



18 June 2019

PC-CP (2019) 3 Rev 3

PC-CP\docs 2019\PC-CP(2019)3 Rev3\_E

**EUROPEAN COMMITTEE ON CRIME PROBLEMS**

**(CDPC)**

**Council for Penological Co-operation**

**(PC-CP)**

**DRAFT RECOMMENDATION REGARDING THE ASSESSMENT, MANAGEMENT AND INTEGRATION BACK INTO THE  
COMMUNITY OF INDIVIDUALS ACCUSED OR CONVICTED OF SEXUAL OFFENCES AND ITS DRAFT EXPLANATORY  
REPORT<sup>1</sup>**

Document prepared by

Dr Kieran McCartan, Professor in Criminology  
Department of Health & Social Sciences  
University of the West of England (UK)

and

Marianne Fuglested  
Specialist in Psychotherapy and Clinical Sexology  
Psychologist, Directorate of Danish Prison and Probation Service (Denmark)

(Scientific Experts)

---

<sup>1</sup> The text in black is the text of the draft Recommendation, the text in blue belongs to the explanatory report

**COUNCIL OF EUROPE**  
**COMMITTEE OF MINISTERS**

*Recommendation Rec(2020)xx  
of the Committee of Ministers to member States regarding the assessment, management and integration back into  
the community of individuals accused or convicted of sexual offences*

*(Adopted by the Committee of Ministers on XX XX 2020 at the XXX meeting of the Ministers' Deputies,*

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Having regard to the European Convention on Human Rights and the case law of the European Court of Human Rights;

Having regard also to the work carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and in particular the standards it has developed in its general reports;

Noting that sexual offences cause significant and lasting physical and mental harm to victims and their immediate environment;

Noting further that sexual offences also have serious impact on society and have increasingly national, international and transnational implications;

Aware that the assessment, treatment, management and integration of persons who are accused or convicted of a sexual offence is a challenge for many prison and probation services of the Council of Europe member States and beyond;

Noting that there are differences among jurisdictions regarding the definitions of the different sexual offences, the age of sexual consent and the types of sanctions and that therefore currently there are no policies commonly accepted internationally regarding the assessment, treatment, management and integration of persons accused or convicted of a sexual offence and that this poses challenges to the legal co-operation in the criminal justice field and endangers potential new victims.

Endorsing the standards contained in the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No.201) and in the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No.210);

Endorsing also the standards contained in the recommendations of the Committee of Ministers of the Council of Europe, which relate to specific aspects of penitentiary policy and practice and in particular Recommendations: Rec(2006)2 of the Committee of Ministers to member States on the European Prison Rules; Rec (2008) 11 on the European Rules for juvenile offenders subject to sanctions or measures, CM/Rec (2010) 1 on the Council of Europe Probation Rules;

Further endorsing Recommendations: No. R (97) 12 on staff concerned with the implementation of sanctions and measures, Rec(2003)22 on conditional release (parole); Recommendation Rec(2003)23 on the management by prison administrations of life sentence and other long-term prisoners; Recommendation Rec (2006) 13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse, CM/Rec (2012) 5 on the European Code of Ethics for Prison Staff; CM/Rec (2014) 3 concerning dangerous offenders, CM/Rec (2014) 4 on electronic monitoring and CM/Rec (2017) 3 on the European Rules on community sanctions and measures;

Recommends that governments of member states:

- be guided in their legislation, policies and practice by the rules contained in the appendix to this recommendation as further detailed by its explanatory report;

- ensure that this recommendation and the explanatory report are translated and disseminated as widely as possible and more specifically among judicial authorities, prison and probation staff as well as national and relevant professional organisations and associations.

## BACKGROUND

*The Recommendation was drafted by the Council for Penological Co-operation (PC-CP) between 2019 and 2020. The elected members of the PC-CP Working Group who took part in this work were Martina BARIĆ (Croatia); Nathalie BOISSOU (France); Annie DEVOS (Belgium); Anna FERRARI (Italy); Robert FRIŠKOVEC (Slovenia); Attila JUHÁSZ, Vice-Chair of the PC-CP (Hungary); Nikolaos KOULOURIS (Greece); Dominik LEHNER, Chair of the PC CP (Switzerland); Nadya RADKOVSKA (Bulgaria). The PC-CP was assisted by two scientific experts: Dr Kieran McCartan, Professor in Criminology, Department of Health & Social Sciences, University of the West of England (UK) and Marianne Fuglestad, Specialist in Psychotherapy and Clinical Sexology, Psychologist, Directorate of Danish Prison and Probation Service (Denmark). In the meetings took part also representatives of the Confederation of European Probation (CEP) and of the European Organisation of Prison and Correctional Services (EuroPris).*

## INTRODUCTION

*While there are certain standards developed at the Council of Europe level covering aspects of sexual abuse or offending, to be found in the case law of the European Court of Human Rights and the CPT reports. Other standards and principles exist in the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (CETS No.201) and in the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No.210) but none of these conventions deals directly with the assessment, management and treatment of persons who are alleged to or who have committed sexual offences.*

*Therefore the recommendation was developed based on the work and findings of the Council of Europe as well as of other relevant organisations namely the European Union, the United Nations, CEP, EuroPris, the International Association for the Treatment of Sexual Offenders (IATSO), the National Organisation for the Treatment of Abuse (NOTA), Association for the Treatment of Sexual Abusers (ATSA).*

