CJSW SOLO indicated that the SOLO had emailed KR's allocated Offender Management Officer to arrange a date for the RMCC but the officer was on annual leave. The SOLO intimated that she would await his return from leave to set the date. The RMCC was never held.
- 5.6.41 The Review Group tried to establish why the RMCC did not take place but interviews of key staff members failed to fully explain why there was a break down in process.
- 5.6.42 On 12th November 2010, the CJSW SOLO had to take an extended period of absence and never returned to the offender management team. Her case load was shared amongst other staff and a replacement was eventually appointed.
- 5.6.43 This was a crucial period in the management of KR. He was now being managed by the police as a Level 1 case and no further reviews of his risk management plan took place.
- 5.6.44 On 12th December 2010, a new Level 1 MAPPA process was introduced in Edinburgh (See Appendix 3). The new process meant that as KR was the subject of a SOPO, his risk management plan required to be reviewed every three months.
- 5.6.45 The Review Team noted that KR's Risk Management Plan should have been reviewed at least three times from the date of the new process being introduced but none took place. The reason for this was not established by the Review Team, albeit reference was made to there being a backlog of reviews at the time. It also believed that an RMCC would have been appropriate following several incidents in 2011 when KR was arrested five times for a variety of offences, may have breached conditions of his SOPO, XXXX.
- 5.6.46 The officers were comfortable that they were managing KR appropriately by carrying out more than the stipulated number of visits and regular discussions with CEC Housing Officers and CJSW SOLOs.

- 5.6.47 The officers felt that no formal meetings were required and did not know what benefit an RMCC or even a MAPPA Level 2 discussion would have made to KR's management as they always responded to incidents involving him.
- 5.6.48 It is the view of the Review Group that at an operational level, the officers had developed a 'fire-fighting' approach to managing KR and lacked alternative solutions to reduce KR's level of risk.
- 5.6.49 The Review Considers this to be evidence that the complexity of the case may have benefited from senior management intervention to assist the officers at an operational level. It would have been appropriate to convene an RMCC followed by a referral to the Level 2 discussion as a result of any of the incidents between 9th March and 12th October 2011. This would have led to the Risk Management Plan being reviewed and perhaps multi-agency management of KR being re-introduced. Sharing the burden and using all of the tools available to agencies may have contributed to a reduction in KR's risk.
- 5.6.50 For instance, a senior Housing Officer could have influenced a 'sensitive let' approach to KR's housing situation; multi-agency housing support could have been implemented early; surveillance could have been authorised if necessary and proportionate to establish any further offending or SOPO breaches; robust policing of his non-sexual offending in collaboration with COPFS, including a possible roll-up of cases, bail opposition and requests for custodial or community sentences with conditions attached; implementation of a contingency plan to respond to breaches of accommodation curfew or where signs of imminent offending became apparent; increased visits with the assistance of CJSW and CEC; Adult Protection concerns addressed by specialist Council Officers; support from voluntary sector organisations XXXX.
- 5.6.51 The list is not exhaustive but the above are examples of what the Review Group believe could have been considered. The lack of RMP reviews meant that KR's case was not **formally** discussed and he was not referred up to the Level 2 discussion.
- 5.6.52 The Review Group understands that KR was amongst the most challenging offenders managed by the OMU during 2010/2011 as officers dedicated a large amount of time to his management.
- 5.6.53 Many ad hoc discussions took place between Police, CJSW and Housing SOLOs but all of the representatives from the organisations interviewed by the Review Group, despite the challenges he posed, did not feel that KR required Level 2 management. The notable exception was the Chair of the last Level 2 meeting who felt intuitively that KR should have been discussed at that level again. However, he did say he would have been unable to hypothesise what decision would have been reached at the Level 2 forum.

- 5.6.54 It was the view of the other interviewees that Level 1 was the most appropriate management level at that time and that KR was a greater risk to himself XXXX, than a risk to others.
- 5.6.55 The Review Group acknowledges the work carried out by all agencies who tried to engage with KR in an effort to break the cycle of re-offending and reduce his risk to the public and note that Police and CJSW have since worked together in clearing the backlog of Level 1 RMP reviews.
- 5.6.56 Police Scotland Offender Management Standard Operating Procedures were introduced in 2013 that includes clear instructions on the frequency of risk management reviews relative to MAPPA Level 1 offenders. In high risk cases like KR's, this means that the RMP should, as a minimum requirement, be reviewed every three months. In addition, an intrusive case review process has been introduced that should ensure compliance of procedures by practioners.
- 5.6.57 The Review Team welcomes this development but understands that there is a lack of consistency across Scotland in terms of the risk management review process. We recommend that Police Scotland, in conjunction with Social Work partners, develops a national MAPPA Level 1 Risk Management Review procedure, including document sets, that can be rolled out across all Divisions and Local Authority areas to provide consistency of approach.

