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Operation Dovetail

Operational Police Guidance for new Channel pilot

September 2016

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Introduction

The Office of Security and Counter Terrorism (OSCT) at the Home Office will be running a pilot of new Channel processes within 9 Local Authority areas across England and Wales starting in Autumn 2016. The Local Authorities that will engage in the pilot have been identified as Brighton, Kent, Kirklees, Luton, Haringey, Croydon, Oldham, Lancashire and Swansea. Fundamental changes to existing referral processes are being tested to reflect roles and responsibilities of different statutory partners within the Counter Terrorism and Security Act 2015 (CTSA) and to evaluate whether more effective methods exist to better protect vulnerable people from being drawn into terrorism.

During this pilot and within the areas of the 9 Local Authorities identified, key changes will be made to the roles and responsibilities contained within existing guidance documents.

This document provides guidance to Policing staff supporting Local Authorities with Channel delivery in pilot areas.

Key Roles

The Local Authority Channel Co-Ordinator (LACC)

A new funded Local Authority Channel Co-ordinator (LACC) post will be created in each Local Authority Pilot area. They will be responsible for coordinating delivery of Channel. Many of the functions completed by this person will have previously been completed by the Channel Police Practitioner (CPP). Outside of the pilot areas the role of the CPP will still exist and function as normal.

LACC will act as 'gatekeepers' for the local Channel process. They are responsible for supporting the structure of the Channel partnership in their local area as well as case managing individuals as they pass through the Channel process. This involves the LACC carrying out the key functions of receiving referrals, assessing vulnerability, supporting panels and raising awareness. The local LACC will also be responsible for the administration of cases on the Case Management Information System (CMISv2).

A training package will be provided to staff performing this role by OSCT and it is anticipated that throughout this pilot, support will be provided from the police who have experience in this area.

The Office for Security and Counter Terrorism have outlined minimum standards for the LACC in their guidance document (Appendix A).

The Prevent Officer

The Prevent Officer will be responsible for representing the police at The Channel Panel. They will be responsible for making a referral to the Local Authority and providing sufficient information to the LACC allowing assessments to be made around vulnerability and risk. The Prevent Officer will be responsible for the administration of CMISv2 up to the point where a case is created.

The Prevent Officer supported by local management will fulfil the statutory responsibility of the police by working in partnership and supporting the Channel panel. During this pilot many of the administrative roles that are generally completed by the Channel Police Practitioner will be completed by the Local Authority.

The Local Authority Channel Panel Chair:

The Chair of the multi-agency panel is responsible for:

- having oversight of all cases in their area and ensuring that appropriate panel partners are invited to each meeting;
- identifying the appropriate support package for identified individuals by using the expertise of the panel;
- ensuring that safeguarding risks are identified and are referred to the appropriate agencies for action;

