

# NORTH TYNESIDE MULTI AGENCY RISK ASSESSMENT CONFERENCE (MARAC) PROCEDURES PROTOCOL 2022/23

Owner	North Tyneside MARAC Steering Group
Version	13
Approval Body	North Tyneside Domestic Abuse Board
Approval Date	
Review Frequency	Annual
Next Review Date	May 2024

Revision Date	Version	Summary of Changes	Changes Section
May 2023	13	Updated to reflect DA Act	Intro

	<b>Contents</b>	<b>Page number</b>
1.	<b>Introduction</b>	<b>3</b>
2.	<b>Multi-Agency Risk Assessment Conference (MARAC)</b>	<b>5</b>
3.	<b>MARAC Procedures</b>	<b>6</b>
4.	<b>MARAC Meeting</b>	<b>10</b>
5.	<b>Multi-Agency Public Protection Arrangements</b>	<b>13</b>
6.	<b>The Link between MARAC and MAPPA</b>	<b>16</b>
7.	<b>Information Sharing</b>	<b>16</b>
8.	<b>Audit</b>	<b>16</b>
9.	<b>Emergency MARACS</b>	<b>16</b>
10.	<b>Complaints</b>	<b>17</b>
11.	<b>Equality &amp; Diversity</b>	<b>17</b>
12.	<b>Appendix 1 Glossary of terms</b>	<b>18</b>
10.	<b>Appendix 2 Risk Identification Checklist</b>	<b>21</b>
11.	<b>Appendix 3 MARAC Referral Form</b>	<b>24</b>
12.	<b>Appendix 4 Overview of Legal Provisions</b>	<b>28</b>
13.	<b>Appendix 5 Sample Agenda</b>	<b>33</b>
14.	<b>Appendix 6 Sample Proforma – List of Cases to be addressed at MARAC Meeting (date)</b>	<b>34</b>
15.	<b>Appendix 7 Research form for case subject to MARAC</b>	<b>35</b>
16.	<b>Appendix 8 Sample Minutes</b>	<b>36</b>
17.	<b>Appendix 9 Procedural flow chart</b>	<b>37</b>
18.	<b>Appendix 10 Transfer of MARAC Victim/File</b>	<b>38</b>
19.	<b>Appendix 11 Information Sharing Protocol</b>	<b>39</b>

# **1 Introduction**

The MARAC exists as a tool to facilitate effective information sharing and action planning to keep those identified at high risk of serious harm safe. No one partner holds all the information required to effectively assess the needs of victims and their children, or to fully assess the risk of serious harm / homicide. In the majority of cases the support of more than one agency is required to ensure the longer-term safety of the victim and their children. There needs to be a holistic approach that is supported by and involves all partners. Therefore, no single agency owns this protocol, it is jointly owned by the North Tyneside MARAC members.

- 1.1** The purpose of this document is to set clear guidelines for agencies in relation to the aims of a MARAC, when a MARAC will be called and the procedure for arranging a MARAC, including emergency MARACs.
- 1.2** The document gives a clear pathway of how MARAC and MAPPA work together in addressing the risk posed in cases.
- 1.3** The document also contains guidance on information sharing between agencies and gives details of the legislation that allows agencies to share information in certain circumstances.
- 1.4** There are a number of recognised structured processes in place to manage the risks to certain groups of the population. Child Protection Conferences are called when children have suffered or are likely to suffer significant harm. Adults at risk of harm from abuse who fall within the definition of adults with care and support needs can also be subject to safeguarding meetings. Some of the highest risk offenders are discussed at meetings called Multi-Agency Public Protection Arrangements (MAPPA). The introduction of Multi-Agency Risk Assessment Conferences (MARACs) will fill the existing void in relation to the victims/survivors of Domestic Abuse that are deemed to be High Risk.
- 1.5** The Domestic Violence Crimes and Victims Act 2004 includes a section relating to Domestic Homicide Reviews. The MARAC will provide auditable and robust evidence of actions taken by agencies in tackling the issue of domestic abuse.
- 1.6** Domestic Abuse accounts for nearly a quarter of all violent crime. Research suggests that 1 in 4 women and 1 in 10 men will suffer Domestic Abuse at some stage in their lives (BCS 2004) and that 2 persons a week are unlawfully killed by their partners or ex-partners in the UK. The MARAC process will provide a structured response to the high risk cases of domestic abuse and provide a foundation for a Domestic Violence Homicide Reduction/ Prevention Strategy within the Northumbria Police area.
- 1.7** It is well established that there is a clear link between Domestic Abuse and Child Abuse. All agencies must be aware of the impact that Domestic Abuse can have on children. In doing so, agencies must consider the need

for a referral to Children's Social Care in accordance with the North Tyneside Safeguarding Children's Partnership Guidelines and Procedures. It is also important to recognise the dangers to adults at risk living within the family.

- 1.8** The MARAC process across the Northumbria region allows all of the statutory and voluntary agencies to give a consistent and structured response to managing the risk posed by perpetrators in cases of Domestic Abuse that are categorised as High Risk. To enable this, agencies must sign up to the MARAC process. (Appendix 14)
- 1.9** A MARAC will allow all the relevant agencies to share information and decide upon the most appropriate way to reduce or manage the identified risks around each case of Domestic Abuse that is the subject of a MARAC. The MARAC model fits into the ethos of multi-agency working. No single agency can solve all the problems but by sharing information and working together through the MARAC process the outcomes for the victims/survivors of Domestic Abuse incidents can be improved.

#### **1.10 Domestic Abuse Act**

The Domestic Abuse Bill received Royal Assent on 29 April 2021, becoming law and:

- Creates a statutory definition of domestic abuse, emphasising that domestic abuse is not just physical violence, but can also be emotional, coercive or controlling, and economic abuse.
- Establishes in law the office of Domestic Abuse Commissioner and set out the Commissioner's functions and powers.
- Provides for a new Domestic Abuse Protection Notice and Domestic Abuse Protection Order.
- Places a duty on local authorities in England to provide support to victims of domestic abuse and their children in refuges and other safe accommodation.
- Creates a statutory presumption that victims of domestic abuse are eligible for special measures in the criminal, civil and family courts.
- Places the guidance supporting the Domestic Violence Disclosure Scheme ("Clare's law") on a statutory footing.
- Provides that all eligible homeless victims of domestic abuse automatically have 'priority need' for homelessness assistance.
- Creates a new statutory guidance

## **2 Multi-Agency Risk Assessment Conference**

### **2.1 Why set up a MARAC?**

**2.1.1** MARAC's are recognised nationally as best practice for addressing cases of domestic abuse that are categorised as **High Risk**. Domestic Abuse is a very complex issue and one agency alone cannot solve all the related problems and manage the associated risks in all cases. A MARAC allows agencies to identify the high risk domestic abuse cases and for the identified risk to be managed through a multi-agency forum.

**2.1.2** In a single meeting a MARAC combines up to date risk information with a comprehensive assessment of a victim's needs and links those directly to the provision of appropriate services for all those involved in a Domestic Abuse case: victim, children and perpetrator. By using the knowledge and expertise of different agencies the identified risks will be either reduced or managed in the most appropriate and effective way.

### **2.2 Aims of a MARAC**

**2.2.1** The aims of a MARAC are;

- To share information to increase the safety, health and well being of victims – adults and children;
- To determine whether the perpetrator poses a significant risk to any particular individual or to the general community;
- To construct jointly and implement a risk management plan that provides professional support to all those at risk and that reduces the risk of harm;
- To reduce repeat victimisation;
- To improve agency accountability; and
- Improve support for staff involved in high risk domestic abuse cases.
- To identify those situations that indicate a need for the Safeguarding Children Partnership and the Safeguarding Adults Board Protection Procedures to be initiated
- To identify those who are identified as a 'An Adult at Risk' (as per the Care Act 2014 definition) and initiate appropriate steps as per Local Safeguarding Adult Board Procedures.