Recommendation 7

Police Scotland, in conjunction with Social Work partners, to consider developing a national MAPPA Level 1 Risk Management Review process that will withstand scrutiny and provide consistency of approach across all Police Divisions and Local Authority areas.

5.7 Risk Assessments

- 5.7.1 The decision to manage KR as a Level 1 XXXX case may have placed added pressure on the officer allocated to manage him.
- 5.7.2 XXXX City of Edinburgh Council staff, were in frequent contact with him regarding his housing issues and liaised regularly with his Offender Management Officer.
- 5.7.3 One of the most important functions of the police offender management officer is to assess the ongoing risk that an offender poses and respond appropriately to any changes in the offender's risk factors. As part of the risk assessment process, police officers are expected to fully research the offender using all available intelligence and information systems, carry out regular home visits and apply approved risk assessment tools.

- 5.7.4 The Stable and Acute 2007 (SAO7) is a risk assessment tool used by police and other practitioners to assess the likelihood of sexual re-offending by an offender but it is not a risk assessment in itself.
- 5.7.5 The SAO7 is in two parts and measures an offender's stable and acute risk factors:
1. The Stable element of the assessment is normally carried out annually and focuses on significant social influences, intimacy deficits, general self-regulation, sexual self-regulation and co-operation with supervisor.
 2. The Acute element should be completed on every occasion an assessor has contact with the offender and focuses on victim access, hostility, sexual preoccupation, rejection of supervision, emotional collapse, collapse of social supports and substance abuse.
- 5.7.6 The Acute assessment is of particular importance as it can identify risk factors that require immediate intervention. If that is the case, the assessor is expected to inform their supervisor and take appropriate action to reduce the risk.
- 5.7.7 As a Level 1 XXXX case, KR was to be visited at least once every six weeks by his Offender Management Officer.
- 5.7.8 Records indicate that KR was visited regularly and the requisite number of Acute assessments recorded. However, they were completed at irregular intervals with some taking place within several weeks of each other and then large gaps to the next. KR's frequent change of temporary accommodation might explain this but what was of more concern to the Review Group was the standard of the assessments and lack of relevant detail.
- 5.7.9 A total of eleven Acute assessments are recorded on ViSOR but only five assessment forms (known as tally sheets) were completed. One form included four separate assessments and two others contained three each, with all of the comments relating to the risk factors being populated in the general comments field at the bottom of the assessment page. This meant that the same comments were attributed to all assessments that featured on a single tally sheet.
- 5.7.10 There was clear evidence of 'cutting and pasting' of information and in one case, reference was made to accommodation at which KR was no longer residing.
- 5.7.11 The merging of multiple assessments onto a single form should be discouraged and deemed unacceptable practice, as important information relating to changes over time in a sex offender's risk factors could be missed.

- 5.7.12 The Review Group established that OMU Supervisors were aware of this practice and have been reassured that this practice has now ceased. It has been confirmed that all Risk Assessments conducted are now properly completed by all officers.
- 5.7.13 Also of concern was a failure to record obvious risk factors that should have been reflected in the assessment score and action taken thereafter to reduce the likelihood of re-offending.
- 5.7.14 The Acute assessment on 4 January 2010 is the first Acute assessment that was recorded on the Risk Assessment tab of ViSOR.
- 5.7.15 XXXX
- 5.7.16 Although these incidents took place several months prior to the Acute assessment, they were the most current and relevant examples of his behaviour prior to and during his time on remand and could have been an indicator of the risk he posed in the community. If this information had been taken into account, intervention would have been expected.
- 5.7.17 As it transpired, KR went on to commit a Theft by Housebreaking three days later and was given a custodial sentence.
- 5.7.18 Acute assessments were carried out on 27 September, 11 October, 19 October and 9 November 2010, all of which were included on a single tally sheet as one assessment. It refers to him pushing boundaries with staff at the Specialist Unit he was residing at, despite the fact he hadn't resided there since January of that year. His overall score was 5.
- 5.7.19 The next recorded Acute assessment took place on 22 March 2011 XXXX. His overall score was 3.
- 5.7.20 Further Acute assessments were carried out on 17 May, 31 May and 28 June 2011, which were again recorded on a single tally sheet with an overall score of 3. XXXX.
- 5.7.21 More Acute assessments were carried out on 19 July, 25 July and 22 August 2011. Again, all three were recorded as one assessment on a single tally sheet. His overall score was 2, down 1 from his previous assessment. XXXX.
- 5.7.22 Once again, what could have been considered significant increases to risk factors did not appear to have been taken into account by the assessor; therefore, KR's Acute assessment did not reflect the potential risk that his changing behaviour presented.
- 5.7.23 A ViSOR activity log dated 3 October 2011 noted that an Acute assessment was carried out that day and the overall assessment score was recorded as 2. XXXX.
- 5.7.24 The Review Team sought the assistance of an accredited Stable and Acute 2007 (SA07) trainer to undertake a review of the assessments.