### I. SCOPE AND DEFINITIONS

#### ***Definitions used for the purpose of this Recommendation***

- ***Sexual abuse:*** comprises a complex range of behaviours and actions which are often contextually specific. It may involve physical contact or non-contact acts; it involves grooming, physical, emotional or psychological pressure or violence. Child sexual abuse is particularly detrimental in this respect as it has long-lasting damaging effects on the child's psychological condition and personal development.
- ***Sexual offence:*** is any act of sexual abuse which infringes criminal law. It can be dealt with by a criminal court or by any other judicial or administrative authority.
- ***Risk:*** The probability or threat of a further sexual offence.
- ***Risk assessment:*** the process by which risk is understood: it examines the nature, seriousness and pattern of offences; it identifies the characteristics of the individual and the circumstances that contribute to it; it informs appropriate decision-making and action with the aim of reducing risk.
- ***Risk management:*** the process of selecting and applying a range of intervention measures in custodial and community settings and in the post-release period or in the context of preventive supervision, with the aim of reducing the risk of sexual offence.
- ***Prison service:*** A public body designated by law to deal with persons remanded in custody or deprived of their liberty following a conviction by a judicial authority. Its tasks include ensuring safety and security and organising everyday life in prison, ensuring treatment, which does not infringe the human dignity of prisoners, offering meaningful occupational activities and interventions, thus preparing them for release and reintegration into society.
- ***Prisons*** are facilities reserved for holding persons who have been remanded in custody by a judicial authority or who have been deprived of their liberty following conviction.
- ***Probation:*** relates to the implementation of community sanctions and measures, defined by law and imposed on a suspect or an offender under the responsibility of the agencies entrusted by law to implement these. It includes a range of activities and interventions, which involve supervision, guidance and

assistance aiming at the social inclusion of a suspect or an offender, as well as at contributing to community safety.

- **Probation agency:** means anybody designated by law to implement the above tasks and responsibilities. Depending on the national system, the work of a probation agency may also include providing information and advice to judicial and other deciding authorities to help them reach informed and just decisions; providing guidance and support to offenders while in custody in order to prepare their release and resettlement; monitoring and assistance to persons subject to early release; restorative justice interventions; and offering assistance to victims of crime.

*Throughout this Recommendation is used the term person accused or convicted of a sexual offence and not the commonly used term “sex offender” because, based on emerging research, policy and practice in Europe and elsewhere, the use of first-person-language puts the accent on the person to deal with and on the prevention of further harm.*

*The field related to sexual abuse is a multi-disciplinary one which incorporates definitions, research and practice from many areas, including, but not limited to criminology, law, psychology, sexology, sociology and social work. This means that there are a range of definitions that can be used, while taking into consideration that sometimes these definitions mirror each other, they may add sometimes complexity to each other and sometimes they counteract each other. For instance, when we consider the sexual abuse of a child, paedophilia is a clinical/psychological term for someone who is primarily sexually attracted to children under the age of 11, but the term “paedophilia” does not coincide with the term “sexual offence”. Sexual offences related to child sexual abuse depend upon the act, whether it is a contact offence or a non-contact offence (e.g., online sexual abuse) and often refer to children up to and including the age of 16. What this demonstrates is that when we start looking into the complexity of sexual abuse, its aetiology and behaviours, we see that actions and intent are not necessarily synonymous: for example, you may have someone diagnosed as paedophilic who has never committed, nor intends to commit a contact sexual offence; you may have someone who has downloaded and viewed child sexual abuse imagery but does not intend to commit a contact sexual offence; you may have a gang member who commits rape, not because of a desire to rape, but rather because of wider anti-social and problematic behaviours and peer pressure. Research, treatment and policy in the area of sexual abuse advocate an individualised, “what works” approach rather than one-dimensional one. For this reason this Recommendation will be focusing on the offence rather than the offender per se. For further reading on individuals who commit sexual offences please see...need to finalise references*

## II. BASIC PRINCIPLES

1. The role of prison and probation services is to execute penal sanctions and measures, reform (and incapacitate, where appropriate), manage and rehabilitate persons accused or convicted of sexual offences without discriminatory differentiation and in accordance with the same standards and principles applied to the rest of the persons under their responsibility.

*This Rule emphasises that people who are suspected of or convicted for committing a sexual offence should not be treated differently, punished harder or responded to in an additionally punitive way compared to the broader criminogenic population based on the offence in question. The criminal justice response should be fair, proportionate and balanced based on their risk and dangerousness, not upon the type of offence committed or the nature of the victim.*

2. The principle of non-discrimination does not interfere with the need for special accommodation in prisons, as necessary, and of special treatment while in custody and in the community, depending on their individual characteristics and circumstances and based on valid risk assessment and individual risk management plans.

*This Rule, recognising that enforcing Rule 1 does not mean that there are no circumstances in which people suspected of or convicted for sexual offences should not be accommodated or treated in ways that protect their safety or reduce their risk of harm (i.e., special wings in prison, specially trained prison and/or probation staff, etc.).*

3. Preventing and responding to sexual abuse is most effective in a multi-disciplinary setting, with partner agencies, sharing information, expertise and resources in order to build a common vision of risk management as well as of how to achieve public protection.

*This Rule emphasises that; because of the complexity; people suspected of or who have been convicted for having committed a sexual offence, should be managed by a multi-disciplinary team (including, but not limited to police, probation, prison, housing, education, health care services) from the start of the criminal justice process and continuing throughout. A multi-disciplinary approach is cost effective, encourages shared language, good communication and cross disciplinary training that can improve performance and outcomes.*

4. Criminogenic behaviour, including sexual abuse should be considered in holistic health, social, psychological and behavioural terms. An integrative, health-based approach to sexual abuse enables a successful prevention of and response to it.

*This Rule states that sexual offences are the result of a number of interactive processes related to the individual; therefore their aetiology is potentially biological, behavioural, clinical, cultural, developmental, health, social and/or neurological. This means that to understand sexual offending, we need to understand the persons who have committed the sexual offence as an individual, examine them holistically and respond in a balanced and appropriate manner. The causes of sexual abuse are rooted in the life course of the individual, therefore so too are the most effective responses to such a behaviour.*

5. When working with individuals accused or convicted of sexual offences, obtaining their informed consent and cooperation is central to developing a valid risk assessment, so that appropriate structures and procedures for drawing and implementing of their risk management plans are agreed, which respect the rule of law and human rights, including rights of victims and the community at large.