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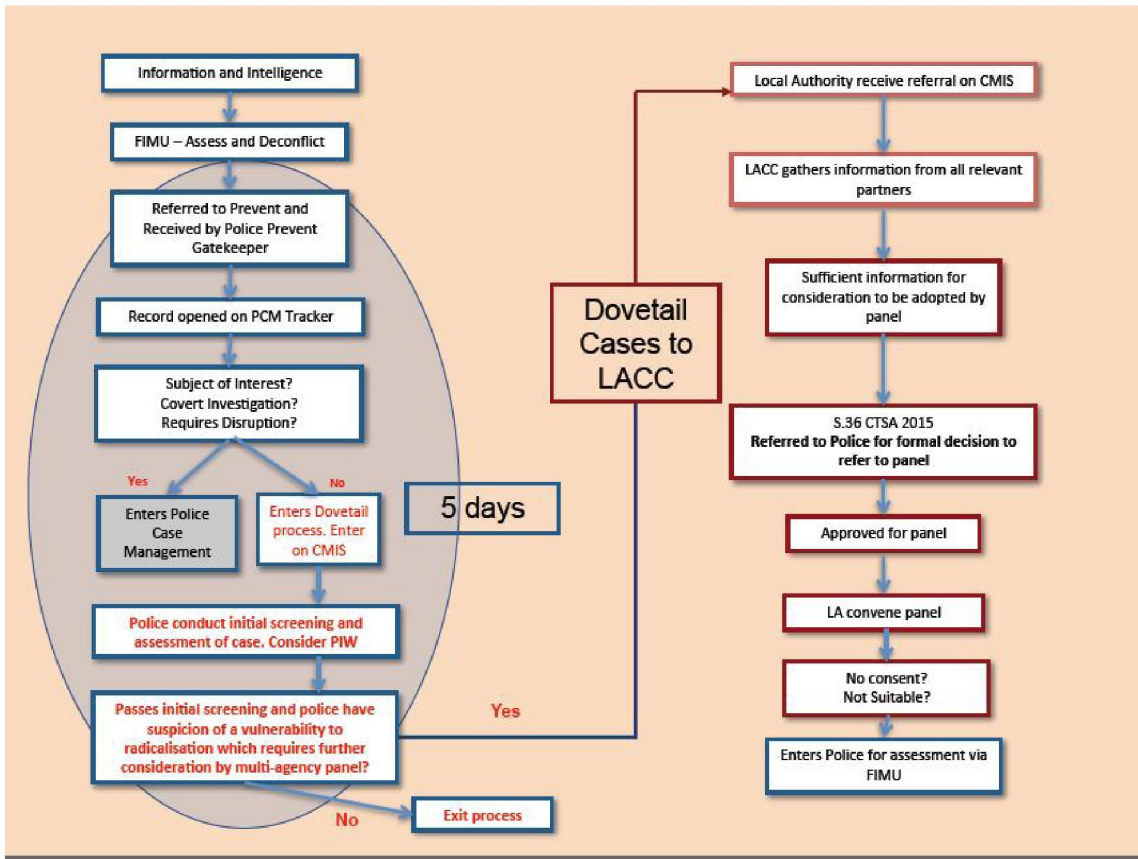
- ensuring an effective support plan is put in place, and that consent is sought from the individual before that plan is put in place; and
- ensuring individuals and/or organisations on the panel carry out their elements of the support plan so that an effective support package is delivered.

The Chair should be fully briefed on every case so that they can assess all of the aspects of the case with rigour and agree the most effective support plan.

Panel partners

The multi-agency involvement in the Channel process ensures that vulnerable individuals have access to a wide range of support, from diversionary activities through to providing access to specific services provided by local authorities. Those involved will sign up to an information sharing protocol and will be partners who can provide the most relevant support to address the needs or vulnerabilities identified.

The Police process for Operation Dovetail:



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Key Stages of the Police Process Explained:

Prevent Referral from [REDACTED]

A Prevent referral is classified as such when the [REDACTED] has assessed intelligence using the [REDACTED] and decided that a case should be passed to Prevent. Referrals made directly to Prevent Officers or received in other forms such as emails, forms or phone calls should not be worked on prior to deconfliction. Intelligence reports should be created and passed directly to [REDACTED]. No work should be undertaken by any agency prior to deconfliction taking place.

Referral Created on PCM Tracker:

When a referral is passed to the Prevent team having been deconflicted and assessed by the [REDACTED] a case should be opened on the PCM tracker. Where the case enters PCM for management following the assessments phases below, the case will remain open and managed in the normal way until concluded. Where a case requires assessment for a supportive intervention or any form of safeguarding response, the case should enter the Operation Dovetail process and be passed to the Local Authority for management of the Channel process. An entry should be made in the free text box - 'Op Dovetail' to reflect that this case is being managed under this pilot.

Police Conduct Initial Enquiries:

Upon receipt of a Prevent referral, the police should conduct initial enquiries to establish the nature of the referral and what they are dealing with. This is intended to allow police to put context around the referral, establish baseline information that satisfies police decision makers that risk is being managed effectively and is being managed under the correct framework.