The SA07 trainer has successfully completed a trainer's course in 2006 and facilitated numerous multi-agency SA07 courses. The trainer submitted a report of her findings (See Appendix 2) in which she concluded the following:

'There were a number of perceived significant changes to the offender's life, XXXX, but no opportunity was taken to update the Stable assessment to provide a more current picture of the risk KR posed, both in terms of sexual and criminal recidivism.

The offender appeared to be extremely difficult to manage, XXXX. The level of monitoring and number of visits completed appears appropriate, given the amount of time spent in custody by KR.

The practice of grouping visits together and completing 1 Acute assessment in respect of a number of visits appears to have caused assessors to fail to take into consideration all available information and disregard other pieces of information. This led to assessments being inaccurate and vital opportunities to re-engage the services of partner agencies to assist in the management of KR and to re-refer him to MAPPA for further discussion (were lost). This practise also negated the ability of the assessment tool to accurately measure change in the offender's behaviour and track the emerging, escalating patterns, especially in 2011.

The results of the assessments carried out should allow offender managers to identify specific areas of the offender's life that require work to be carried out to reduce risk, prioritise the work required, and also to provide advice and support to the offender to allow them to make informed decisions. Stable and Acute assessment should inform any risk management plan in terms of risk level, but should not dictate it.

In conclusion, from the information provided, the intelligence and information in relation to KR appeared to be present and recorded, but was not translated into meaningful assessments, which may have been able to better identify issues as they arose, allowing managers to be proactive.

In grouping a number of visits into one assessment, information was lost and in some cases, disregarded when completing the assessment'.

- 5.7.25 As a result of the issues identified in relation to risk assessments in the KR case, we recommend that a programme of compulsory joint risk assessment refresher training is introduced nationally by the Responsible Authorities.

Recommendation 8

Responsible Authorities to consider introducing compulsory joint refresher training for risk assessors and line managers to ensure that risk assessment tools are applied properly and consistently and that high standards of competency are maintained.

- 5.7.26 There were several incidents in 2010 and 2011 that would have justified convening a multi-agency RMCC to review the risk management plan and level of risk but the police Offender Management Unit chose not to. The officer's line manager endorsed several of the activity reports and Acute assessments a long time after they had been completed, sometimes months later.
- 5.7.27 The OMU DI was asked specifically why this was and reasoned that he and his officers were extremely busy during that period and that they responded dynamically to any escalation in KR's risk. The updating of ViSOR came secondary and the most important thing was acting quickly to deal with the issues as they presented. 'Intervene Now' in KR's case meant increased visits by the offender manager who in his opinion was a stabilising influence on KR. It was noted by the Review Group that this was also a period when the unit was under the recognised resource levels.
- 5.7.28 The Review Group enquired as to why KR had not been the subject of an RMCC or referral to Level 2 discussion following some of the incidents in 2011. The officers interviewed were of the view that KR's risk had not increased and that it could be argued he was at his most stable during that period therefore an RMCC was not required.
- 5.7.29 The Review Group are of the opinion that the lack of RMP reviews and poor standard of risk assessments constituted a failure of process which explained the lack of RMCCs and possible referrals to MAPPA.
- 5.7.30 The Review Group accepted that joint discussions with regard to KR's risk were held informally and that practitioners viewed KR as chaotic, unstable and always a high risk. None of the informal discussions were recorded and staff relied heavily on the professional judgement of KR's offender manager in assessing his risk during 2011 when he was managed at Level 1.
- 5.7.31 Managing KR was time-consuming and caused a lot of frustration in relation to his lack of engagement with services. His behaviour was challenging and he was difficult to deal with. He failed to turn up for appointments or attended late at support groups he had been signposted to. Practitioners, however, felt that Level 2 management would not have improved the situation with KR as he would only engage on his own terms.

- 5.7.32 The introduction of the new Police Scotland Offender Management Standard Operating Procedures and intrusive review policy should ensure future compliance with MAPPA Guidance and ViSOR usage by all Offender Management Officers. The Review Group therefore, has no further recommendations to make in this regard.
- 5.7.33 The offender management officer had been involved in KR's management since 2006 and was the investigating officer in January 2003 that led to his sexual conviction. He had therefore been linked to KR for over eight years.
- 5.7.34 A good rapport between the Offender Manager and offender is important and can take time to develop. This was particularly true in KR's case and the Review Group acknowledges the good relationship that apparently existed between KR and his Offender Manager. The Review Group however, is of the opinion that inaccurate recording of risk assessments reduced the effectiveness of the MAPPA process in this case. The high frequency of visits was provided as the reason for this.
- 5.7.35 To guard against risk of habituation to an offender's behaviour or case fatigue it is recommended that regular management reviews of the suitability of officers to continue managing a particular offender should be considered. This could form part of the officer's annual appraisal.
- 5.7.36 The Offender Manager's supervisors reported that they regularly reviewed the officer's ability to manage KR and his suitability for the role. They considered him to be the most suitable officer to manage KR. An effective review process is acknowledged by the Review Group as being good practice particularly when managing offenders as demanding as KR.

