



A Premium Service Protocol for dealing with persistent offenders in STAFFORDSHIRE

Approved by the Board on
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PURPOSE AND SCOPE OF THE PROTOCOL

1. This protocol sits alongside and should be read and applied in conjunction with Staffordshire Criminal Justice Board's Delivery Plan.
2. This protocol applies to all cases involving defendants who have the status of Prolific and Other Priority Offender (PPO) in Staffordshire.
3. PPOs will be designated as such by Crime & Disorder Reduction Partnerships through consultation with Police members and Divisional Senior Command Teams on the basis of intelligence and will be identified with clear and justifiable reasons.
4. Offenders defined as PPOs will be identifiable through PNC and local intelligence systems.
5. Courts will be asked, where bail is granted, to require the offender's participation in a Prolific Offender Project.

Intelligence, Targeting and Investigations

Objective: to identify offences committed by Prolific and other Priority Offenders and bring them to justice with the highest quality of evidence.

The Police will

- 1 Appoint a member of each Senior Divisional Command Team to take lead responsibility for the identification and targeting of PPOs through the NIM process.
- 2 Ensure that there are systems in place to identify PPOs based upon the individual criteria and PPO scoring matrix and to target and carry out interventions against PPOs.
- 3 Ensure that details of PPOs are communicated to the CJ Performance Officer and also to the Force PNC Bureau and ensure, through the CJ Performance Officer, that the lists of PPOs on J-Track are up to date.
- 4 Ensure that the PNC Bureau uses 'LX' markers against each PPO record on PNC.
- 5 Examine and undertake, through dedicated Investigation and Interview Teams in each Custody Suite, every avenue of investigation to increase the number of offences brought to justice involving PPO, by examining links to other offences, and maximise the use of TICs.
- 6 Ensure that Victim Personal Statements are included on files when relevant.
- 7 Work with Crime & Disorder Reduction Partnerships and the Probation Service in developing a targeted criteria and supportive notification and information exchange systems through joint use of IT systems.
- 8 Apply the principles and framework of the National Intelligence Model to incorporate PPOs.
- 9 Ensure that intelligence and information regarding targeted PPOs is disseminated to operational officers.
- 10 Put in place an appropriate level of supervision of cases involving PPOs.
- 11 Consider specific operations to target PPOs based on intelligence information and to liaise with our partner agencies in line with operational planning principles.
- 12 Prioritise and identify DNA and/or fingerprint positive identifications relating to PPOs and to inform Divisions via the Forensic Intelligence Officer.
- 13 Notify the Forensic Science of submissions relating to PPOs.
- 14 Consider prison visits to PPOs where appropriate.
- 15 Link with the Public Confidence Delivery Group to agree arrangements for the publication and public notification of PPO case disposals.
- 16 Where available, utilise drug testing provisions post charge in all PPO cases.
- 17 Seek advice from the CPS Pre Charge Advice Scheme (where in operation) prior to charge

The Crown Prosecution Service will

- 18 Provide early face to face advice in accordance with the *'Director's Guidance on Charging'* to Investigating Officers and their Supervisors in all cases involving PPOs. *(Where the Shadow Charging scheme is in place. In other cases advice to be provided in accordance with normal practice.)*

The Courts Service will

- 19 Ensure that Courts are adequately resourced to deal with the outcomes of any notified special operations against PPOs.

Pre-Charge Activity

Objective: - To gather sufficient evidence to bring offences to justice.

The Police will

- 20 Seek the advice of the CPS in accordance with the *Director's Guidance on Charging*.
- 21 Exercise powers of search provided in Section 18 and 32 of PACE within the test of reasonableness.
- 22 Adopt a robust approach to counter delayed charge procedures, and liaise with the Duty Prosecutor to agree evidence collection or a prosecution plan identifying and addressing any gaps in evidence, to ensure that charges that can reasonably be preferred are laid.
- 23 Seek to avoid delay in proceedings (particularly for the provision of further advice) by thorough scrutiny of the evidence gathered, and obtaining CPS advice where available.
- 24 Promptly arrest PPOs who fail to answer police bail or who are wanted on a warrant.
- 25 Ensure that submissions to the Forensic Science Service are prioritised.
- 26 Comply, in appropriate cases, with the guidance on introducing in interview, evidence of Bad Character and ensure that evidence of Bad Character is made available to the Duty Prosecutor at the time of seeking pre charge advice, as defined in the relevant case law.