These enquiries should be aimed at answering the following questions:

- 1/. Are police dealing with a subject of interest?
- 2/. Is the subject under covert investigation?
- 3/. Does the subject require disruption under Prevent Case Management.

Cases that meet these criteria should enter Prevent Case Management and managed as per existing guidelines.

Police Create Subject and Referral on CMISv2:

Following initial enquiries, if it has been decided that the referral is one which concerns an individual who is vulnerable to being drawn into terrorism, the police will create the subject and referral form on CMISv2. The police will then conduct an initial screening and assessment of the information. This is to establish that there is sufficient suspicion that the individual concerned is vulnerable to being drawn into terrorism. This will include an assessment of whether the case is misguided, mis-informed or malicious. Enquiries at this stage will seek to put context around the referral.

It is often the case that when referrals are made, further research and development and context is required to allow the police to better understand the case. The enquiries made at this stage will seek to achieve this but this should not consist of formal information gathering. This would normally include:

- Checks on Police Intelligence Systems,
- Speaking with the original source to put further context around the referral,
- Police visit to the subject and/or their family to speak with them and make an assessment. (In some circumstances such as schools it may be more appropriate for the school to do this themselves).

There may be other enquiries that are relevant and each case will be treated on its merits and decisions made around what enquiries are proportionate to conduct this assessment. ***However it is important to note that this stage should not include information gathering with partners wider than the original informant.*** The sharing of information must have a legal basis and can only be made out once the police have assessed the case and decided that there is suspicion that the individual is vulnerable to being drawn into terrorism and it is therefore necessary to share information with partners using the legal framework explained below.

Following the screening and assessment stage, if the police do not have suspicion that the person concerned is vulnerable to being drawn into terrorism, the case should be closed and updated on CMISv2. Wider safeguarding issues unrelated to terrorism and radicalisation may still be relevant but these should be addressed in the normal way by other safeguarding pathways.

The initial enquiries and screening and assessment phase should be completed within 5 working days. If the police decide that there is suspicion that the individual is vulnerable to being drawn into terrorism and further work should be completed, this should be documented on CMISv2 and the referral transferred on CMISv2 to the LACC for case building and information gathering to be completed. The LACC should also be notified by emailing the generic Channel referrals email address. See Annex X for a list of contact email addresses.

Information sharing with the Local Authority:

Prior to passing details of the case to the Local Authority the police must consider the legal basis for sharing information. The police when sharing information must have regard to the following:

1/. Legal powers which authorise the sharing of information.

Sections 17 and 115 Crime and Disorder Act 1998:

Section 115 of the CDA provides:

(1) Any person who, apart from this subsection, would not have power to disclose information—

(a) to a relevant authority; or

(b) to 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 this Act.

(2) In this section “relevant authority” means —

...

(d) a local authority, that is to say—

(i) in relation to England, a county council, a district council, a London borough council, a parish council or the Common Council of the City of London;

(ii) in relation to Wales, a county council, a county borough council or a community council;

(iii) in relation to Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

As any disclosure must be “necessary or expedient for the purposes of any provision of [the CDA]”, s.115 can only be utilised in conjunction with another provision. For present purposes, section 17 is the most likely to be applicable:

(1) Without prejudice to any other obligation imposed on it, it shall be the duty of each authority to which this section applies to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent [—]

(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and

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(b) the misuse of drugs, alcohol and other substances in its area; and

(c) re-offending in its area.

(2) This section applies to each of the following–

a local authority;

...

a local policing body

The effects of radicalisation are closely affiliated with crime and disorder, it being an underlying causative factor in, for example, hate crimes and terrorist offences. There is no doubt that the work of the panel itself is a targeted method of preventing such instances of crime and disorder. In this sense, any disclosure that assists the panel in achieving those functions in relation to a particular individual will likely fall within the scope of this power.