**2.2.2** The responsibility to take appropriate actions rests with individual agencies; it is not transferred to the MARAC. The role of the MARAC is to facilitate, monitor and evaluate effective information sharing to enable appropriate actions to be taken to increase public safety.

### **2.3 Risk Assessment**

**2.3.1** In order for a MARAC process to work effectively there needs to be a common understanding of risk among the participants. A MARAC only applies to the cases of domestic abuse that are identified as being High Risk cases (\*risk of serious harm). There are many factors that will cause a

case to be categorised as High Risk. On occasions these factors may be present in isolation and in other cases multiple factors may be present, but each case must be taken on an individual basis and its own context.

- 2.3.2** The risk factors can be divided into 5 main categories:
- a. Nature of the abuse e.g. emotional, physical, sexual
  - b. Historical patterns of behaviour e.g. previous convictions or abusive behaviour
  - c. Victim's perception of risk e.g. specific fears for themselves and children, pets
  - d. Specific factors associated with an incident e.g. use of weapon, threats to kill
  - e. Aggravating factors e.g. drugs, alcohol, financial problems

The Northumbria MARAC threshold will be used to decide which cases are heard in MARAC. The MARAC threshold is as follows:

Risk of Serious Harm (Home office 2002 & Oasys 2006): "A risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible".

- 2.3.3** As practitioners, we have a duty of care to our clients since they have become our clients precisely because a propensity to harm exists. We need to make defensible rather than defensive decisions. In addition under the Children Act 2004, we have a statutory duty to safeguard and promote the welfare of children.

**2.3.4 As practitioners, we also have the duty of care to adults at risk.**

The Care Act 2014 introduced domestic abuse as a category of abuse within safeguarding. North Tyneside Safeguarding Adults Board's safeguarding policy gives full details, along with the 8 Step Procedures document which breaks down the safeguarding process into eight steps. This can be easily followed by anyone who is involved at any stage of this process. All updated policies and procedures can be found on:

[Safeguarding adults | North Tyneside Council](#)

### **3 MARAC Procedures**

#### **3.1 Statutory Definition of Domestic Abuse**

New Definition under Section 1 of the Domestic Abuse Act 2021

- Behaviour of a person ("A") towards another person ("B") is "domestic abuse" if: (a) A and B are each aged 16 or over and are personally connected to each other, and (b) the behaviour is abusive.
- This includes physical, emotional, economic, sexual abuse and controlling and coercive behaviour.
- 'Personally connected' means: intimate partners, ex-partners, family members or individuals who share parental responsibility for a child

#### **3.2 Definition of Adults at Risk:**

An adult at risk is defined by The Care Act 2014 as:

A person who

- a. has needs for care and support (whether or not the authority is meeting any of those needs),
- b. is experiencing, or at risk of, abuse or neglect, and
- c. as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.

An adult at risk *may* therefore be a person who:

- is elderly and frail due to ill health, physical disability or cognitive impairment
- has a learning disability
- has a physical disability and/or a sensory impairment
- has mental health needs including dementia or a personality disorder
- has a long-term illness/condition
- misuses substances or alcohol
- is a carer such as a family member/friend who provides personal assistance and care to adults and is subject to abuse
- is unable to demonstrate the capacity to make a decision and is in need of care and support

This list is not exhaustive and being frail, elderly or having a disability does not mean therefore at risk, a person could for example, be making an informed choice which others may consider unwise – but it is their choice. Both capacitated and incapacitated people can be at risk from harm and at risk of duress, pressure or undue influence.

### **3.3 Designated Officers**

**3.3.1** Each agency must appoint a Primary Designated Officer (PDO) who will be the most senior member of the agency and have a coordinating and authorising role.

**3.3.2** The agency may also appoint further Designated Officers (DO) within the same body who will be of sufficient standing to process or initiate requests for personal information.

**3.3.3** Only the DOs and PDOs of the agencies can make the formal requests and document agreements for the sharing of personal information. They decide, on a case by case basis, why a disclosure is necessary to support action under the Crime and Disorder Act 1998. They will also decide why and when the public interest overrides the presumption of confidentiality. When making these decisions they will consider the following points in relation to the information:-

- Is it obtained, processed and disclosed fairly and lawfully.
- Kept securely.
- Processed in accordance with the rights of the data subjects.
- Accurate, relevant and held no longer than necessary.
- Disclosed only for a specified related purpose.
- Disclosed without the subject's knowledge and/or agreement only where failure to do so would prejudice the objective.

### **3.4 Referring Cases to a MARAC**

- 3.4.1** Cases can be referred to a MARAC by **any** agency signed up to this Protocol. Any agency that identifies a victim as high risk should use the agreed MARAC factors and make a referral to the lead agency.
- 3.3.2** The referring agency must undertake an initial assessment and complete a Risk Indicator Checklist (**Appendix 2**). This checklist is replicated by Northumbria Police and used by frontline officers to assist in the assessment process. The risk indicator checklist is a practical tool that can help agencies to identify which victims should be referred to MARAC and where resources should be prioritised.
- 3.4.3** Risk Indication is more about balancing information with current practice, knowledge and previous experience and then making a judgement about whether there is a strong possibility that a person is at risk of serious harm taking into account all of the factors present.
- 3.4.4** The Risk Identification checklist establishes a starting point for the risk assessment process.
- 3.4.5** If, following this Risk Assessment, the case is graded as high, this should be brought to the attention of the Designated Officer (DO) within the referring agency. The DO should quality assure the referral to ensure it meets the Northumbria MARAC threshold, they will then refer the case into the MARAC process via the lead agency using the MARAC Referral Form (**Appendix 3**).
- 3.4.6** MARAC referrals need to contain sufficient background information in order to allow other agencies to provide research forms containing information on all the risks to the subject of the referral.

MARAC should consider asking referring agencies who do not sit as regular members to attend meetings to present their own cases.

### **3.5 Consent for information sharing**

- 3.5.1** The referring agency **MUST** where appropriate, discuss their concerns with the victim and seek to obtain their consent to share information with other agencies represented on the MARAC.

### **3.6 Consent for information sharing refused**

- 3.6.1** If the victim has refused consent for information sharing their refusal and reasons for refusal should be recorded by the referring agency.
- 3.6.2** The agency must then consider whether they can satisfy the requirements under Section 115 of the Crime and Disorder Act 1998, which allows information sharing to take place without the consent of the individual



concerned, where the disclosure is necessary or expedient for the purposes of any provision of this Act. Section 115 provides a power to disclose but does not impose a requirement to exchange information. Control over disclosure remains with the agency which holds the data and is controlled by the normal data protection regime, human rights legislation and the common law obligation of confidence. (For a list of lawful grounds for overriding consent see **Appendix 5**).

**3.6.3** If a decision to override consent is taken then the referring agency must record that a decision has been made to share/disclose information without consent and identify what information has been given.

**3.6.4** If the requirements for information sharing cannot be met, then the case cannot be referred to the MARAC, and the agency concerned is limited to providing intervention from its own resources. If the requirements can be met, a referral can be made to the MARAC. If the Designated Officer requires guidance on this issue, the advice of their respective legal department should be sought, and the Chair of the MARAC may be consulted but the agency will have the final say.

### **3.7 Referring repeat cases to a MARAC**

**3.7.1** What is a repeat MARAC case:

SafeLives defines a 'repeat' as ANY instance of abuse between the same victim and perpetrator(s), within 12 months of the last referral to MARAC. The individual act of abuse does not need to be 'criminal', violent or threatening but should be viewed within the context of a pattern of coercive and controlling behaviour.