The Crown Prosecution Service will

- 27 Where the pre-charge advice scheme is in operation, provide face to face advice to Police Officers in accordance with the *'Director's Guidance on Charging'*. *Where the scheme is not in operation, advice to be provided in accordance with normal practice.*
- 28 Support the due process of an investigation of crime by the Police, by assisting the Investigator with the investigative plan and on evidential issues such as identification, video, forensic or medical evidence and case progression.
- 29 Support the Police investigation by ensuring the best possible presentation of the case and in particular the obtaining of all necessary evidence.
- 30 Ensure that the level and number of charges are correct and that disclosure obligations are met within the agreed timeframe.
- 31 Provide guidance on file content as part of the pre-charge advice process.

Promotion of Early Guilty Pleas

Objective: To encourage timely entry of pleas of guilty

The Police will

- 32 Ensure that PPOs are advised at the earliest opportunity of the discount scheme for early guilty pleas. This should be in interview, and in any event, before the defendant is charged with any offence.
- 33 Ensure the provision of the Staffordshire Criminal Justice Board's leaflet to PPOs indicating to them that credit/discounts may be applied for early guilty pleas.

The Crown Prosecution Service will

- 34 Conduct a timely review of the available evidence to ensure that, by the first hearing, the level and number of charges are appropriate. Where charges need to be amended the prosecutor will liaise with a senior officer of the Police's CJSU.
- 35 Ensure accurate information is available to the sentencing Court on the history of the case and in particular, of the circumstances and timing of the defendant's plea.

The Courts Service will

- 36 Provide for legal advisers to remind benches and defendants of the discount for early guilty pleas.
- 37 Where sentence is passed, provide for the legal adviser to ask the Court to remind the defendant of the discount that is being applied (or would have been applied) upon the early receipt of a guilty plea. *The discount to be in accordance with the Criminal Justice Act 2003 using the early point at which the plea or indication of guilt was stated. (If the admission is made whilst in custody or at interview this would achieve maximum discount.*

Post Charge Bail Issues

Objective: To maximise the effectiveness of the bail decision-making process.

The Police will

- 38 Consider bail conditions to prevent re-offending and secure attendance, for example curfew conditions for young offenders.
- 39 Record current and detailed information of the offender's bail history on form MG 7.
- 40 Ensure that the MG 7 contains accurate and detailed evidence in support of the relevant information.
- 41 Undertake bail checks and rigorously enforce any breach of bail conditions.
- 42 Where justified, seek a remand in custody in all PPO cases in order to reduce the risk of re-offending.

The Crown Prosecution Service will

- 43 Make available to the prosecutor any other files relating to the PPO so that the full bail history is before the Court. *(This service can only operate Monday to Friday and the Police will need to make additional enquiries to have this information available for Saturday morning Courts.)*
- 44 Consider appeals against decisions to grant bail to persistent offenders in cases that meet the requirements of the Bail Amendment Act, 1993.
- 45 Consider applying to the court for electronic tagging where appropriate as a means of monitoring curfew conditions for young offenders.

The Courts Service will

- 46 Make completed bail orders available within two hours of the conclusion of the hearing.
- 47 Where it is known that a PPO has multiple concurrent proceedings, ensure that when considering bail, all cases in the system are before the Court. *(Except for Saturday and Bank Holiday Magistrates' Courts where it will not be possible to access Court building).*

The Probation Service will

- 48 Provide a Bail Information Service for all relevant adult offenders, including PPOs, as one of its priority aims.

The Prolific Offender Teams (Police & Probation) will

- 49 Undertake supervision as a condition of Court bail and arrange assessments with a view to the offender being subject to supervision by the Prolific Offender Team following sentence.

Non – Appearance

Objective: *To act swiftly where the defendant fails to appear before the Court.*

The Police will

- 50 Ensure that warrants relating to PPOs are recorded on the computerised warrant management system within 24 hours of receipt and create a wanted / missing report on PNC.

The Crown Prosecution Service will

- 51 Apply for a warrant not backed for bail if a defendant fails to appear, *(unless the circumstances clearly show that this is inappropriate)*
- 52 Invite the Court to deal with Bail Act offences in addition to any primary offences.

The Courts Service will

- 53 Ensure that all warrants relating to PPOs are produced within two hours of the decision being made, and that they are made available to the designated Police contact point within one hour. *Where a Magistrates' Court is NOT co-located with an administrative centre warrants to be forwarded to the Police within three working days.*
- 54 Ensure that warrants are prominently marked 'PPO' in the top right hand corner.

Case preparation

Objectives: *To prepare case files that are fit for purpose.*

To review case files in a thorough and timely manner.