A determination that the information about the individual is either ‘misguided, malicious or misinformed’ is inconsistent with a conclusion that action is required in relation to that person in order to prevent crime or disorder. Such cases have no place in the Channel process and the disclosure of the information to the LA serves no real purpose.

It is considered therefore that where the police conclude there is no basis for believing that the individual is vulnerable to radicalisation, disclosure cannot be exercised under the s.115 / s.17 CDA power.

Common Law Policing Powers:

The police may be able to rely on their powers at common law. The Code of Practice on the Management of Police Information at paragraph 4.8 provides guidance on the circumstances in which information can be shared by police to those outside the UK police service under the common law:

4.8.1 Chief officers of police will continue to comply with any statutory obligations to share information with bodies other than police forces in England and Wales.

4.8.2 In addition, chief officers may arrange for other persons or bodies within the UK or overseas to receive police information where the chief officer is satisfied that it is reasonable and lawful to do so for the purposes set out at 2.2 above. In deciding what is reasonable, chief officers must have regard to any guidance issued under this Code.

4.8.3 The procedures for making such information available, and the extent to which it is made available, must comply with guidance to be made under this code, and with any protocol (whether at national or local level) which may be agreed with persons or bodies needing to receive such information.

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4.8.4 In circumstances not covered by any such protocol, a chief officer may give access to police information in response to a request from any person or body to the extent that the chief officer believes this request to be lawful and reasonable for the purposes set out at 2.2 above, and in compliance with guidance issued under this Code.

1. The policing purposes specified at paragraph 2.2 are:

- (1) Protecting life and property;
- (2) Preserving order;
- (3) Preventing the commission of offences;
- (4) Bringing offenders to justice; and
- (5) Any duty or responsibility of the police arising from common law or statute law.

The police can therefore share information in pursuance of a policing purpose where it is reasonable to do so and otherwise lawful.

These powers are slightly broader in scope than those under the CDA. The phrase ‘preserving order’, for instance, would encompass all instances of ‘crime and disorder’ and potentially other disruptive or objectionable behaviour. This, or the purpose of ‘preventing the commission of offences’, will facilitate much of the disclosure anticipated in the Channel process.

However, where an individual is not of concern to police, because the information provided failed the 3M test or for any other reason, then disclosure to the LA serves no function in either preserving order or preventing the commission of offences.

2/. Requirements of the Data Protection Act 1998 (DPA).

Section 27(1) of the DPA provides a number of exceptions, where compliance with the data protection principles is not required. This includes the exception under section 29:

(1) Personal data processed for any of the following purposes—

(a) the prevention or detection of crime,

(b) the apprehension or prosecution of offenders, or

(c) the assessment or collection of any tax or duty or of any imposition of a similar nature,

are exempt from the first data protection principle (except to the extent to which it requires compliance with the conditions in Schedules 2 and 3) and section 7 in

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any case to the extent to which the application of those provisions to the data would be likely to prejudice any of the matters mentioned in this subsection.

(2) Personal data which—

(a) are processed for the purpose of discharging statutory functions, and

(b) consist of information obtained for such a purpose from a person who had it in his possession for any of the purposes mentioned in subsection (1),

are exempt from the subject information provisions to the same extent as personal data processed for any of the purposes mentioned in that subsection.

(3) Personal data are exempt from the non-disclosure provisions in any case in which—

(a) the disclosure is for any of the purposes mentioned in subsection (1), and

(b) the application of those provisions in relation to the disclosure would be likely to prejudice any of the matters mentioned in that subsection.

The DPA will apply to the disclosure of information for Operation Dovetail. Where disclosure is anticipated, the police must act to ensure the requirements of the DPA are met. There will be circumstances, however, where the above conditions cannot be met. If the police have come to the view that there is no vulnerability to radicalisation, it is difficult to foresee why it will be 'necessary' to disclose the individual's information.