Recommendation 9

Police Scotland to consider implementing regular reviews of the suitability of officers to continue managing certain offenders after an extended period of time, especially offenders that are particularly demanding and difficult to manage.

5.8 Sex Offender Liaison Service (SOLS) and Cognitive Functioning Reports

- 5.8.1 The NHS Lothian Sex Offender Liaison Service (SOLS) was established in 2007 with funding from NHS Lothian. It provided clinical consultation, assessment and management advice to help criminal justice agencies manage complex and/or high risk sexual offenders in the community. It was the forerunner to the present Serious Offender Liaison Service, which was set up in October 2012, to include violent as well as sexual offenders.

- 5.8.2 The primary remit of the service today is to provide clinical input for violent and sex offenders who have personality disorders and/or sexual deviations managed by criminal justice social work or the police. The aim of the service is to reduce risk and improve risk management through helping frontline staff to implement psychologically informed interventions and management strategies.
- 5.8.3 On 14 May 2010, following the previous referral by Criminal Justice Social Work (CJSW), the SOLS assessment report in relation to KR was received at the CJSW Office, Grindlay Court, Edinburgh. XXXX.
- 5.8.4 XXXX
- 5.8.5 XXXX
- 5.8.6 The author of the report assessed KR to pose a high risk of re-offending that could cause serious psychological and/or physical harm to the victim. The risk was deemed imminent on his liberation from custody and vulnerable individuals within accommodation were of immediate concern.
- 5.8.7 The key risk management recommendations included within the report were:
- Supervision of accommodation
 - Disclosure to new partners and friends who appear vulnerable
- 5.8.8 XXXX.
- 5.8.9 XXXX
- 5.8.10 This particular report would have been of benefit to those tasked with managing KR as it was reportedly his continual failure to engage with services and professionals that inhibited progress with him. The 'pro-active style of management and engagement' recommended in the report could have been introduced to a revised Risk Management Plan but as previously mentioned, no formal reviews took place thereafter.
- 5.8.11 Interviews with key staff confirmed that conversations took place between the SOLS team, CJSW and Police regarding these reports but as these were not part of a formal MAPPA or risk management meeting, no record of the discussions were made.
- 5.8.12 KR's offender manager stated that the SOLS report was of benefit in helping him understand KR's behaviour and that he had increased his engagement with him as a result.
- 5.8.13 With the exception of short periods in supported hostel accommodation, the Review Team found no evidence that any of the SOLS or Cognitive Functioning Reports' recommendations had been formally introduced as part of KR's risk management plan where positive outcomes could have been measured against previous behaviour that could have been considered at later risk management reviews or MAPPA meetings.

5.8.14 XXXX

5.8.15 XXXX

5.8.16 Specific information and recommendations from health professionals relating to the management of an offender are routinely discussed at MAPPA meetings under the Health agenda. However, as no formal risk management reviews or MAPPA meetings were held after submission of the SOLS report this did not happen in KR's case.

5.8.17 It is of note that none of the Senior Police or Social Work Managers interviewed by the Review Team had read the SOLS report in relation to KR and were not sighted on the specific recommendations contained within it.

5.8.18 The Review Group is of the opinion that assessments of offenders by health professionals are an important element of the risk management process and that assessment reports should be considered at a senior management level. It recommends that the Responsible Authorities consider introducing a process that ensures all reports by health professionals, relating specifically to the risk management of a sex offender, are shared with managers at an appropriate senior level. This will ensure that senior managers are fully sighted on all details of the assessment and are involved in the decision-making process in relevant cases.

Recommendation 10

The Responsible Authorities to consider introducing a process to ensure that reports by health professionals relating specifically to the risk management of offenders are shared with senior managers.

5.8.19 The SOLS Team have introduced regular surgeries where they discuss cases with offender managers and make recommendations. This is clearly good practice and is expected to continue.

5.8.20 The Police Scotland Offender Management Standard Operating Procedures created minimum standards in relation to the frequency of RMP reviews in Level 1 cases. This should ensure that recommendations from Health partners in future similar cases relating to high risk offenders are reviewed into the risk management plan within at least three months of the recommendations being made. In view of this, the Review Group have no further recommendations to make regarding the SOLS assessment.

5.9 Adult Protection

5.9.1 The result of the SOLS and cognitive functioning assessments, XXXX, should, in the opinion of the Review Group, have triggered an Adult Protection Inter-agency Referral Discussion (IRD) with a strong argument

for a subsequent Adult Protection Case Conference (APCC). There is no evidence that either took place.