*This Rule recognises that the relationship between the service user (person suspected or convicted of a sexual offence) and the service provider (i.e., prison, probation, police and other relevant parties) is essential in developing effective assessment, management and integration plans. If there is no trust and respect between the parties involved, then the process will break down. This rule is a lynchpin for all the rules in this section, but particularly Rules 1 and 2.*

6. Work of the police, prison and probation services with local communities and agencies in full respect of confidentiality, private life protection and information sharing, should be promoted where appropriate, as this can enhance significantly the success of treatment programmes and risk management.

*This Rule reinforces Rules 3 and 5, by emphasising that there needs to be effective multi-agency working in the assessment, management and integration of a person suspected or convicted of committing a sexual offence. Multi-agency working should be mindful on how the agencies interact with the broader community in disclosures and through information sharing to make sure that public protection and protecting the rights of the individual are always adhered to in a balanced manner.*

7. International and transnational cooperation between police, investigative and border control services for ensuring public protection, in conformity with data protection rules and international agreements, should be facilitated, where appropriate.

*This Rule underlines that there should always be effective communication and information sharing between international and transnational cooperation between police, investigative and border control services either directly or through third parties (i.e. Interpol, Europol) when appropriate. However, this should not negate Rule 1 in that when persons have completed their sentence and are off licence then this information should not be passed on, except if essential (i.e., Criminal Records Check). The aim of this Rule is to help public protection and safeguarding, not to further penalise the individual.*

### **III. RISK ASSESSMENT**

8. As far as possible, risk assessment should be carried out after and take into consideration any forensic anamnesis carried out by recognised experts and ordered by the judiciary or by another competent authority or agency.

*This rule recognizes that individuals accused or convicted of sexual offenses show a high co-morbidity with psychiatric disorders (depression, anxiety, psychoactive substance abuse disorders, and attention deficit hyperactive disorder and personality disorders). Since sexual fantasies and offensive behaviours could be a form of coping with negative emotions or mood states related with their psychiatric conditions, a forensic anamnesis is fundamental for decisions concerning treatment and sentencing. Risk assessment should be carried out after any psychiatric disorders are identified. The forensic anamnesis is taken into consideration as part of a coherent evaluation of an individual's risks-needs.*

9. Formal risk assessment is recommended to inform the judiciary and other competent authorities and agencies regarding the best sentencing, management or treatment plan for a given person.

*This rule reinforces rule 8 by emphasizing the need of a formal risk assessment procedure together with a forensic psychiatric examination, as contribution to court decisions or judgements related to the type of measure or sentence. The purpose is to establish a sentence-and-treatment plan allowing the individuals accused or convicted*



of sexual offenses with longer as well as shorter sentences and treatment according to their criminogenic needs. Ex. the court may decide to give a sentence involving forensic psychiatric treatment when the individual has a psychiatric disorder, or a suspended sentence with conditions of treatment in cases where the individual is evaluated as having a low risk-need level and is assessed as being motivated for outpatient treatment and community supervision.

10. It is recommended to use Structured Professional Judgement (SPJ), as it is a research-based professional approach and is a transparent and comprehensive basis for decision taking.

*This rule recognizes that the accuracy of risk prediction is substantially increased when evaluators use structured, empirically based risk instruments. Several structured professional clinical judgment methods have been constructed. The tools aim to explore dynamic as well as static risk assessment. They assist in ensuring that the practitioner focuses and examines evidence-based key areas for risk considerations.*

*An SPJ instrument consists of an empirically based list of risk and protective factors and the scoring is typically based upon professional considerations about which of the items apply best to an individual case. The use of such tools is helpful in exploring and beginning to understand the risk of an individual, although the emphasis remains on the practitioner to make sense of such areas. Ex. an individual may be more likely to commit an offence at times of low mood and feelings of inadequacy; whereas another may be more linked to a sexual preoccupation and accordingly thought pattern. The final risk judgment – where an individual is classified as “low”, “moderate” or “high risk”- is primarily based on the professional’s judgment using theoretical and empirical knowledge about reoffending behaviour.*

*The rule recognizes that sexual offender recidivism risk assessment has made important progress during the past few decades. Over the past 20 years a huge number of risk assessment techniques, instruments, and procedures have been developed. In international literature and recent academic debate it is agreed that risk assessment instruments that provide a transparent and comprehensible basis for the decisions, based upon empirically-based risk factors, increases the prediction of risk substantially. Andrews and Bonta’s meta-analytical research on predictor variables and the presentation of the RNR-model have been generally recognized as best practice<sup>2</sup>. Moreover a strength based approaches to assessment and treatment has developed (i.e., “Good Lives” approach to treatment outlined by Ward and colleagues)<sup>3</sup>.*

*Risk assessment tools’ precision in predicting risk-needs and their inter-rater reliability, is a prerequisite for the assessment tools predicative value. Risk assessment findings must be reported with reference to known rates of sexual reoffending by specific subgroups of offenders, and adequate information about limitations of accuracy associated with current procedures must likewise be reported. There are various tools designed specifically for people who have been convicted of a sexual offence [i.e., QIPAAS (Questionnaire d’Investigation pour les Auteurs d’Agressions Sexuelles<sup>4</sup>); Risk Matrix 2000<sup>5</sup>; STABLE 2007; ACUTE 2007; SVR-20<sup>6</sup>].*

*Several European countries have implemented standardised actuarial risk assessment instruments (e.g., by OASys, The Offender Assessment System in the UK). There are also more dynamic predictors focused on criminogenic needs, used widely within prisons and probation that have implication for treatment, such as Level of Service Case Management Inventory (LS/CMI) or Level of Service / Risk Need Responsivity (LS/RNR). These assessment and management tools incorporate the principles of risk, need and responsivity. Offenders are usually categorized as very high, high, medium or low risk and these assessments are reviewed when there are changes and circumstances or pattern of behaviour or new information has been provided relevant to risk management (for example, response to treatment). Where there is a cause for concern, more detailed risk assessment should be administered.*

11. An adequate number of properly trained and supervised professionals should conduct risk assessments. They should have good theoretical understanding of the nature, causes, and

---

<sup>2</sup>Bonta, J. & D.A. Andrews (2017). *The Psychology of Criminal Conduct* 6. Ed. Routledge

<sup>3</sup> Ward, T. & Fischer, D. (2006). New ideas in the treatment of sexual offenders. In W.L. Marshall, Y.M. Fernandez, L. E. Marshall, & G. A. Serran (Eds.), *Sexual offender treatment: Controversial issues* (pp.143-158). Chichester, UK: John Wiley & Sons.