Some events that might be considered a 'repeat' incident may include, but are not limited to:

- Unwanted direct or indirect contact from the perpetrator and/or their friends or family
- A breach of police or court bail conditions
- A breach of any civil court order between the victim and perpetrator
- Any dispute between the victim and perpetrator(s) including over child contact, property, divorce/separation proceedings, etc.

These events could be disclosed to any service or agency including, but not exclusive to, health care practitioners (including mental health), domestic abuse specialists, police, substance misuse services, housing providers etc.

**3.7.2** Why refer a case back to MARAC?

MARAC is a systematic multi-agency response to victims assessed to be at high risk of serious harm or homicide. If the process has not been effective or successful in reducing the risks (or the impact of those risks) that the perpetrator poses to the victim, then agencies will need to continue to work

together to resolve challenges and barriers preventing effectiveness.  
(SafeLives Briefing for MARACS repeat cases)

### **3.7.3 Which cases will return to MARAC?**

When deciding which repeat cases will return to MARAC, MASH staff will apply quality assurance to Northumbria Police MARAC repeat incidents. Consideration will be given to the SafeLives MARAC repeat definition, together with professional judgement and the Northumbria MARAC threshold (as below).

When an agency identifies a repeat victim, that agency should refer the case back to MARAC, if the case meets the agreed MARAC threshold.

The MARAC threshold is as follows:


Risk of Serious Harm (Home office 2002 & Oasys 2006): "A risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible".

Incidents which occur more than 12 months after the last MARAC meeting date, do not constitute a repeat MARAC case.

## **4 MARAC Meeting**

- 4.1** Any agency signed up to the process can refer into the MARAC process via their agencies designated SPOC for MARAC. Northumbria Police will be the co-ordinator and administrative agency through the employment of a MASH Support Officer and the MASH Supervisor will chair the MARAC.
- 4.2** Meetings should be scheduled to take place on a weekly basis with dates, times and venues to be agreed by the MARAC partners. In urgent cases the signatories' party to these procedures will agree to ensure that a representative from their agency will be available to attend an urgent MARAC within 72 hours of the decision to hold a MARAC.
- 4.3** The MASH Support Officer will collate all of the information for the meeting.
- 4.4** A strict time frame for information sharing needs to be adhered to in order that the MARAC process operates effectively. (See below)

	Distribution of MARAC Case List & Agenda for following week.
Tuesday	<b>MARAC Meeting</b>
Wednesday	Minutes and agreed actions distributed by MASH Support Officer to all agencies
Thursday	
Friday	Submission of new referrals for next MARAC meeting (deadline 12 noon)
Saturday	
Sunday	
Monday	Distribution of MARAC Case List & Agenda for following week
Tuesday	<b>MARAC Meeting</b>



- 4.5** New referrals must be received at least 9 days prior to the next scheduled meeting in order that the MASH Support Officer can prepare the relevant documentation to send out to all agencies.  
Partner agency referrals for the next meeting should be received by 12pm on the day before the current MARAC meeting.
- 4.6** The MASH Support Officer will forward partner agency referrals to the IDVA at the time of the case list in order to assist contact with the victim.
- 4.7** The MASH Support Officer will compile an Agenda (**Appendix 6**) for the meeting and circulate this to the DOs for each agency represented on the MARAC.
- 4.8** Attached to the agenda will be a list of cases that are to be heard at the forthcoming MARAC (**Appendix 7**).
- 4.9** The documentation will be sent by secure email.
- 4.10** The Police Domestic Violence Officer will contact the victim from the information received from the MASH Support Officer prior to the current MARAC Meeting offering support/services. The information gained from this visit/telephone call will be passed back to the MASH Support Officer for their attention.
- 4.11** On receipt of the agenda and list of cases to be reviewed, DOs will establish what information is held on any of the cases concerned.

Consideration must be given to the sensitive nature of some information, e.g. if the victim or perpetrator is an employee of the agency concerned.

- 4.12** The MARAC Research Form (**Appendix 8**) should then be completed by each agency in relation to each case where they have identified relevant information.
- 4.13** Consideration should be given to certain actions being carried out by an agency prior to a MARAC. These should include referral to the IDVA Service, a marker being placed on the address within the police system, locks being changed etc. In cases where there are children or adults at risk involved, social services may also consider a need take some immediate precautionary measures ahead of the meeting.
- 4.14** PDOs or DOs should attend the MARAC meetings, or nominate a representative to attend in their absence, and share relevant information, proportionate to the need, on a confidential basis. Those attending the MARAC, including those who are not the PDO or DO must have the authority within their agencies to prioritise the actions that arise from the MARAC and to be able to make an immediate commitment of resources to those actions. It is important that all attendees are clear on what they are committing to do on behalf of their agency.
- 4.15** All agencies should be aware of the confidential nature of information discussed at the MARAC and ensure that all written information is stored securely in accordance with the relevant legislation.
- 4.16** Information sharing at MARAC conferences is strictly limited to the aims of the meeting and information gained cannot be used for other purposes without a request in writing to the chair of the MARAC.
- 4.17** All cases referred to a MARAC are to allow an agency to request assistance in the management and reduction of risk to the victim and any children. This does not preclude the need to consider a referral to Children and Young People's services if the child (ren) is considered at risk of significant harm, and / or a referral to Adult Social Care in the case of an adult at risk.
- 4.18** Only cases that fall within the High Risk category will be referred to a MARAC. PDO or DOs and Police Domestic Abuse Sergeants must adopt a robust approach in order to ensure only appropriate cases that are identified as being High Risk and capable of delivering the aims of a MARAC are progressed past the initial assessment. The referral must show significant concern for the victim's wellbeing / life where professional judgement is used in order for an agency referral to be referred into the MARAC process.
- 4.19** Without proper management of the MARAC case load there is a danger of the process becoming overloaded. This will place an unnecessary strain on the MARAC Agencies and result in a failure to achieve the MARAC Aims, failure to reduce the number of calls for service and more importantly fail victim's needs. It is therefore paramount that a robust review process is

established and adhered to. Cases must be removed from the MARAC process once the agencies are satisfied that everything is done that can be done to reduce or manage the identified risks. All original MARAC documentation will be retained by Northumbria Police; all requirements for retaining this material will be met.

- 4.20** The MASH Support Officer or designated minute taker, will take the minutes. The minutes should normally be prepared in a timely manner and include a list of all the agreed actions plus any amendments to the basic information. Information shared and any recommendations or decisions made will be recorded in the minutes (**Appendix 9**). These papers will also include a list of actions using the 'SMART' action planning guidelines and also the individual risks for each case.
- 4.21** Following the meeting, it should be the most appropriate person not necessarily the agency responsible for making the initial referral to the MARAC to make contact with the victim and update them on any relevant information and any recommendations made by the MARAC. This procedure will take place regardless of whether the victim consented to information being shared.
- 4.22** A MARAC Procedural flowchart is attached at **Appendix 10**.
- 4.23** If a case needs to be transferred internally within Northumbria Police the MASH Support Officer will liaise with the relevant MASH Support Officer who will transfer the victim to the relevant Domestic Abuse Investigation Unit in order for a safety plan to be implemented. If the victim transfers outside the force area then the MASH Support Officer will liaise with the appropriate area and transfer the file and relevant details.
- 4.24** A MARAC transfer form is attached at **Appendix 11**.