- 5.9.2 The Adult Support and Protection (Scotland) Act 2007 (ASP Act) was introduced in 2008 and included new legislation to support individuals who are deemed 'at risk' but are not covered under either the Adults with Incapacity (Scotland) Act 2000 or Mental Health Care and Treatment (Scotland) Act 2003.
- 5.9.3 The above three acts can be used to ensure protection and care of a person deemed 'at risk of harm'.
- 5.9.4 It must be noted that although not all people fit the 'Adult at Risk' criteria, commonly known as the '3 point test', under the ASP Act, this does not preclude them from being referred to other agencies for support due to vulnerabilities. The ASP Act provides a legal requirement for a local authority to make enquiry where there is suspicion that a person is at risk of harm and for other agencies to report their concerns about a person to it.
- 5.9.5 **Adult at risk** - Section 3(1) defines 'adults at risk' as adults who:
- Are unable to safeguard their own well-being, property, rights or other interests;
 - Are at risk of harm; and
 - Because they are affected by disability, mental disorder, illness or physical or mental infirmity, are more vulnerable to being harmed than adults who are not so affected.
- 5.9.6 The presence of a particular condition does not automatically mean an adult is an 'adult at risk'. Someone could have a disability but be able to safeguard their wellbeing etc. It is important to stress that all three elements of this definition must be met. It is the whole of an adult's particular circumstances, which can combine to make them more vulnerable to harm than others.
- 5.9.7 **Risk of harm** - Section 3(2) makes clear that an 'adult' is at risk of 'harm' if:
- Another person's conduct is causing (or is likely to cause) the adult to be harmed, or
 - The adult is engaging (or is likely to engage) in conduct which causes (or is likely to cause) self-harm.
- 5.9.8 An independent senior Social Worker who specialises in Adult Protection matters has reviewed KR's case and concluded that he clearly met the 'Adult at Risk' criteria, XXXX.
- 5.9.9 XXXX.

- 5.9.10 The only multi-agency discussion believed to have been held in relation to KR's vulnerability took place at the Vulnerable Adult Case Conference on 28 February 2007, which pre-dated the 2007 ASP Act. It was recorded in the minutes of the VACC that KR was on the list for mainstream housing but it was highly unlikely that he would be able to sustain a tenancy without a high level of support. XXXX.
- 5.9.11 XXXX.
- 5.9.12 Although KR was regularly accessing services through engagement with his police and social work offender managers XXXX, there is no evidence of a co-ordinated multi-agency approach in terms of adult support and protection or treatment, which could have complemented his management as a sex offender under MAPPA.
- 5.9.13 Neither the minute of the Level 2 MAPPA meeting on 17 September 2009 nor the RMCC of 18 January 2010, record that any of those present had considered KR to be an Adult at Risk under the ASP Act.
- 5.9.14 The Review Team are of the view that it is vital that those involved in Public Protection should have a degree of cross-cutting knowledge about prevalent issues and matters of commonality. One way to begin to offset this from a training perspective is the development of integrated Public Protection training for all staff. This would cover Adult Protection, Child Protection and High Risk/Sexual Offending. It is acknowledged that various levels of multi-agency ASP training is now delivered to Police and Social Work partners and that operational police officers receive an eModule training package.
- 5.9.15 The Review Group has considered the above and recommends that Responsible Authorities review how best to integrate adult protection services with the MAPPA process, to ensure links across all strands of public protection are made in relevant cases. It further recommends that in relevant cases Responsible Authorities consider the attendance of Senior Social Workers, experienced in Adult Support and Protection matters, at MAPPA Level 2 and 3 meetings.

Recommendation 11

The Responsible Authorities to review how best to integrate adult protection services and training with the MAPPA process to ensure links are made across all strands of public protection in relevant cases.

Recommendation 12

The Responsible Authorities to consider attendance of Senior Social Workers, experienced in Adult Support and Protection matters, at MAPPA Level 2 and 3 meetings in relevant cases.

- 5.9.16 The 2007 VACC is the only recorded joint discussion held that considered KR's XXXX wellbeing and identified areas for intervention; however, no long-term strategy was put in place.
- 5.9.17 XXXX.
- 5.9.18 Whilst it is not clear whether improved recording of these would have made a difference, a more consistent recording pattern across agencies would have enabled a more coherent picture to be shared and risks addressed.
- 5.9.19 Opportunities may have been missed to hold IRDs, which may have led to the convening of an Adult Protection Case Conference (APCC).
- 5.9.20 APCCs can be extremely useful as information-sharing processes but as support through the AP process is voluntary, it is unknown what any APCC would have been able to offer KR in the way of additional support to what was already being undertaken through MAPPA. KR was an extremely disconnected and troubled individual who only engaged sporadically with services.
- 5.9.21 It is speculation to determine the outcome of an APCC but a tailored care plan, including an allocated Council Officer working alongside a Housing Support Officer, in terms of KR's risk to himself, could have been built in to his risk management plan under MAPPA had he engaged.
- 5.9.22 The Review Team regarded ASP involvement as an option that could have been considered during joint formal discussions as an additional element of KR's risk management plan.
- 5.9.23 Police Scotland Adult Support and Protection Standard Operating Procedures (SOP) now provide clear instructions to officers who deal with such matters, which should ensure that relevant referrals are submitted when required.
- 5.9.24 The SOP also makes reference to Adult Protection Co-ordinators, which are operating in some Public Protection Units across the Force. Specialist Adult Protection Co-ordinators can deliver an enhanced level of expertise supporting colleagues and act as single points of contact for partner organisations on related matters. They can also attend relevant meetings such as Adult Protection Case Conferences and MAPPA discussions if required, providing consistency to these processes.