To expedite all case progression communication between CJS agencies.

The Police will

- 55 Continue to monitor, improve and maintain their file quality processes
- 56 Identify all files that relate to a PPO by marking the CJS1 and MG6 accordingly.
- 57 Make available on the Force Intranet system a “*guide to evidence checking and file standards*” and a “*file content requirements check list*”.
- 58 Supply a copy of the “*mini Manual of Guidance*” to the investigating officer.

The Crown Prosecution Service will

- 59 Query with the relevant Police Division any case where it appears that a PPO has not been identified.
- 60 Ensure that files in PPO cases are properly marked for ease of identification and prioritisation.
- 61 Consult a Unit Head where the reviewing lawyer proposes to discontinue a charge.

Effective First Hearings

The Police will

- 62 Provide a list of witness availability information for all known witnesses on Form MG 10.
- 63 Provide the Court with the result of any initial drug testing carried out at point of charge in Chase Division cases.
- 64 Make timely provision of files and Advance Information on all PPO files so that court proceedings are not delayed and the prosecutor has time to read them before the case.

The Youth Offending Services will

- 65 Consider the imposition of electronic curfew as a bail condition for young offenders and advise the CPS in time for the making of a necessary application to the Court

The Crown Prosecution Service will

- 66 Ensure that advance information is made available to the defence before the first hearing in accordance with the local Narey protocol.
- 67 Ensure, where appropriate, that the court is asked to consider the imposition of a condition of compliance with a Prolific Offender Project is considered, along with electronic curfew where requested.
- 68 Aim for prosecutors to be available in the Courtroom at least 30 minutes before the Court starts and that they are fully conversant with the case papers.
- 69 Inform the Court of positive post charge drug test results.

The Magistrates' Court will

- 70 Ensure that applications for publicly funded legal representation are dealt with immediately and decisions are given at Court on the day of the first hearing.
- 71 Ensure that facilities are provided for playing audio and standard VHS tapes.
- 72 Arrange for Legal Advisers to remind defendants that credit/discount may be given for early guilty pleas.
- 73 Investigate the provision of equipment to allow use of multiple forms of video evidence.

Case Progression

Objectives: *To ensure that inter-agency case progression structures are effective and efficient in overcoming delays in bringing cases before the court.*

To ensure that cases are ready for hearing on their trial date.

The Police will

- 74 Nominate a member of each Divisional Senior Command Team to be responsible for the case progression of PPO cases
- 75 Update J Track within 7 days for all PPO events.
- 76 Prioritise the preparation and/or enhancement of CCTV, forensic, identification, medical and photographic evidence with the expected co-operation with other relevant agencies.
- 77 Follow to the actions contained within the 'Victims and Witnesses' chapter of the Staffordshire Criminal Justice Board's Delivery Plan'.

The Crown Prosecution Service will

- 78 Appoint one or more case progression officers who will share information with the Courts and attend Case Progression meetings.
- 79 Aim to give appropriate priority to PPO cases in accordance with the Manual of Guidance and in relation to other categories of priorities and in compliance with the guidance of the Senior Presiding Judge as set out at **Annex 1**.
- 80 Update J-Track entries within 7 days of each hearing.
- 81 Notify the Police (by E-mail) of the entry of a not guilty plea and the requirement of a full file.
- 82 Ensure that a lawyer conducts a review of the full file within five working days of receipt of the full file from Police and immediately request any additional information from the Police.
- 83 Serve papers on the defence within the agreed timescales.
- 84 Provide feedback to the Police where delays in providing information have resulted in ineffective listings of cases in court or other delays.
- 85 Ensure that prosecutors are fully briefed on a defendant's PPO status and its implications.
- 86 Copy to the Court, Defence and Police any amended or additional charges as soon as reasonably practicable after the decision to add or amend has been made.

The Courts Service will

- 87 Appoint one or more case progression officers whose responsibilities include convening, preparing for and attending regular Case Progression meetings.
- 88 Seek the co-operation of the Judiciary in promoting the use of directions that set clear expectations/timescales within which actions should be achieved and the expectations of each party.
- 89 Ask the judiciary to consider wasted costs orders what it is clear that there has been an unnecessary, improper, unreasonable or negligent act or omission by a party to the proceedings.
- 90 Record any directions given at Court and serve them on the parties without delay.
- 91 Aim to prioritise the listing of trials involving PPOs in accordance with directions given by the Resident Judges and the Trial Judge and the guidance of the Senior Presiding Judge as set out in **Annex 1**
- 92 Offer the earliest possible trial date at the Plea & Case Management Hearing (PCMH)
- 93 Seek the directions of the Directions Judge on the particular need for the attendance of the defendant at any pre trial hearing.
- 94 Ensure, where appropriate, that the legal adviser and any Magistrates or District Judge (if appropriate) conducting a pre trial hearing are provided with sufficient time to read all the material on the Court file.
- 95 Ensure that it is possible to take a plea to any charge at a pre trial hearing and if appropriate, adjourn the matter for sentence and order report

The Probation Service will

- 96 Appoint one or more officers to attend Case Progression Meetings.