## **5 Multi-Agency Public Protection Arrangements**

- 5.1** MAPPA is the statutory arrangements for managing sexual and violent offenders. MAPPA is not a statutory body in itself but is a mechanism through which agencies can better discharge their statutory responsibilities and protect the public in a co-ordinated manner. Agencies at all times retain their full statutory responsibilities and obligations.
- 5.2** The Responsible Authority (RA) consists of the Police, Prison and Probation Services. They are charged with the duty and responsibility to ensure that MAPPA is established in their area and for the assessment and management of risk of all identified MAPPA offenders.
- 5.3** Other agencies under section 325(3) of the Criminal Justice Act (2003) have a "duty to co-operate" with the RA. They are:
- Local Authority Social Care Services;
  - Primary Care Trusts, other NHS Trusts and Strategic Health Authorities;
  - Jobcentre Plus;
  - Youth Offending Teams;

- Registered Social Landlords which accommodate MAPPA offenders;
- Local Housing Authorities;
- Local Education Authorities; and
- Electronic Monitoring Providers.

**5.4** The effectiveness of MAPPA depends largely on close working relationships between the Responsible Authority (RA), that is, the Police, Prison and Probation Services and their relationship with their local Duty to Co-operate (DTC) Agencies. It is also vitally important that the RA has made links with other local multi-agency forums including the Criminal Justice Board, Children’s Services and Safeguarding Children Board.

**5.5** RAs must ensure that the core functions of MAPPA are established across the agencies and procedures are in place to:

- Identify all MAPPA offenders;
- Share information safely and securely;
- Risk assess offenders; and
- Risk manage offenders with the most suitable risk management plans.

**5.6** Three categories of offenders are defined as falling within the remit of MAPPA.

1. **Category 1 offenders** (registered sexual offenders);
2. **Category 2 offenders** (violent offenders sentenced to 12 months custody or more and other sexual offenders and those subject to hospital orders with restrictions);
3. **Category 3 offenders** (other dangerous offenders). This could be offenders who have been previously managed at MAPPA level 2 or 3 under Category 1 or 2 and still pose a risk of harm or other persons who, by reason of offences committed by them (wherever committed), are considered by the RA to be persons who may cause serious harm to the public.

**5.7** The MAPPA framework identifies three levels at which cases are managed:

- Level 1: Ordinary Agency Management;
- Level 2: Multi-Agency Public Protection (MAPP) Meeting; and
- Level 3: Multi-Agency Public Protection (MAPP) Meeting.

## **5.8 Determining the MAPPA Management Level**

The three different levels enable resources to be deployed to manage identified risk in the most efficient and effective manner. Whilst there is a *correlation* between level of risk and level of MAPPA management (the higher the risk, the higher the level), the levels of risk do not equate directly to the levels of MAPPA management. The central question in determining the correct MAPPA level is:

**“What is the lowest level that a case can be managed at which provides a defensible risk management plan?”**

This means that not all high-risk cases will need to be managed at level 2 or 3. Similarly, the complexities of managing a low/medium risk case might, in exceptional circumstances, justify it being managed at level 2 or 3, especially where notoriety is an issue.

### **5.9 Level 1: Ordinary Agency Management**

Level 1 management is the level used in cases where the risks posed by the offender can be managed by the agency responsible for supervision/case management of the offender. This does not mean that other agencies will not be involved; only that it is not considered necessary to refer the case to a level 2 or 3 MAPP meeting. It is essential that good information sharing takes place and there are multi-agency case management meetings where necessary.

### **5.10 Level 2: Multi-Agency Public Protection Meeting**

#### **5.11 Cases should be managed at level 2 where the offender:-**

- Is assessed under OASys (or ASSET) as being high risk of causing serious harm;
- Requires active involvement and co-ordination of interventions from other agencies to manage the presenting risks of harm; and
- Has been previously managed at level 3 and the seriousness of risk has diminished, and/or the complexity of the multi-agency management of the risks have been brokered, and a RMP for level 2 has been firmly established.

### **5.12 Level 3: Multi-Agency Public Protection Meeting**

- Is assessed under OASys (or ASSET) as being a high or very high risk of causing serious harm; AND
- Presents risks that can only be managed by a plan which required close co-operation at a senior level due to the complexity of the case and/or because of the unusual resource commitments it requires; OR
- Although not assessed as a high or very high risk, there is a high likelihood of media scrutiny and/or public interest in the management of the case and there is a need to ensure that public confidence in the criminal justice system is maintained.

## **6 The Link between the MARAC and the MAPPA Process**

- When a MAPPA nominal is discussed in MARAC actions are to be shared with probation and MOSOVO staff for information purposes and to avoid duplication of actions.
- It will be the responsibility of the Probation Service representative attending the MARAC meeting to bring to the attention of the MARAC Chair any MARAC actions which replicate actions already agreed in the MAPPA risk

management plan. MAPPA risk management plans will not be shared at a MARAC meeting.

- The MARAC will review on a case by case basis those nominals where a PDP referral is considered appropriate by liaising direct with MOSOVO / submission of a PDP referral where appropriate.
- Any MARAC cases from MAPPA referrals into MOSOVO are identified with MOSOVO reviewing MARAC minutes and incorporating into the screening and MAPPA meeting process.

## **7 Information Sharing Protocol for MARAC Conference**

**7.1** The MARAC is a formal conference to facilitate the risk assessment process. The purpose is for all agencies to share information with a view to identifying those at a 'high' level of risk.

**7.2** All partner agencies must sign the Information Sharing Agreement in order to facilitate the exchange of information between partners in pursuant of the principles of the 'interest of the child' as contained within the Children Act 1989 and the power contained in Section 115 of the Crime & Disorder Act 1988.

## **8 Audit**

The MARAC procedures will be reviewed annually, in order to amend it and assure it remains fully effective. It will be the responsibility of Northumbria Police, Safeguarding Department, in consultation with partner agencies signed up to the MARAC process to conduct this audit.

## **9 Emergency MARAC's**

As previously discussed meetings should be scheduled to take place on a weekly basis with dates, times and venues to be agreed by the MARAC partners. In urgent cases the signatories' party to these procedures will agree to ensure that a representative from their agency will be available to attend an urgent MARAC within 72 hours of the decision to hold the MARAC.

## **10 Complaints**

Any complaints regarding the MARAC process will be referred to the relevant single agency complaints procedure and also brought to the attention of the chair.



## 11 **Equality and Diversity**

North Tyneside operates a policy of equality and diversity and does provide a high quality service to all high risk victims of domestic abuse regardless of age, gender, sexuality, ethnic origin disability and marital status.

Supporting membership is also provided by agencies that provide bespoke services is also provided by agencies on an individual basis

**GLOSSARY TO THE PROCEDURES**

<b>TERM</b>	<b>MEANING</b>
<b>Agencies</b>	Those signatories party to this Protocol which for the time being are prescribed by order of the Secretary of State under a duty to formulate and implement crime and disorder strategies in compliance with the Crime and Disorder Act 1998
<b>Anti-Social Behaviour</b>	Conduct that has caused, or is likely to cause harassment, alarm or distress to any person.
<b>Audit Trail</b>	A process of collating data for the purpose of identifying and refining internal procedures of partner agencies, by means of examination of all documentation kept on the information exchange.
<b>Common Law Duty of Confidentiality</b>	The principle underlying all criminal-related work is the common law duty of confidentiality owed to the public. This requires that personal information given for one purpose cannot be used for another, and places restrictions on the disclosure of that information. This duty can only be broken if the public interest requires it. Statutory provision on disclosure overrides common law provisions.
<b>Consent</b>	Agreement, either expressed or implied, to an action based on knowledge of what that action involves, its likely consequences and the option of saying no.
<b>Express Consent</b>	Consent which is expressed orally, or in writing, (except where patients cannot write or speak, when other forms of communication would need to be considered).
<b>Crime</b>	Any act, default, or conduct prejudicial to the community, the commission of which by law, renders the person responsible liable to punishment by fine, imprisonment or other penalty.
<b>Crime and Disorder Act 1998</b>	The purpose of the Act is to tackle crime and disorder and help create safer communities. It requires the police and local authorities in partnership with the community, to establish a local partnership to cut crime. This partnership must conduct an audit to identify the types of crime in the area and develop a strategy for tackling them.
<b>Data</b>	Essentially the same as "information", but tends to be information recorded in a form, which can be processed by equipment automatically (usually electronically although manual records may also be kept), in response to specific instructions.
<b>Data in the Public Domain</b>	Any information, which is publicly available, whether, it relates to a living individual or not. For example, information found on the internet, television or local authority records.
<b>Data Controller</b>	This is the individual or partner who is responsible for complying with the Data Protection legislation. It is the owner's responsibility to ensure that the data is securely stored.
<b>Data Processing</b>	This term is used to describe the collecting, handling, sanitizing, transferring and storing of all types of data.