5.9.25 The Review Group considers this a positive development in the field of Public Protection and recommends that all Divisions of Police Scotland consider appointing Adult Protection Co-ordinators or single points of contact within its PPU.

Recommendation 13

Police Scotland to consider introducing dedicated Adult Protection Co-ordinators or single points of contact within all Public Protection Units to provide enhanced levels of expertise in support of operational officers, act as single points of contact for partner agencies on all issues concerning adult support and protection and to represent Police Scotland at relevant multi-agency meetings.

5.9.26 XXXX.

XXXX

6. Conclusions

- 6.1.1 Mrs Sutherland was a 74 year-old woman who lived alone in housing predominantly used to accommodate older people. Her unexpected and violent death has had a devastating effect on her family.
- 6.1.2 She did not fit the victim profile of those previously targeted by KR XXXX. XXXX, KR had never displayed evidence of the extreme levels of violence he went on to use towards Mrs Sutherland.
- 6.1.3 The difficulties of managing registered sex offenders in the community cannot be over emphasised. They can be manipulative, devious and very demanding individuals. XXXX.
- 6.1.4 This was the challenge that confronted those tasked with the responsibility of managing KR for six years before the tragic events of 30 October 2011. Their efforts deserve recognition as KR presented them with a variety of complex challenges during what were formative years for MAPPA in Scotland.
- 6.1.5 There is no evidence from 2006 onwards that KR committed a violent assault or sexual offence prior to the Murder of Mrs Sutherland. It can be concluded therefore that practitioners involved in KR's management contributed to successfully protecting the public during this period when he was predominantly managed as a Level 2 case (Multi-agency Risk Management). The Murder took place a year after he was released from prison when he was being managed as a Level 1 case (Routine Risk Management).
- 6.1.6 The Review Group noted good practice by the police Offender Management Unit in circulating special briefings to frontline officers, obtaining and enforcing his SOPO and implementing a robust visit regime. The Offender Manager is reported to have had a good relationship with KR and was considered as a stabilising factor, albeit deficiencies in risk assessment practices may have reduced the effectiveness of this relationship within the MAPPA context.
- 6.1.7 Social Workers provided KR with support, referred him to services and kept close contact with partners.
- 6.1.8 City of Edinburgh Council Housing Department staff remained in regular contact with other partners and, with one obvious exception, alerted them when he moved accommodation.
- 6.1.9 Health professionals attempted to engage with KR XXXX but he would invariably fail to attend appointments.
- 6.1.10 Generally, communication between partner agencies was good and the co-location of Police and Criminal Justice Social Work within the same office at Vega House assisted collaborative working.

- 6.1.11 None of those involved in managing KR, interviewed by the Review Group, anticipated that he would commit such a heinous crime, however, close examination of the Edinburgh MAPPA in the months leading up to the Murder, revealed failures of processes relating to Risk Assessment, Risk Management and Adult Support and Protection. The lack of stable accommodation was also a feature of the case.
- 6.1.12 The Review Group found evidence that formal Risk Management Plan Reviews were not carried out in line with local procedures and that no multi-agency Risk Management Case Conferences were held since January 2010. Acute Risk Assessments were poorly applied, failed to accurately measure change in KR's behaviour and track emerging, escalating patterns, particularly in 2011. They were also incorrectly recorded on ViSOR.
- 6.1.13 KR had resided in temporary hostel or B&B accommodation since he was a teenager and had been provided with support by relevant agencies but was never tested in his own tenancy as part of his risk management plan. Practitioners were of the opinion that he did not possess the requisite skills to manage on his own and some did not believe in prioritising him above others for permanent housing.
- 6.1.14 XXXX
- 6.1.15 XXXX.
- 6.1.16 Several of the practitioners involved in KR's management under MAPPA are familiar with the ASP Act but did not apparently consider KR to be an Adult at Risk. It should be pointed out that the co-operation of the adult is purely voluntary and KR's reported history of disengaging from support services would not have guaranteed success.
- 6.1.17 KR's risk management plan remained static for 18 months and he continued to be managed as a Level 1 XXXX case despite several incidents that the Review Group considered could have justified an increase in his risk management level.
- 6.1.18 Key members of staff involved in KR's management were of the opinion that Level 1 was the appropriate level at which to manage KR. They did not feel that Level 2 would have offered any more than what was already being done to manage his risk of harm to the public. The Review Group has highlighted examples within this report of actions that could have been considered as part of the Risk Management Plan and been more effectively delivered had KR been managed as a Level 2 case.
- 6.1.19 There may well have been evidence to back up the argument not to refer KR back to MAPPA but it was not discussed formally at any of the recognised forum under the MAPPA process and may have been partly based on unreliable risk assessments.