<sup>4</sup> Questionnaire d’Investigation Clinique Pour les Auteurs d’Agressions Sexuelles (C. Balier, A. Ciavaldini, M. Girard-Khayat, 1996)

<sup>5</sup> Thornton, D., Mann, R., Webster, S., Blud, L., Travers, R., Friendship, C., & Erikson, M. (2003). Distinguishing and Combining Risks for Sexual and Violent Recidivism. *Annals of the New York Academy of Sciences*, 989, 225-235.

<sup>6</sup> R. Karl Hanson, Andrew J. R. Harris, Terri-Lynne Scott and Leslie Helmus (2007) *Assessing the risk of sexual offenders on community supervision: The Dynamic Supervision Project*, Public Safety Canada

Boer, D. P., Wilson, R. J., Gauthier, C. M., & Hart, S. D. (1997). Assessing risk of sexual violence: Guidelines for clinical practice. In C. D. Webster & M. A. Jackson (Eds.), *Impulsivity: Theory, assessment, and treatment* (pp. 326-342). New York, NY, US: The Guilford Press.

management of sexual abuse and violence. Due to the complexity of the information and data to be evaluated, supervision and peer support are recommended.

*This rule reinforces rule 10, recognizing that a convergent approach to risk assessment may be both the most responsible and most appropriate approach to risk assessment for individuals who are accused or sentenced of a sexual offence, and emphasises that properly conducted assessment is crucial for precision of risk prediction.*

*Professionals who conduct risk assessments should take into account that risk assessment instruments that provide a transparent and comprehensible basis for the decisions, grounded upon empirically-based risk factors, increases the prediction of risk substantially.*

*There are various tools designed specifically for individuals who have been convicted or sentenced for a sexual offence [i.e., QIPAAS (Questionnaire d'Investigation pour les Auteurs d'Aggressions Sexuelles); Risk Matrix 2000; STABLE 2007; ACUTE 2007; SVR-20).*

*Professionals have the responsibility to administer a more detailed risk assessment where there is a cause for concern.*

12. As risk assessment procedures and practices change over time, professionals need to be regularly updated to be able to use correct tools for predicting re-offending.

*The rule points to the importance of revisiting literature and research on recidivism and risk assessment regularly to implement the most valid assessment procedure. A risk predictor should always be used in an individualised way as part of a structured professional judgement, and the purpose of any risk assessment tool must be clearly identified. Prison and probation staff should be given up-to-date knowledge about the most effective offender assessment tools at a given time.*

13. Risk assessment professionals should be independent in their assessment work from the judiciary and other competent bodies and agencies requesting the risk assessments.

*This rule underpins the right of the individual to be assessed by an independent professional; it focuses on human rights and professional ethics in the context of judicial decision-making with individuals accused of sexual offences. The concern is one of objectivity, and whether expert opinion reflects advocacy of a particular belief or consistently favours the requestor. In order to safeguard the rights of the offender in the context of risk assessment, independence of the professional, conducting an assessment for the judicial hearings, should be sought.*

14. The continuity and comprehensiveness of risk assessment of a person from the pre-trial phase up to the end of execution of the penal sanction or measure is a prerequisite for taking informed decisions regarding sentencing, management and treatment.

*This rule recommends an on-going risk assessment procedure from pre-trial phase, during imprisonment and under community supervision. Comprehensive risk assessment is necessary to inform the decision of who can remain in the community for treatment and supervision, and who cannot because of the danger they pose to individuals and families in the community. Individuals, who are accused or sentenced for a sexual offence and who are assessed as low risk offenders, may be treated and managed in the community, which enhances the chances of their rehabilitation. Individuals, who are at medium or high risk of sexual reoffending, require offender-specific interventions while they are incarcerated in secure environments, such as prison and special hospitals. This dual approach is assumed to reduce the likelihood of new sexual offences.*

#### **IV. MANAGEMENT AND TREATMENT IN PRISONS**

15. Risk assessment should be used at admission to prison and repeated at regular intervals in order to avoid incarceration for periods longer than necessary and in regimes stricter than necessary, which would impact negatively rehabilitation and preparation for release. At admission, it should be mandatory for such prisoners to be accommodated in assessment and referral units for persons convicted for sexual offences.

*This rule reinforces rule 13, by emphasising that an interdisciplinary team of specially trained prison staff, social workers, psychologists and/or psychiatrists should establish contact with the prisoner to develop contact and relations characterised by mutual respect, empathy and engagement, but without minimising the sexual offence. The character and stability of the offender's wish for treatment is evaluated, as is the offender's suitability for different treatment options. The prison staff should be involved in this assessment process and in the motivational work as they have the daily contact with the prisoners. The aim is to ensure progress in the journey from imprisonment to community supervision.*



16. In case risk assessment at admission or at a later stage suggests, that alternative sanctions or measures in the community can enhance rehabilitation and reintegration, such prisoners should be considered for suspended sentences or early conditional release against the obligation for treatment and supervision. In order to be effective, such an option should be offered to prisoners who are motivated and acknowledge at least part of their responsibility for the sexual offence.

*This rule emphasises the diversity within this offender population and gives attention to the multiple causes underlying sexual offending behaviour, the different risk-need levels and individual treatment needs that have to be addressed, to reduce their risk for reoffending.*

17. Detainees accused or convicted of sexual offences, are vulnerable and are often victimised by other prisoners. Therefore, they should be considered at entry or at a later stage, if necessary, for being accommodated separately from other prisoners. Such a separation can be positively used for observation, enhancing motivation for treatment and protection purposes.