<b>Data Protection Act 2018</b>	The Data Protection Act 2018 is the UK's implementation of the General Data Protection Regulation (GDPR).
<b>Data Protection principles</b>	<p>Everyone responsible for using personal data has to follow strict rules called 'data protection principles'. They must make sure the information is:</p> <ul style="list-style-type: none"> <li>• used fairly, lawfully and transparently</li> <li>• used for specified, explicit purposes</li> <li>• used in a way that is adequate, relevant and limited to only what is necessary</li> <li>• accurate and, where necessary, kept up to date</li> <li>• kept for no longer than is necessary</li> <li>• handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access, loss, destruction or damage</li> <li>• data must be protected by appropriate security and not transferred outside of the EEA without adequate protection</li> </ul>
<b>Data Sharing (Exchange)</b>	The physical exchange of data between one or more individuals or agencies; this is data recorded in an electronic or processing form. For example, this usually involves the transfer of a data set to a partner agency.
<b>Data Subject</b>	An individual who is the subject of personal data.
<b>Designated Officer</b>	A person nominated by the agency of sufficient standing, to process or initiate requests for personal information and data.
<b>Disorder</b>	Refers to the level or pattern of anti-social behaviour within a certain area.
<b>Formal Request</b>	A written request by the Designated Officer for personal information made to the information holder.
<b>Harm</b>	The Children Act 1989 defines harm as "ill-treatment or the impairment of health or development". "Development" is defined as "physical, intellectual, emotional, social or behavioural development." "Health" is defined as "physical or mental health" and "ill-treatment" is defined as including "sexual abuse and forms of ill-treatment which are not physical".
<b>Human Rights Act 1998</b>	This Act requires the compliance to Article 8 of the European Convention on Human Rights. This prohibits interference with the right to respect for private and family life except when it is in accordance with the law, and pursues a legitimate public interest in a proportionate manner.
<b>Individual</b>	A person not being covered by the definition of an agency, but who has assumed or has been invited by the agencies to assume a role in the project which is the object of this Protocol.
<b>Information Exchange</b>	This is essentially the passing of knowledge from one party to another in this Protocol.
<b>Information Sharing (Exchange)</b>	Involves a physical exchange of data between one or more individuals or agencies.

<b>Multi Agency Public Protection Arrangements (MAPPA)</b>	MAPPP and MAPPA refer to the statutory arrangements between agencies for the assessment and management of high risk offenders, following conviction or release from prison or special hospitals. The Police, Probation and Prison Services work with Social Services, Housing and Health providers, plus other statutory and voluntary organisations, to share information and resources and agree plans to minimise the risks to the public.
<b>Multi Agency Public Protection Panel (MAPPP)</b>	Please see MAPPA.
<b>Personal Information</b>	Information, which relates to a living individual who can be identified from the data or any other information which, is in the possession of the data holder. This is the most restricted type of information and should only be used where there is no reasonable alternative.
<b>Primary Designated Officer</b>	The most senior member of each Agency i.e. ISA signatory.
<b>Project</b>	A planned and co-operative activity undertaken by agencies and individuals to disrupt and negate criminal and anti-social behaviour according to the precepts of the Crime and Disorder Act 1998.
<b>Protocol Co-ordination Folder</b>	To be held by each partner agency giving an overview of its information sharing arrangements and all projects in which it is involved.
<b>Relevant Authorities</b>	Any of these bodies or persons referred to in Section 115(2) of the Crime and Disorder Act 1998, and described in detail in section 5(1), (2) and (3).
<b>Review</b>	Cases recommended to be brought back for an update.
<b>Risk Assessment</b>	Carried out to establish whether the subject is likely to be at risk of serious physical or psychological harm or is likely to commit serious physical or psychological harm to others.
<b>Risk Management</b>	A plan to reduce, manage or eliminate the risk. The components may include treatment, supervision incapacitation, and disclosure.

## Appendix 2

### CAADA-DASH Risk Identification Checklist for use by IDVAs and other non-police agencies<sup>1</sup> for identification of risks when domestic abuse, 'honour'-based violence and/or stalking are disclosed.

Please explain that the purpose of asking these questions is for the safety and protection of the individual concerned. Tick the box if the factor is present <input checked="" type="checkbox"/> . Please use the comment box at the end of the form to expand on any answer. It is assumed that your main source of information is the victim. If this is <u>not the case</u> please indicate in the right hand column	Yes (tick)	No	Don't Know	State source of info if not the victim e.g. police officer
1. Has the current incident resulted in injury? (Please state what and whether this is the first injury.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
2. Are you very frightened? Comment:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
3. What are you afraid of? Is it further injury or violence? (Please give an indication of what you think (name of abuser(s)...) might do and to whom, including children). Comment:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
4. Do you feel isolated from family/friends i.e. does (name of abuser(s) ..... ) try to stop you from seeing friends/family/doctor or others? Comment:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Are you feeling depressed or having suicidal thoughts?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Have you separated or tried to separate from (name of abuser(s)....) within the past year?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Is there conflict over child contact?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
8. Does (.....) constantly text, call, contact, follow, stalk or harass you? (Please expand to identify what and whether you believe that this is done deliberately to intimidate you? Consider the context and behaviour of what is being done.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
9. Are you pregnant or have you recently had a baby (within the last 18 months)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
10. Is the abuse happening more often?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
11. Is the abuse getting worse?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

<sup>1</sup> Note: This checklist is consistent with the ACPO endorsed risk assessment model DASH 2009 for the police service.

12. Does (.....) try to control everything you do and/or are they excessively jealous? (In terms of relationships, who you see, being 'policed at home', telling you what to wear for example. Consider 'honour'-based violence and specify behaviour.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
13. Has (.....) ever used weapons or objects to hurt you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Tick box if factor is present. Please use the comment box at the end of the form to expand on any answer.	Yes (tick)	No	Don't Know	State source of info if not the victim
14. Has (.....) ever threatened to kill you or someone else and you believed them? (If yes, tick who.) You <input type="checkbox"/> Children <input type="checkbox"/> Other <input type="checkbox"/> (please specify)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
15. Has (.....) ever attempted to strangle/choke/suffocate/drown you?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
16. Does (.....) do or say things of a sexual nature that make you feel bad or that physically hurt you or someone else? (If someone else, specify who.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
17. Is there any other person who has threatened you or who you are afraid of? (If yes, please specify whom and why. Consider extended family if HBV.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
18. Do you know if (.....) has hurt anyone else? (Please specify whom including the children, siblings or elderly relatives. Consider HBV.) Children <input type="checkbox"/> Another family member <input type="checkbox"/> Someone from a previous relationship <input type="checkbox"/> Other (please specify) <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
19. Has (.....) ever mistreated an animal or the family pet?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
20. Are there any financial issues? For example, are you dependent on (.....) for money/have they recently lost their job/other financial issues?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
21. Has (.....) had problems in the past year with drugs (prescription or other), alcohol or mental health leading to problems in leading a normal life? (If yes, please specify which and give relevant details if known.) Drugs <input type="checkbox"/> Alcohol <input type="checkbox"/> Mental Health <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
22. Has (.....) ever threatened or attempted suicide?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
23. Has (.....) ever broken bail/an injunction and/or formal agreement for when they can see you and/or the children? (You may wish to consider this in relation to an ex-partner of the perpetrator if relevant.) Bail conditions <input type="checkbox"/> Non Molestation/Occupation Order <input type="checkbox"/> Child Contact arrangements <input type="checkbox"/> Forced Marriage Protection Order <input type="checkbox"/> Other <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
24. Do you know if (.....) has ever been in trouble with the police or has a criminal history? (If yes, please specify.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