- 6.1.20 The Review Group acknowledges that due to co-location, discussions at an operational level took place jointly between Police and CJSW on an ad hoc basis and that Police responded dynamically to any threats or changes in KR's behaviour or risk of harm. Most of the police officers interviewed agreed that KR was extremely challenging. He was the most time consuming offender managed by the OMU in Edinburgh at that time and the subject of almost daily discussion.
- 6.1.21 It is also acknowledged that even Level 2 risk management may not have produced more positive results in KR's case. However, it would have ensured an overview by senior managers from partner agencies who had appropriate levels of authority to make decisions on behalf of their respective organisations to overcome obstacles to more effective risk management in what was clearly a complex case. It would also have ensured the risk management plan was regularly reviewed.
- 6.1.22 At the time of the murder it had been 2 years since the last MAPPAs Level 2 meeting and the same challenging issues still existed. Despite this, the police continued to manage KR as a single agency with co-operation by the City of Edinburgh Council Housing Department.
- 6.1.23 Prior to KR being released from prison on 24 September 2010, the CJSW SOLO had attempted to organise an RMCC. An email seen by the Review Team appears to support this but for reasons that are unclear, she was unable to do so. Neither the Police Offender Manager nor his supervisor, recall being invited to an RMCC to discuss KR at that time and are of the opinion that because there was no apparent change to KR's risk, they would not necessarily have expected to.
- 6.1.24 New joint local procedures relating to Level 1 risk management reviews introduced in November 2010 should have ensured that KR's Risk Management Plan was formally reviewed every three months and recorded accordingly but none took place.
- 6.1.25 The aim of MAPPAs in Scotland is to assess and manage the risk of serious harm to the public by sex offenders subject to the restrictions placed on them by the Sexual Offences Act 2003. It is impossible to eliminate risk completely, no matter what arrangements are put in place to minimise it. If an offender is at liberty and decides to commit a serious crime, he or she can always create opportunities to do so, despite the restrictions and close monitoring of MAPPAs.
- 6.1.26 It was KR alone who, for whatever reason and despite the efforts of practitioners to manage him under MAPPAs, entered Mrs Sutherland's home and committed the appalling acts that ultimately caused her death.
- 6.1.27 We have concluded that the Rape and Murder of Mrs Sutherland by KR could not reasonably have been predicted. Procedures put in place to manage his risk to the public up until then had been relatively successful. The Murder took place during his longest continuous period in the

community since his index offence, ironically when practitioners believed that his risk to the public was being managed effectively.

- 6.1.28 It is unclear to what extent the failures of process highlighted within this report may have had on the effectiveness of KR's risk management because as previously mentioned he was incredibly challenging and difficult to engage with, no matter what the partner agencies tried. However, the Review Group is of the view that improved risk management and levels of public protection would have been expected had procedures and MAPPA Guidance been more closely followed in the twelve months prior to the Murder of Mrs Sutherland.
- 6.1.29 If implemented, the recommendations contained within this report coupled with the new Police Scotland Offender Management Standard Operating Procedures and Intrusive Case Review Policy should enhance MAPPA processes in Scotland and contribute to keeping people safe.

Phil Gachagan
Detective Chief Inspector
Police Scotland
22 December 2013

7. List of Recommendations

Recommendation 1

City of Edinburgh Council to consider introducing a procedure to provide dedicated support, such as the Neighbourhood Support Service, to support homeless sex offenders managed under MAPPA, prior to their release from prison, to ensure that suitable accommodation and appropriate support is in place at an early stage to provide stability as part of the risk management plan.

Recommendation 2

The City of Edinburgh Council to consider updating its Housing Information System with a mandatory notification tab that requires to be completed with details of the name and time that an agency representative is informed before the booking-in process can be finalised.

Recommendation 3

The Scottish Prison Service should ensure that all key events relating to a sex offender under MAPPA while in custody are fully recorded on ViSOR.

Recommendation 4

The Scottish Government to consider issuing guidance within the MAPPA National Guidance document that risk management levels should only be reduced following discussion at appropriate MAPPA Level 2 or 3 meetings (i.e. the management level of MAPPA 2 and 3 cases should only be reduced following review at Level 2 and 3 meetings respectively).

Recommendation 5

The Scottish Government to consider issuing clearer guidance to Responsible Authorities within the MAPPA National Guidance document on the screening of referrals to ensure that the process withstands scrutiny and decisions are defensible.