*This rule emphasises the right of the prisoner to a safe imprisonment, without risk of or without being harmed physically or mentally. Stigmatisation by other prisoners and prison staff increases defensive behaviour and denial of the committed offence. There is a risk that offenders hold back concerns about own behaviour and need for treatment, in order not to be labelled, for example as a paedophile. Thus motivating individuals who are accused or sentenced for sexual offences to accept treatment, in order to reduce their risk of reoffending, is hindered due to denial of the offence alleged or committed.*

*Denial is a complex phenomenon that can be associated with an increased risk of reoffending for some offenders, but for most individuals accused or sentenced for a sexual offence, denial should be treated as a responsibility challenge that affects the treatment alliance and the individual's motivation for treatment and change.*

18. Persons convicted for sexual offences should be offered access to special programmes aimed at treating their related deviant behaviour and the successful completion of such programmes should be taken into account in release decisions.

*This rule emphasises that support and desistance structures should start early with a plan for the offenders' imprisonment: (1) offenders risk-needs and resources are assessed; (2) proper treatment/interventions are identified (in prison and/or in the community); (3) competent and responsible probation staff is identified and involved at an early stage; (4) the treatment/intervention-plan is coordinated with the probation agency involved; and (5) no service leaves the case, before another has taken over the preventive work while securing the rights of the ex-prisoner.*

## **V. MANAGEMENT AND TREATMENT UNDER PROBATION**

19. Support and desistance interventions with persons convicted of sexual offences, like with other prisoners, should start at prison entry and should continue throughout their sentence until their release. All persons who may be or are released under the supervision and care of probation services must be assessed prior to that by the probation service using the same methodology as the prison and police services, which should determine their level of risk and inform their risk management plan.

*This Rule states that people convicted of a sexual offence should have a clear transition plan as they move from one service to another (i.e., prison to probation). This Rule emphasises the importance of multi-agency co-operation, communication, shared processes, shared language and a shared vision for offender management. At the centre of any risk management plan should be the consideration of the risk, public protection and multi-agency working. The development of a risk management plan for probation should include, (1) offenders' risk-needs and resources are assessed and implemented according to their level of risk; (2) proper treatment/interventions are identified; (3) competent and responsible probation staff is identified and involved at an early stage; (4) the treatment/intervention-plan is coordinated with the probation agency involved; (5) adherence to relevant policies related to registration, disclosure, housing, employment and internet access. The emphasis of this Rule is that no service leaves the case, before another has taken over the preventive work while securing the rights of the ex-offender.*

20. In order to ensure continuity of treatment and throughcare, a close coordination between the prison and probation services and the local communities should be built and maintained. The goal is to create a coherent and clear release plan, which, together with specific interventions, enables the offender to desist from further sexual offending.

*This Rule builds on Rule 19 and emphasises the importance of Rules 3 and 5. The Rule emphasises the importance of shared values across the multidisciplinary team and in coordination with the individual which enables the best, most appropriate interventions to be delivered. In addition, the plan has to be communicated to the local services available to the individuals upon release, so that they can be offered or can be placed in an area that has*

*access to the most appropriate interventions, in order to help in their effective risk management. In addition, individuals should not be recommended an intervention as a condition for their release, if they cannot access it or it is not available in their area and, as this will disadvantage their integration.*

21. Any risk management plan, apart from being individually tailored, should also incorporate a place-based approach which focuses on existing services locally, on multi-agency co-operation, on the existing law (especially regulations limiting or restricting the movement, employment or housing) so that the person's compliance with the risk management plan is facilitated as much as possible.

*Rule 21 acts in conjunction with Rule 20, emphasising the importance of framing risk management plans within the context of relevant laws and policies so that the person accused or convicted of a sexual abuse does not breach by accident the conditions or gets recalled by default. The aim of Rule 21 is to make sure that the individuals' risk management plan places them in the best position to get off licence and live offence-free.*

22. When drafting and implementing the risk management plan, the opinion and the consent of the person under probation should be sought, as far as practicable. Staff need to meet the person at regular intervals and respond, if needed, to requests and complaints in a professional and timely manner.

*This Rule reinforces Rule 5 emphasising that the participation and engagement with the person suspected of or convicted for having committed a sexual offence, is central. This rule works to ensure that the service user voice is heard and that the risk management plan, while achievable from a criminal justice perspective, is attainable by the individual in question. Additionally, this rule aims to offer clear guidance for service user feedback, complainants and questions; all of which should be presented, and adhered to, in prison and probation guidelines.*

23. The probation staff, and supervisory team, developing the risk management plan is responsible for ensuring its implementation and is accountable for it. If there is a change in the probation team, or the person under probation moves to live elsewhere, there should be a handover of information and documentation.

*This Rule describes the chain of accountability in effective risk management and what should happen in terms of a change of team or circumstances. This is good practice and should be happening in accordance with existing prison and probation guidelines.*

24. The multi-agency work in the community with persons convicted of sexual offence requires appropriate policies in place, lines of communication and accountability. Codified standards of working with persons at different risk levels are needed as the level and scale of multi-agency working depends on this.

*This Rule emphasises Rules 3, 5 and 19 by stating that all the relevant authorities and third parties should have appropriate policies in place, lines of communication and accountability. The level and scale of multi-agency working depends on the individual's level of risk; it is recommended that multi-agency teams have codified standards of working with individuals at different risk levels which includes the remit of meetings, length of shared supervision, who the responsible/lead authority is, fail safe plans, and should use shared terminology. All standards should be developed in collaboration, agreed upon, be written down, be accessible and publically available.*

25. The person under probation should be informed of rules and practices that impact them during their probationary period (or longer as necessary) including registration, disclosure and housing restrictions. and of any subsequent change in such rules or practices.