DV <input type="checkbox"/> Sexual violence <input type="checkbox"/> Other violence <input type="checkbox"/> Other <input type="checkbox"/>				
Total 'yes' responses				
<p><b>For consideration by professional:</b> Is there any other relevant information (from victim or professional) which may increase risk levels? Consider victim's situation in relation to disability, substance misuse, mental health issues, cultural/language barriers, 'honour'- based systems and minimisation. Are they willing to engage with your service? Describe:.</p> <p>Consider abuser's occupation/interests - could this give them unique access to weapons? Describe:</p>				
<p>What are the victim's greatest priorities to address their safety?</p>				
<p><b>Do you believe that there are reasonable grounds for referring this case to MARAC?</b>  Yes / No  If yes, have you made a referral? Yes/No</p> <p><b>Signed:</b>  <b>Date:</b></p>				
<p><b>Do you believe that there are risks facing the children in the family? Yes</b>  If yes, please confirm if you have made a referral to safeguard the children: Yes / No  Date referral made .....</p>				
<p><b>Signed:</b>   <b>Name:</b></p>			<p><b>Date:</b></p>	

**Appendix 3**



# MARAC Referral

**Complete this form with as much information as possible and forward to your agency's MARAC SPOC with the completed risk assessment form (SafeLives DASH risk checklist)**

**\*\* Do not forward directly to the relevant MASH \*\***

If you do not know who your MARAC point of contact is, please contact North Tyneside MASH on 0191 4375811

Your agency SPOC will then email it to: [northtyneside.mash@northumbria.police.uk](mailto:northtyneside.mash@northumbria.police.uk)

<b>Date of referral:</b>	<b>Agency:</b>
Name of referring practitioner:  Contact details:  Your shift pattern/availability for contact from Police/agencies:  Telephone:  Mobile:  Email:	Address:
<b>VICTIM</b>	<b>PERPETRATOR</b>
Forename(s):	Forename(s):
Surname:	Surname:
Alias:	Alias:
DOB:	DOB:
Address:	Address:
Ethnic Origin:	Ethnic Origin:
Religion:	Religion:
Disability:	Disability:
Gender:	Gender:



Sexual Orientation:	Sexual Orientation:
Language:	Language:
<b>Safe Contact number (please state if there is not one)</b>	
Relationship between victim and offender:	
If Refugee / Asylum seeker <b>(victim only)</b>	
Nationality:	Status
GP details if known <b>(victim only)</b>	
<b>CONSENT:</b>	
<b>1) Is the victim aware the MARAC referral has been submitted? (if 'No' you MUST answer question 3)</b>	<b>3) Please document your rationale for sharing information without consent?</b>
<b>2) Has the victim consented to MARAC? (if 'No' you MUST answer question 3)</b>	
<b>LIST ANY CHILDREN OR OTHER VULNERABLE PEOPLE IN THE HOUSEHOLD OR LINKED TO EITHER PARTY:</b>	
Name DOB: Address: School:	Name DOB: Address: School:
Name DOB: Address: School:	Name DOB: Address: School:

INCIDENT REPORTED:	
<p><b>(Information for referrer only)</b>  Victims will often disclose abuse that amounts to criminal offences, eg: physical/sexual assaults/coercive control. Please explain to the victim that Police have a duty to record such offences. Police may wish to investigate these crimes, taking into account the victims wishes. The following information is vital to assist the Police in the recording of crimes, as per national guidelines dictate. The below information will assist in decision making whilst remaining victim focussed.</p> <p><b>Please include the following details:</b></p>	
<p>Has the victim already reported the incident to the Police and what was the outcome? Does the victim have any log/crimes numbers if already reported?</p>	
<p>If not already reported to the police would the victim like the police to investigate this information and if not why not?</p>	
<p>Date/s incident/s occurred?</p>	
<p>Location/s incident/s occurred?</p>	
<p>Injuries the victim sustained?</p>	
<p><b>(Information for referrer only)</b>  <b>In liaison with the referrer the Police have to decide whether an investigation should be commenced and whether the offender should be spoken to. The Victims wishes are paramount to the decision making process - please document the victims wishes below – including any perceived risks to the victim/children/family that may be caused by Police commencing any investigations:</b></p>	

If the person is aware of the MARAC referral and it is safe to contact them please consider the following questions:

- Who is the victim afraid of? (to include all potential threats, and not just primary perpetrator)
- Who does the victim believe it is safe to talk to?
- Who does the victim believe it is not safe to talk to?

BACKGROUND INFORMATION:	
<p>Please provide <b>FULL</b> details of the circumstances/concerns that lead you to believe the victim meets the high risk threshold – <b>High risk means the victim is at imminent risk of serious harm or homicide.</b></p> <p><b>NOTE:</b> If there are less than 14 ticks on the risk assessment please include rationale as to why you believe the victim is high risk.</p>	

## **Overview of legal provisions relating to information sharing**

(NB – This is not a full statement of the law – please view this information as the least that you need to know. Readers are advised to seek further information and expert advice where necessary.)

### **Data Protection Act 2018 (DPA) and UK General Data Protection Regulation (GDPR)**

*The DPA safeguards individual rights and regulates the processing of ‘data’ and ‘sensitive personal data’ in electronic and some manual forms, giving guidance on obtaining, storing and the use and disclosure of information about individuals.*

- The Act details the rights of individuals to access data held about them (known as ‘subject access’) and the need for data controllers to notify the Information Commissioner (subject to exemptions), with penalties for failing to do so.
- Contains seven data protection principles (subject to exemptions, see below), which must be complied with by those who ‘control’ data.
- Schedule 2 (known as the ‘crime and taxation’ exemption) regards data processed for the prevention or detection of crime and/or the apprehension or prosecution of offenders. However, this does not exempt from the requirement to comply with schedules 2 and 3 concerning processing personal/sensitive data. The Information Commissioner has stated that where relying on these exemptions, there would need to be a substantial chance, rather than a mere risk that in the particular case the purposes (e.g. detection/prevention of crime, apprehension/prosecution of offenders) would be noticeably damaged by failure to process. Moreover, the exemptions should not be used for routine processing and should be considered on a ‘case by case’ basis. If challenged, the data controller must be prepared to defend their decision to act under the exemptions to the Commissioner or the Courts and that it is advisable for each decision to do so to be taken at a senior level, with reasons documented.

### **The Crime and Disorder Act 1998 (CDA)**

*The CDA aims to tackle crime and disorder and help create safer communities.*

- Section 115 of the CDA provides a power (but not an obligation) for information sharing between ‘responsible’ public bodies (e.g. police, local authority, health authority) and with ‘co-operating’ bodies (e.g. DV support group, victim support group) participating in the formation and implementation of the local crime and disorder strategy. This must be to pursue a specific objective within the strategy and be subject to a written agreement.
- In addition, Section 115 stipulates that any person who would not have power to disclose information to a relevant authority or a person acting on behalf of such an authority, shall have power to do so in any case where the disclosure is necessary or expedient for the purposes of any provision of the Act.
- This power must be exercised in accordance with any other relevant legislation, including the HRA, common law of confidence and the DPA.