All Agencies will

- 97 Ensure that regular cross-agency case progression meetings are held. Their discussions to include any failed PPO cases, any failures to appear, outstanding warrants and sharing J-Track management information reports and support case progression staff in working efficiently and effectively together.

Committals

Objective: *To ensure that the arrangements for committal proceedings are efficient, effective and timely.*

The Police will

- 98 Serve the committal file on the CPS within the agreed time scales in accordance with the Manual of Guidance.

The Crown Prosecution Service will

- 99 Aim to serve committal papers within seven days of the receipt of a suitable committal file from the Police.
- 100 Notify the Police immediately by E-mail of the need for a committal file.

The Courts Service will

- 101 List any *read-through* committal under S6 (1) MCA 1980 wherever possible within five working days of being informed that the defendant does not accept a paper committal.
- 102 Conduct a PCMH within four weeks of committal.
- 103 Comply with the guidance of the Senior Presiding Judge set out in **Annex 1**.

Trial

Objective: *To ensure an efficient trial process.*

The Witness Care Unit will

- 104 Conduct pre-trial checks four weeks before the Trial date to ensure that the witnesses are all available to attend the trial and assess any specific needs that may require addressing.

The Crown Prosecution Service will

- 105 Ensure that a prosecutor receives the case file/brief in sufficient time before the trial to be fully acquainted with the evidential issues.
- 106 Only reduce charges at Court after reference to a senior CPS officer.

The Courts Service will

- 107 Comply with the Directions of the Resident Judge and the Trial Judge and the guidance of the Senior Presiding Judge set out at **Annex 1**.

Sentencing and Community Penalties

Objective: *To maximise the chance of effective rehabilitation and information sharing.*

The Crown Prosecution Service will

- 108 Ensure that any relevant Victim Personal Statement is relayed to the Court.
- 109 Consider seeking appropriate orders from the court upon sentence, including, for example Anti Social Behaviour Orders.

The Probation Service will

- 110 Meet all of the National Standards requirements relating to Prolific Offenders.
- 111 Provide a Pre Sentence Report within 15 working days, or earlier if required by the Court.
- 112 Treat Premium Service recipients as a priority for accredited programmes for which they meet the suitability criteria.

The Courts Service will

- 113 Process Court results to other agencies within three working days.

Enforcement of Custodial Sentences

Objective: to ensure rigorous recall action

The Probation Service will

- 114 Seek recall by report to the Early Release and Recall Section (ERRS) of the Prison Service where appropriate when a PPO is arrested but not immediately charged with an offence. *In such circumstances, there would be a need to attach a copy of the Police Officer's statement to the request for recall, which would be evidence or an indication of 'behaviour'.*
- 115 Report PPOs to the ERRS for breach of Licence conditions as swiftly as possible and normally within 48 hours. The minimum standard for reporting Licensees to the ERRS to achieve recall to prison is within 10 days.
- 116 Prioritise warrants relating to PPOs to be prioritised and executed them within 72 hours of receipt.

Rehabilitation Within Prison

Objective: To maximise the chances of successful rehabilitation of prisoners.

The Courts Service will

- 117 Clearly mark on the warrant of commitment 'PPO', indicating that the offender is subject to premium service.
- 118 Ensure that the cell reception officer at court is informed accordingly.
- 119 Ensure that a copy of the offender's previous convictions, and all other relevant document is attached to the warrant.

The Prison Service will

- 120 Identify all PPOs in custody by utilising a marker/flag on the Prison Service Computer system.
- 121 Assess the PPOs needs and seek to address their offending behaviour through appropriate Sentencing Planning Targets and approved interventions.
- 122 Explore possibilities of setting additional suitable licence conditions after release to assist in addressing their offending behaviour.
- 123 Notify the Police, in advance of a PPOs release date and address.

The Prolific Offender Project/Probation will

- 124 Notify the Prison Service of all PPOs offenders in their custody who are being supervised by a Prolific Offender Project.