Recommendation 6

The Scottish Government to consider amending national MAPPA Guidance to include examples of characteristics of Level 2 and 3 MAPPA cases to assist practitioners when deciding on risk management levels.

Recommendation 7

Police Scotland, in conjunction with Social Work partners, to consider developing a national MAPPA Level 1 Risk Management Review process that will withstand scrutiny and provide consistency of approach across all Police Divisions and Local Authority areas.

Recommendation 8

Responsible Authorities to consider introducing compulsory joint refresher training for risk assessors and line managers to ensure that risk assessment tools are applied properly and consistently and that high standards of competency are maintained.

Recommendation 9

Police Scotland to consider implementing regular reviews of the suitability of officers to continue managing certain offenders after an extended period of time, especially offenders that are particularly demanding and difficult to manage.

Recommendation 10

The Responsible Authorities to consider introducing a process to ensure that reports by health professionals relating specifically to the risk management of offenders are shared with senior managers.

Recommendation 11

The Responsible Authorities to review how best to integrate adult protection services and training with the MAPPA process to ensure links are made across all strands of public protection in relevant cases.

Recommendation 12

The Responsible Authorities to consider attendance of Senior Social Workers, experienced in Adult Support and Protection matters, at MAPPA Level 2 and 3 meetings in relevant cases.

Recommendation 13

Police Scotland to consider introducing dedicated Adult Protection Co-ordinators or single points of contact within all Public Protection Units to provide enhanced levels of expertise in support of operational officers, act as single points of contact for partner agencies on all issues concerning adult support and protection and to represent Police Scotland at relevant multi-agency meetings.

Glossary

APCC - Adult Protection Case Conference (replaced Vulnerable Adult Case Conference)

ASP Act - Adult Support and Protection (Scotland) Act 2007

CEC - City of Edinburgh Council

CJSW - Criminal Justice Social Work

COPFS - Crown Office and Procurator Fiscal Service

DTC - Duty to Cooperate (organisations involved in the MAPPA process but which are not Responsible Authorities)

EDL - Earliest date of liberation for offenders in prison

Formal Disclosure - If a decision is made to formally disclose, then a letter of disclosure will be drafted on behalf of the Deputy or Assistant Chief Constable of the relevant police force. This letter should be served by the police personally on the person to whom the disclosure is to be made. The disclosure should be limited to the information necessary to minimise the risk. Officers serving this letter should ensure that they do not disclose any further information other than what is stipulated in the letter. Although no further information should be disclosed, advice and guidance may be given about how the individual should respond to the information in order to protect themselves or others and in particular whether any further action should be taken. This procedure will be completed in consultation with partner agencies. There are various other forms of disclosure discussed in the body of this document.

HIS - Housing Information System (City of Edinburgh Council IT system)

ICM - Integrated Case Management - A management structure used by the Scottish Prison Service. This approach brings together the prisoner, their family (where appropriate) and other key staff to examine the prisoner's progress through custody. The case conference will consider the actions/interventions that are necessary to help make the prisoner's stay in custody successful. The case conference will also examine the assessed risks the prisoner poses and help decide on appropriate interventions aimed at reducing those risks. This particular approach is useful in (a) keeping the prisoner at the centre of the ICM process, (b) maintaining a focus on issues which are external to the prison as well as internal, (c) the sharing of relevant information across agencies and (d) assessing and managing risk.

ICR - Initial Case Review

IRD - Inter-agency Referral Discussion

MAPPA - Multi Agency Public Protection Arrangements

MAPPP - Multi Agency Public Protection Panel

NASSO - National Accommodation Strategy for Sex Offenders

OMU - Offender Management Unit (police)

POVA - Protection of Vulnerable Adults

RIE - Royal Infirmary of Edinburgh

RMCC - Risk Management Case Conference

RSO - Registered Sex Offender - An offender convicted of an offence specified in the Sexual Offences Act 2003 and therefore subject to the notification requirements of this Act.

SA07 - Stable and Acute 2007 Risk Assessment Tool

SACRO - Scottish Association for the Care and Resettlement of Offenders

SAVOLO - Sex and Violent Offender Liaison Officer

SCR - Significant Case Review

SOLO - Sex Offender Liaison Officer

SOLS - Serious Offender Liaison Service (formerly Sex Offender Liaison Service)

SONR - Sex Offender Notification Requirements

SOPO - Sexual Offences Prevention Order - A Court may make a SOPO at the time of dealing with certain sexual offenders or when the police make a special application on account of the offender's behaviour in the community. A SOPO can place restrictions and obligations on the offender and will require the subject to register as a sexual offender. If the offender fails to comply with (i.e. breaches) the requirements of the order, he can be taken back to Court and may be liable to up to 5 years' imprisonment.

SOTP - Sex Offender Treatment Programme

SPS - Scottish Prison Service

VACC - Vulnerable Adult Case Conference (replaced by Adult Protection Case Conference)

ViSOR - Violent and Sex Offenders Register