*This Rule builds upon and compliments Rule 5, stating that the individual under the care of probation should be made aware of all policies and practices that impact them across the time that they are in the care of probation (or longer if necessary), including registration, disclosure, housing restrictions, etc. They should be updated if policies change. It should be made clear what data sharing is required in the risk management of the person, when this data is shared and who is shared with. The person in question should be informed of complaint procedures relating to data sharing, should they wish to make a complaint. In addition, there should be clear safeguards for protecting the person on the register, their family and victims given the nature of public and media interest and concerns regarding sexual offending; there should be a clear procedure for responding to and investigating data registration breaches.*

26. After the end of the probationary period, the risk management plan should be finalised, closed, appropriately stored and destroyed in accordance with national law.

*This Rule describes the ending of statutory supervision and licence conditions, all of which is good practice and should be happening in accordance with national law and practices. However, if aspects of the individuals risk management still occur after the end of supervision (i.e., being on the register or the use of their data in Criminal*

*Records Checks) then they should be made aware of this as appropriate, and in line with national standards, and informed when they have reached the end of this period.*

## **VI. DATA COLLECTION, INFORMATION SHARING AND WORK IN PARTNERSHIP**

27. All data collected, relating to a person accused or convicted of a sexual offence (including, personal data, assessment data, treatment data, etc.) should be justifiable and defensible and should be in conformity with the international and national data protection regulations.

*This Rule speaks to the fact that unnecessary data should not be collected. The only data that should be collected is that being used by the judiciary, prison and probation services for the assessment, management and integration of people suspected or convicted of a sexual offence. In addition, data collected by partner organisations should only be shared where necessary; data should not be shared unnecessarily or in an inappropriate way, only on a need-to-know basis. Data collection and sharing should be in line with data protection regulations and be in the interests of public protection, community safety and effective risk management.*

28. Particular attention should be paid to regulating strictly the use and sharing of such data in the framework of criminal investigations and proceedings, including the use and sharing by private agencies responsible for the supervision of persons in custody and in the community.

*This Rule builds on the effective multi-agency work emphasised throughout this recommendation and on Rule 27. No unnecessary data should be shared and all data in the possession of private companies should be held to the same rigour as data shared by, and with, state organisations.*

29. A system of effective sanctions should be put in place in case of careless or intentional misuse or handling of such data.

*All organisations and agencies, as a matter of good practice, should have a clear framework for responding to data mismanagement and breaches. This framework should involve disciplinary actions and mechanisms to reduce the impact of data mishandling. In addition these policies and frameworks should be explained to staff upon their induction to the organisation and made available to them as a matter of course. If policies and frameworks are updated or changed, staff, as well as partner agencies, should be informed of this.*

30. The procedures for storing and destroying of data should be strictly regulated. This information should be made clear to the person concerned at the start of the criminal justice process as well as at the end of it and when the data is destroyed.

*This Rule emphasises the importance of clear data storage and data destruction policies. All organisations involved with people suspected of or having been convicted of a sexual offence should have such rules and policies, not just prison and probation services. As stated elsewhere in this recommendation, the involvement of the service users is important in assessment, treatment and integration (Rule 5) and they should be constantly informed on how their data is used and when it is destroyed (Rule 25, 26).*

31. In countries where there are registers or community notification schemes related to persons convicted of sexual offences, the person concerned should be informed of the full remit of these schemes. In addition, such persons and the relevant agencies should be informed when someone has received a disclosure about them.

*The aim of this text is not to advocate for either a registration or a disclosure scheme for people suspected of or who have been committed of a sexual offence. It is recommended that policy makers look to the existing evidence base (reference needs to be finalised). Registration and notification rules and practices are different in different countries, therefore it is recommended that countries adhere to their national law and to their own schemes, if any; it is not the role of this Recommendations to unify the existing differences internationally but rather to make sure that countries adhere to their own rules in these areas. If a country has a registration and/or a notification scheme for people convicted of a sexual offence they have to follow these policies, train staff and related agencies, inform the individual placed onto these schemes and make sure that these policies work towards public protection, while safeguarding and assist the offenders in their integration and desistance from further sexual offending.*

32. In order to facilitate international legal co-operation, efforts should be made to collect comparable statistical data on the different types of sexual offences.

*The police, as well as prison and probation services should collect and maintain similar data on people suspected or convicted of a sexual offence. This may include demographic data, educational data, health and related data, offence data, intervention/treatment data and data relating to their assessment, management and integration. This would help the development of a robust evidence base in respect to sexual offending, treatment and management. In addition, it would assist in case of movement of individuals who have offended across agencies and/or jurisdictions.*

33. There should be bilateral and multilateral information sharing agreements between the police services, in conformity with national and international data protection regulations. If a person who is still under probation or whose offence-related data are still relevant (i.e., they are on a sex offenders register), moves to another country, this information should be passed on to the relevant authorities of that country.

*This Rule reinforces Rules 3, 6, 7 & 27. Research (Hilder & Kemshall, 20xx) indicates issues in data sharing across jurisdictions which may pose an issue in risk management and preventing sexual abuse; therefore countries should aim to work together to make the sharing of this data a matter of course. The sharing of this data should be in line with existing agreements and not further punish the individual or seek to extend their punishment. The aim of data sharing should be to protect the public, safeguard and maintain existing risk management plans.*

## **VII. VICTIMS AND COMMUNITY SUPPORT**

34. The rights of victims should be respected in the management and integration back into the community of persons convicted of a sexual offence. The victim should be informed of the progress of the person through the system, their release date and plans for post-release management, in conformity with general data protection regulations.