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ANNEX 1

The Rt. Hon. Lord Justice Thomas
Senior Presiding Judge for England and Wales

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Royal Courts of Justice
Strand
London WC2A 2LL

12 April 2005

To Presiding Judges, Resident Judges, Justices' Clerks and Bench Chairmen.

Prolific and other priority offenders programme

As you know, the Government has put in place a new scheme to tackle the 5,000 most prolific and other priority offenders (0.5% of active offenders) who are thought to commit a disproportionate amount (10%) of all crime each year. The main plank of the scheme is the identification, monitoring and management by the police and Probation Service of those alleged to be prolific offenders or offenders deserving of priority attention for other reasons and identified as such in each locality by various factors chosen locally. That part of the scheme is not a matter for the courts.

However, an important and very welcome part of the scheme makes provision for the specific support and rehabilitation needs of the offender to be met as an incentive for the offender to change his or her behaviour. The Probation Service, who will "case manage" the offender, will be able to draw upon relevant agencies and services to meet these needs. On sentence of such a person, a programme providing for those specific needs will be offered to the sentencer as an option which is likely to provide far more to underpin the offender undergoing a community sentence than is currently available.

I have been provided with draft guidance to probation officers about the preparation of reports for such offenders. This distinguishes between, on the one hand, information (including that based on intelligence) that they will receive from the police and others for purposes such as the monitoring of offenders under their management and the allocation of resources, and, on the other, verifiable information (such as details of previous convictions) which it is proper, fair and relevant to put before the court.

I am writing to you at the same time that this guidance is being sent to the Probation Service so that there is clear agreement on the principles to be applied when reports are prepared; I have provided a copy of this letter to the Probation Service.

- (1) It is inappropriate for any person, including in particular probation officers, to inform a court which is to try or sentence a person alleged to be a PPO that he is alleged to be a PPO or that the programme being offered is a programme for PPOs. The allegation that someone is a PPO is merely an allegation; it may be based on intelligence and factors which vary from district to district. It is therefore not relevant to the sentence of the court and potentially prejudicial to a defendant.

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A Premium Service Protocol for Staffordshire

- (2) The timely hearing and sentencing of all cases, including those where the prosecution consider the defendant is a PPO, is always an objective of the judiciary in managing the business of the criminal courts.
- a. In those cases where the defendant (alleged to be a PPO) pleads guilty or is found guilty, there is little difficulty in ensuring that he is sentenced as quickly as possible. No issues of giving priority to a person alleged to be a PPO arise from the standpoint of the judiciary.
 - b. However, where a person is alleged by the prosecuting authorities to be a PPO and pleads not guilty, then the question may arise as to whether such a case should be treated for the purposes of listing as needing expedition.
 - c. Again, in most courts, the issue should not cause any difficulty, as a court will wish to deal with all its cases as speedily as possible. In most cases a person alleged to be a PPO is likely to be in custody and the normal rules for expediting such cases will deal in almost all cases with any issue of expedition.
 - d. However, in those courts where this is not the case, or where the person alleged to be a PPO is on bail, it must be for the court to decide upon the competing demands of the business before it – such as the need to try cases involving child witnesses quickly. Clearly the speedy trial of a person on bail who has a long record of offending is highly desirable, as there is an obvious risk of further offending.
 - e. For this purpose, therefore, it may be permissible to identify to the listing officer (and, if need be, to a judge or magistrate who is not going to try the case) the fact that the person is alleged to be a PPO so that the case can be dealt with in accordance with the considerations laid down by the court in its listing practices.
- (3) Although the fact that a defendant is alleged to be a PPO is irrelevant to the sentencer, and should not, as I have said, be mentioned to the court, it is right that the a court should be provided with full details of the offending history of the defendant (as shown by his antecedents), an analysis of such offending, his response to previous sentences, his current circumstances and a risk assessment, together with the options available. If the Probation Service consider that there is for such a defendant (or any other defendant not alleged to be a PPO) a specific programme that is most likely to reduce the risk of future offending (as an alternative to a lengthy prison sentence), then there should be provided to the court full details of the programme that will reduce that risk, so that the court can see that a sentence involving such a programme may be the appropriate sentence.

I very much welcome the fact that additional resources and services are to be made available to support such programmes. I also am glad that clear guidance is being given to the Probation Service as to what may be included in reports. The guidance given should ensure that courts are not provided with information that is impermissible to put before them, but will have available the information which it is proper to place before the court.

This letter is being copied to Court Managers and Area Directors so that they can ensure that their staff are familiar with the procedure to be followed.

Yours sincerely,

J Thomas