## **The Human Rights Act 1998 (HRA) (which gives force to the European Convention on Human Rights, ECHR)**

*The ECHR contains fundamental rights and freedoms such as the right to life, the right to a fair trial and freedom of thought, religion and speech and respect for private and family life.*

- Article 2.1 stipulates that “Everyone’s right to life shall be protected by law”.
- Article 3 stipulates that “No one shall be subjected to torture or to inhuman or degrading treatment or punishment”.
- Article 6 stipulates the right to a fair trial.
- Article 8 stipulates that “Everyone shall have the right to respect for his private and family life, his home and correspondence.... There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others”.

## **The Children Act 1989 (CA)**

*The CA redefined the law around child welfare and introduced new measures for working with children and families.*

Key principles include:

- The child’s welfare is paramount.
- Professionals will work in partnership with the child, with other professionals and with the parents and significant others.
- Section 27 stipulates that where it appears to a local authority that any authority or other person mentioned in subsection (3) (see below) could, by taking any specified action, help in the exercise of any of their functions under this part, they may request the help of that other authority or person, specifying the action in question. An authority whose help is so requested shall comply with the request if it is compatible with their statutory or other duties and obligations and does not unduly prejudice the discharge of any of their functions.

Agencies listed in subsection (3) are:

- a) Any local authority
- b) Any local education authority
- c) Any local housing authority
- d) Any health authority, and
- e) Any person authorised by the Secretary of State for the purposes of this section.

Section 47 places a duty on the above authorities to assist with enquiries (in particular by providing relevant information and advice) if called upon by the authority conducting enquiries following reasonable cause to suspect that a child is suffering, or is likely to suffer, significant harm.

## **Adoption and Children Act 2002 (ACA)**

*The ACA modernises the law on adoption line with the Children Act 1989.*

- Section 120 amends Section 31(9) of the Children Act 1989 to extend the definition of harm to include “impairment suffered from seeing or hearing the ill-treatment of another”.
- The relevant provision of the ADC (Section 120) will be implemented from January 2005).

## **Common Law Relating to Confidentiality**

*The common law protects from disclosure of information (whether personal or not) given in ‘confidential’ contexts.*

Breach of confidence may be demonstrated where the information:

- Has a ‘quality of confidence’ (i.e. should not already be in the public domain and has sensitivity and value);
- Is given in circumstances giving rise to an ‘obligation of confidence’ on the part of the person to whom the information has been given (e.g. nurse/patient);
- Is used in a way that was not authorised.

However, the duty of confidentiality is not absolute. Disclosure can be justified if:

- The information is not confidential in nature;
- The person to whom the duty is owed has consented to the disclosure;
- There is an over-riding public interest in disclosure;
- Disclosure is required by a court order or other legal obligation.

## **The Children Act 2004**

*This provided the legislative framework for the required reforms of children’s services, it established the following key change, a duty on Local Authorities to make arrangements to promote co-operation between agencies and other appropriate bodies (such as voluntary and community organisations) and a duty on key partners to take part in the co-operation arrangements in order to improve children’s well-being (where well-being is defined by reference to the five outcomes)*

### **Background**

As in the Children Acts 1989 and 2004, a child is anyone who has not yet reached their 18th birthday. ‘Children’ therefore means ‘children and young people’ throughout. The fact that a child has become sixteen years of age is living independently or is in Further Education, or is a member of the armed forces, or is in hospital, or in prison or a young offenders institution does not change their status or their entitlement to services or protection under the

Children Act 1989.

The Government's response to both the Laming Report and the first joint Chief Inspectors' report informed the green paper Every Child Matters and the Children Act 2004 and in particular plans for integration of services around the needs of children.

### **Roles and Responsibilities**

The guidance within Working Together 2006 specifically states that **all** organisations that work with children share a commitment to safeguard and promote their welfare and for many organisations that is underpinned by a statutory duty or duties. This document outlines those responsibilities e.g., Local Authorities that are Children's Services Authorities have a number of specific duties to organise and plan services and to safeguard and promote the welfare of children.

**Section 10** of the Children Act 2004 is the legislative basis for Children's Trust arrangements the key components of which are:

- to work together in more integrated front-line services, built around the needs of children and young people;
- common processes which are designed to create and underpin joint working;
- a planning and commissioning framework which brings together agencies planning, supported as appropriate by the pooling of resources and ensures key priorities are identified and addressed; and
- Strong inter-agency governance arrangements, in which shared ownership is coupled with clear accountability.

**Section 11** requires a range of organisations to make arrangements for ensuring that the functions and services provided on their behalf are discharged, having regard to the need to safeguard and promote the welfare of children.

### **Freedom of Information Act 2000 (FOI)**

*The FOI enables any member of the public to apply for access to information held by bodies across the public sector. The legislation will apply to a wide range of public authorities, local authorities, health trusts, doctors' surgeries and other public organizations. Comes into full force in 2005.*

The Act provides a general right of access to information held by public authorities in the course of carrying out their public functions, subject to certain conditions and exemptions. Alongside other legal protections, the exemptions provide grounds for refusal to provide information. This could include a request made under the Act about DV survivors by alleged perpetrators. Sections 22-44 contain the exemptions, which include:

- Where held in the investigation, prevention, detection or prosecution of a crime or the apprehension of offenders or the administration of justice.
- Where held as court documentation.
- Where disclosure would constitute a breach of confidence.
- Where legal professional privilege exists.

**Legal Grounds when considering sharing information without consent following relevant legislative provisions and guidance in accordance with Schedule 1 Part 2 (6) of the DPA 2018.**

Protection against Disclosure

<b>Legal Issues</b>	<b>Source</b>
Protection of personal data	Data Protection Act 2018/GDPR
Duty of Confidentiality	Common law
Right to private and family life	Human Rights Act, Article 8

Main Lawful Grounds for Sharing Without Consent

<b>Purpose</b>	<b>Legal Authority</b>
Prevention and detection of crime	Crime and Disorder Act 1998
Prevention and detection of crime and/or the apprehension or prosecution of offenders	Schedule 2, Data Protection Act (DPA)
To protect vital interests of the data subject; serious harm or matter of life or death	Schedule 2 & 3, DPA
For the administration of justice (usually bringing perpetrators to justice)	Schedule 2 & 3, DPA
For the exercise of functions conferred on any person by or under any enactment (police/social services)	Schedule 2 & 3, DPA
In accordance with a court order	
Overriding public interest	Common law
Child protection – disclosure to social services or the police for the exercise of functions under the Children Act, where the public interest in safeguarding the child's welfare overrides the need to keep the information confidential	Schedule 2 & 3, DPA
Right to life Right to be free from torture or inhuman or degrading treatment	Human Rights Act, Articles 2 & 3

Balancing Principles

Proportionate response <ul style="list-style-type: none"> <li>• Respective risks to those affected</li> <li>• Pressing need</li> <li>• Need to know of other agencies</li> </ul>	
Public interest in disclosure	



SAMPLE MARAC AGENDA

Date:

Attendees:

- 1) Apologies:
- 2) Introduction of all attendees
- 3) Chair reads out MARAC confidentiality statement and statement signed by all attendees
- 4) Chair invites review of new cases to MARAC (cases with children involved are discussed first in order that the agencies providing services to children can leave once these have been discussed)
- 5) All agencies with information about a case share this at the meeting
- 6) Chair summarises action points after each case
- 7) Continue with cases involving adults only
- 8) Chair to summarise action points as above
- 9) Chair to close meeting