*This Rule argues that the victim, or the victim's representative (i.e., in cases where the victim has limited legal capacity) should be updated on the progress through the criminal justice system of the person who is suspected of or has been convicted of committing a sexual offence against them. This Rule should be in line with public protection, safeguarding and victims' rights policies. The aim of this rule is to continue to protect and safeguard the victim. Any such disclosures should be done in a safe, protected and empathetic way by a trained professional. The rights of the person suspected or convicted of a sexual offence should not be breached by this Rule, and if additional safeguards need to be put in place or additional information disclosure limitations, this should be considered as part of the risk management plan and agreed by a senior member of staff. This is especially important, given the nature of sexual offences, as there is often a relationship between the victim and the perpetrator (i.e., family member, friend, colleague or peer) and it is realistic to predict that they may, directly or indirectly, come into contact with one another.*

35. Where appropriate, probation agencies should liaise with victim support services to ensure that the needs of victims are met.

*The Rule reinforces Rules 5 and 35 argues that probation, and related services, should work with victim services in an appropriate and professional way to safeguard and protect the rights of the victim making sure; especially in cases where the victim is a vulnerable/protected group or they will have an ongoing relationship, direct or indirect, with the person suspected or convicted of the sexual abuse.*

36. Community support and engagement in the risk management of persons convicted of sexual offence should be done through appropriate schemes (i.e. Circles of Support and Accountability or restorative justice schemes). The schemes used should be approved by the probation agency but are not a replacement for probation.

*Risk management is the remit of trained professionals; however, community integration schemes involving trained members of the public (i.e., Circles of Support and Accountability, Restorative Justice) can be used if the appropriate safeguarding measures are in place. The use of community-lead integration schemes is to support the responsible authorities, nor replace them, and therefore they should work in unison and in parallel with them. There should be clear guidelines, code of practice and communication strategies in place. All people being integrated back into the community post-conviction using these schemes should be appropriately risk assessed and have the required level of risk management put in place. The responsible agencies (police and probation) should work*



together to enable public safety and community protection through the careful disclosure of information where appropriate and within the remit of the law.

## VIII. STAFF SELECTION AND TRAINING

37. Management and treatment of persons accused or convicted of sexual offence depends on the quality of the staff delivering it. Special recruitment and selection procedures for staff working with such persons should operate, taking into consideration the personal capacities and the professional qualifications necessary to work with them.

*This rule emphasises that the competent authorities have the task of selecting and recruiting sufficient staff of best possible quality, of ensuring they receive adequate training and of facilitating their professional development to enable them to work in a high ethical manner in order to provide just and effective supervision, positive care and assistance to suspects and offenders that can enhance their prospects of reintegration and social inclusion on which desistance from crime usually depends.*

*Selection, training and supporting staff is therefore central and a specific recruitment protocol that assesses knowledge, performance and attitudes towards individuals who have committed a sexual offence, and personal characteristics associated with resilience, are required. Eventually the use of a specific scoring protocol can be useful.*

38. Prison and probation staff shall work towards facilitating the rehabilitation and social reintegration of persons accused or convicted of sexual offences through a programme of treatment-related activities, professional interaction and assistance.

*This rule underpins that individuals who are accused or sentenced for sexual offences are given evidence based management and treatment. The dominant model of offender rehabilitation is the Risk-Needs-Responsivity model. The RNR-model operates at the broad level of program design. Programming ought to vary according to the specific risk and ought to target the issues that correlate with recidivism. Researchers (Hanson, Bourgon, Helmus and Hodgson, 2009) have demonstrated, that sex offender programs which comply with the RNR model, have the greatest impact on reconviction.*

*In practise, a RNR-compliant program must have clear policies about risk-based allocation/or different treatment routes for different risk groups. Managing the implementation of the Risk-Need-Responsivity principles where treatment is offered according to the individuals' risk-needs, means that risk-needs can be both psychological and non-psychological, such as resettlement, social support, education and work opportunities; as these aspects contribute to enabling the individual to desist from future offending.*

39. Treatment and intervention programmes implemented by specially trained prison and probation staff with persons accused or sentenced of a sexual offence, should be closely supervised by qualified professionals. Usually psychologists, psychiatrists, or social workers who have extensive knowledge of the theory and practice of the treatment of such persons are recommended.

*This rule acknowledges the need of formal qualifications to perform offender-specific treatment. The level of professional qualifications that is necessary to work therapeutically with such offenders differs. In some countries, it is permissible for a trainee forensic psychologist, with or without a master's degree, to work therapeutically with offenders provided they receive formal supervision from a chartered psychologist. It is also often permissible for non-psychologists to deliver group treatment (probation and prison staff), often under supervision of a psychologist, but not always.*

40. Staff training for working with persons convicted of a sexual offence maybe delivered in-house or may require the assistance of experts from other competent agencies.

*This rule emphasises that learning may occur through formal training courses or through an apprenticeship type model. Examples of training staff would benefit from includes: aetiology of offending, grooming, Adverse Childhood Experiences, trauma informed care, Good Lives/Strengths based approaches, desistance and offence paralleling behaviour.*

41. Continuous support and assistance should be provided to staff working with persons accused or convicted of a sexual offence as they often experience increased trauma and stress-related symptoms and can be stigmatised by other colleagues and the public opinion.

*The rule acknowledges that prison and probation staff working with individuals who have been accused or sentenced for a sexual offence can experience stigmatisation or rejection from colleagues and from the society in*

general. Working with this group of offenders can be considered a “critical occupation” which contains an increased risk of the worker encountering traumatic events. “Emotion-evoking” information relates both to the offences they learn about, the life stories of the offenders themselves and the emotional processing that takes place in group sessions.

The nature of the work presents the potential for vicarious traumatising, a response to indirect exposure to trauma with symptoms that mirror posttraumatic stress disorder; feelings of vulnerability, lessened trust in others, excessive vigilance, constant worry, changes in behaviour with children, emotional hardening, and intrusive imagery affecting sexual health, gender shame, compassion fatigue and burnout.

Organisations that provide treatment for persons convicted of a sexual offence have a responsibility to address the potential risk for staff of being damaged. Supervision ought to be offered, where staff is enabled to reflect on their work, review their recent encounters with the offender, and develop their skills. Supervision should be facilitated by an experienced therapist who can train, model and develop the practice of their colleagues. Supervision provides the main source of professional development for therapists but should also be available to prison and probation staff having a daily contact with sexual offenders.

## **IX. MEDIA AND COMMUNICATIONS STRATEGY**

42. All policies and practices linked to the assessment, management and reintegration of persons accused or convicted of sexual offences should be publically available and accessible.

*This Rule states that all criminal justice agencies involved in the integration of people suspected of or convicted for a sexual offence should make all their risk management policies publically available. Policies including those linked to the assessment, sentencing, treatment/interventions, prison management, management under probation, related community management policies (i.e., registration, disclosure, community notification, housing, employment and health policies) and staff policies/code of practice should be available online or upon request. This transparency is important for the development of good service user engagement (Rule 5), good multi-agency working (Rule 3), good media working (Rules 43 & Rule 44) and building public confidence.*

43. Prison services and probation agencies should have a clear communication strategy and should appoint a staff member to be the organisation’s spokesperson.

*This Rule states that prison and probation as organisations should have a clear communications and media strategy. They should have a clear communication hierarchy, including but not limited to a media/public relations team and a clearly identifiable spokesperson. This Rule should exist in practice for prison and probation staff, therefore its aim is to reinforce the importance of having a clear communication strategy in respect to sexual offences given public attitudes and media reporting of these offences and the need to respect the rights of the individuals who are suspected of or have been convicted of them.*

44. Media relations should be incorporated into the development and training of key staff members, including the spokesperson. No member of staff should engage with the media on the assessment, treatment of management of a person accused or convicted of a sexual offence without prior approval. This is particularly important in respect of high profile, celebrity cases or contentious cases.

*This Rule builds on Rule 43 stating that communications and media relations are not the remit of all prison and probation staff, these roles are the responsibility of a select few members of staff who have been appropriately trained. The role of communications and media relations staff should be clearly defined in their contract and they should be trained in this area. All other members of prison and probation staff should be made aware of these appointments, what their role is and how to contact them. This is especially important in respect to high profile sexual offences including, but not limited to, extreme sexual offences, institutional sexual offences, celebrity or high profile cases (either as victim or perpetrator), and large criminal networks; these cases are likely to be in the public interest and, therefore, more likely to be reported on in the press. All staff should be made aware of their organisation’s procedures and guidelines for engaging with the public, including the press, on issues related to the assessment, management and integration of persons who have committed sexual offences, as well as the consequences for breaching these procedures.*

45. All “high risk” releases should have a clear, well defined media strategy developed in advance.

*For “high risk” individuals, as well as high profile individuals, the corresponding media strategy should be developed in advance. The media strategy should be an integral part of the individuals’ risk management plan, being developed across the life of their engagement with prison and probation services. Hence, the media strategy*



*should be developed from a multi-agency perspective with the lead organisation, at that point in time, taking the responsibility for it. The policy should cover all aspects of the individual's assessment, management and integration back into the community and should be regularly reviewed and updated. The development of this media strategy should be rooted in risk management, public protection and safeguarding the rights of the victim, perpetrator and related staff taken into account.*

## **X. RESEARCH AND DEVELOPMENT**

46. Research and evaluation of the sentencing, treatment and management of persons accused or convicted of a sexual offence should be supported and funded in order to gather an evidence-based collection of good practices and to revise existing policies as necessary.

*This Rule states that research and evaluation need to be a central component of the work that prison and probation services, as well as other agencies, do with persons who have been suspected or convicted of a sexual offence. Prison and probation services must develop their own "What Works" evidence base in respect of this population so that they can review, adapt and update their policies and practices as necessary. This research and evaluation, therefore, needs to be considered as part of the core business of these services and should be resourced as such. Research and evaluation should be carried out by trained staff who are given the time, space, access and resources to do the work properly; in some instances this research may be multi-agency and therefore data sharing agreements should be worked out in advance. The outcomes of such research should be reviewed and incorporated into the agencies' planning rounds, relevant risk management plans, staff training, multi-agency working and media relations/communication. In addition, new assessment tools, interventions and/or risk management strategies should be evaluated as a matter of course.*

*Prison and probation services, as well as other agencies they work with regarding sexual offences, should develop a research and evaluation strategy. This should include the development of a research timeframe, the creation and maintenance of an ethics committee, a peer review strategy (internal and external) as well as a publishing strategy. All research and evaluation reports should be accessible on the relevant websites or made available upon request.*

*Research and evaluation should be outcome-driven, with the success of interventions, behaviour change, desistance and reducing reoffending all being important outcomes. This means that there is not one research methodology that should be used; rather the research question should determine the research method. There should be a clear and consistent approach to collecting data across the life of the individual's engagement with the criminal justice system. Given the complexity of assessing, managing and integrating this population it is important to have exact and robust data points and data collection tool. Such the data should include*

- *Demographic data*
- *Offence data (incl., type of offence, victims(s), sentencing)*
- *Risk assessment data, intimal and on-going;*
- *Treatment outcome data, including pre-, during and post-;*
- *Reconviction, breach and recall data;*
- *Data linked to their time in prison and on probation;*
- *Data linked to their exit from the criminal justice system.*

*This list is not exhaustive but gives an indication of the type and scope of data that is necessary to effectively research and evaluate success within the criminal justice system for persons suspected or convicted of a sexual offence. Where possible, each country should collect the same or equivalent data, so that cross-countries comparisons can be made. Research and evaluation reports can be shared via national and international organisations. The sharing and publication in related reports must adhere to data protection policies laid out in in section VII (Rules 27 – 33).*

47. Prison services and probation agencies should carry out their own research and evaluation, but where possible and appropriate, this should be in partnership with external recognised researchers.

*In addition to Rule 47 it is important to state that research and evaluation related to persons accused or convicted of sexual offences within prisons and under probation should be done with external, respected and recognised partners when possible. Research collaborations should not breach the data collection and data sharing requirements already set out in section VII (Rules 27 – 33).*