**North Tyneside MARAC – Case Summary**  
**To be held at: North Tyneside Council**

<b>CASE NO</b>	<b>VICTIM ADDRESS &amp; DOB (INCLUDING ALIAS)</b>	<b>PERPETRATOR ADDRESS&amp; DOB (INCLUDING ALIAS)</b>	<b>CHILDREN &amp; (AND ADDRESS IF DIFFERENT) DOB</b>	<b>Referring Agency</b>	<b>Reason for referral</b>

**North Tyneside Multi Agency Risk Assessment Conference  
MARAC Research Form  
Case No D**

Name of Agency  
Victim Name/ DOB/ Address  
Perpetrator Name/ DOB / Address  
Child Name / DOB / Address  
Child Name / DOB / Address

**Please list all relevant information your agency has in relation to the victim/perpetrator and any children.**

*(Empty space for listing relevant information)*

***List the measures your agency has / can offer to the victim to minimise the risk posed***

*(Empty space for listing measures)*

COMPLETED BY:		TEL NO:	
DATE:		FAX:	
E MAIL:			

**NB. A SEPARATE RESEARCH INFORMATION FORM SHOULD BE COMPLETED FOR EACH CASE. PLEASE USE ADDITIONAL SHEETS IF NECESSARY**

**SAMPLE MINUTES for MARAC**

**HELD AT \_\_\_\_\_**

**ON \_\_\_\_\_**

**1. PRESENT & APOLOGIES:**

Names and Agencies including all observers and representatives attending to discuss a particular case.

**2. CONFIDENTIALITY DECLARATION**

**3. ANY OTHER BUSINESS**

**4. CASES PREVIOUSLY DISCUSSED AT MARAC (ARCHIVES FROM CASES OVER 12 MONTHS OLD)**

**'FLAG & TAG' GUIDANCE FOR PARTNERS**

**5. INITIAL CASES WITH CHILDREN**

Case Number:  
[Victim / Perpetrator]

Summary of Risks and Positive Factors Identified during MARAC discussion.

Actions: (these are listed with name of agency responsible) ...

- ...

>> followed by

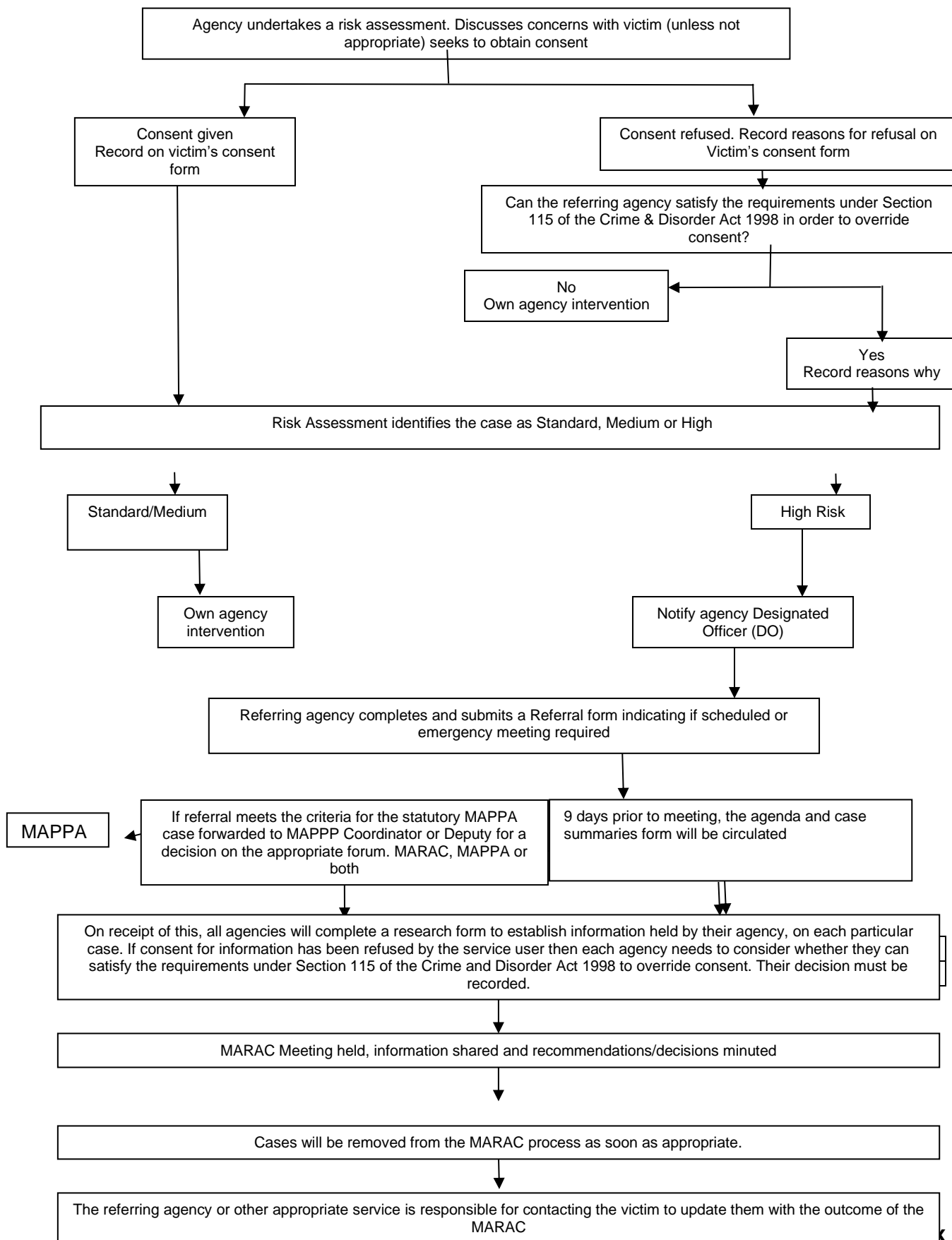
**6. REPEAT CASES WITH CHILDREN**

**7. INITIAL CASES WITHOUT CHILDREN**

**8. REPEAT CASES WITHOUT CHILDREN.**

**9. Date/Time of next meeting**

## DOMESTIC ABUSE MULTI AGENCY RISK ASSESSMENT CONFERENCE (MARAC) PROCEDURAL FLOWCHART



Transfer of MARAC Victim/File – to be used by MASH Support Officer when it is identified that a MARAC victim has relocated to a different MARAC area.

## MARAC-to-MARAC referral form

MARAC referrals should only be sent using secure email or other secure method. Where available, the contact details for MARACs can be found at:

<http://www.safelives.org.uk/marac/findamarac.html>

<b>To:</b>	<b>Date:</b>
------------	--------------

<b>From referring area:</b>	<b>Contact name:</b>
<b>Contact number:</b>	<b>Contact email:</b>

### Victim information

<b>Victim name:</b>	<b>Victim DOB</b>
<b>Address to which victim has moved:</b>	
<b>Is this safe for correspondence?</b>	
<b>Telephone number:</b>	
<b>Is this safe to call?</b>	<b>Is there any other relevant contact information (e.g. times to call)?</b>
<b>Did the victim ever consent to a MARAC referral?</b>	<b>Is the victim aware of the case transfer?</b>

### Current IDVA service information

<b>IDVA service:</b>	<b>Contact name:</b>
<b>Contact number:</b>	<b>Contact email:</b>

### Please attach additional information

<b>Original MARAC referral form:</b>	<b>MARAC minutes:</b>	<b>Other:</b>
--------------------------------------	-----------------------	---------------

<b>Is there any additional information on the risks and needs of the victim, children or any other vulnerable party since the case was heard at the original MARAC?</b>
<b>Is there any additional information relating to risks in the new area?</b>