One of the purposes of the Screening and Assessment phase is to allow the Police to conduct an individual assessment of the case to establish if it is necessary to share this information.

3/. Obligations required under the Human Rights Act 1998 (HRA) in particular Article 8 - Right to a Private Life

There can be no dispute that the storing and disclosure of personal information by the police engages an individual's right to a private life, as enshrined in Article 8 of the ECHR. Incursions into an individual's Article 8 rights will not necessarily violate that right where it is "in accordance with the law and is necessary in a democratic society in the interests of national security, public safety ... for the prevention of disorder or crime, ... or for the protection of the rights and freedoms of others" (Article 8(2)).

An incursion into the private life of individuals who are subject to the initial stages of the Channel process could potentially be justifiable under a number of the legitimate aims specified in Article 8(2), including the prevention of crime and the protection of the public. Ensuring that all individuals who

should be referred to the panel are in fact referred for the purpose will go some way to preventing radicalisation, which will in turn potentially prevent general crime/disorder and/or terrorism.

It is highly improbable that any of the justifications will be applicable where police have determined that there is no legitimate foundation to the concerns expressed to them about a given individual. Where the information fails to pass even the 3M test, for instance, the police will essentially have drawn the conclusion that the complaint is without merit and the individual poses no risk. Passing on their details therefore has no logical connection with the prevention of crime or public safety.

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Case Build by Local Authority and S.36 decision by Police.

The LA will be responsible for the case building of all referrals passed to them that the police have assessed and identified as requiring a multi-agency safeguarding response. The LACC will co-ordinate information gathering with relevant statutory partners and conduct an assessment as to whether the individual is suitable to receive support from the Channel panel. (Full guidance is contained within the OSCT Guidance to Local Authorities at Appendix A)

The CTSA places the responsibility on the police for deciding whether a case should be referred to a Channel panel. In order to make a referral Section 36 of the CTSA 2015 states:

A chief officer of police may refer an individual to a panel only if there are reasonable grounds to believe that the individual is vulnerable to being drawn into terrorism.

Therefore before a case can be formally referred to a panel, the LACC will need to consult with a police decision maker who will need to be satisfied of this legal requirement and make a formal decision to refer the case to the Channel panel. This decision will normally be sought after information gathering has been completed.

If this reasonable belief is not held, the police may direct that further work is conducted that would enable this belief to be made. The police may also decide not to refer the subject to a Channel Panel if no more information is likely to become available that support making this decision.

All cases will be transferred back to the police on CMISv2 for a decision to be made. The LACC will make a recommendation as to whether the case should proceed to a panel or not, but the police will ultimately decide whether to make a formal referral. The LACC will complete the *Operation Dovetail recommendation to police* section on CMISv2, and transfer the case back to the Police. The police decision maker will record their decision in *Operation Dovetail Police Section 36 Decision* section on CMISv2 and will then transfer the case back to the LA.

Exit:

Where a successful intervention has been made and the vulnerabilities of the individual addressed, the LACC should notify the police. The PO will should update local police intelligence systems of the outcome.

Individuals may exit Channel for other reasons such as not consenting to receive support or CT risks escalating. The police will be notified and this will re-enter police processes through the [REDACTED] Assessments should then be made under IHM in the normal way as to how best to manage the risks associated with the individual concerned.

Travel Risks:

During this pilot the Police will be responsible for considering any travel risks associated with the individual and ensure appropriate markers are placed on watch lists as per the guidance contained with *NCTPHQ Guide to Watchlisting Individuals in Prevent Case Management*.

If the criteria for a PIW marker is met the Police will inform the Local Authority as part of the referral that they consider a travel risk to be present and they own this element of the risk. **The Local Authority MUST notify the police immediately if the individual is not considered at any stage, suitable to continue in the Channel process to enable the police to remove the PIW marker.**

Any PIW markers in place should be reviewed as a minimum every 20 working days when the Channel Panel meet to review whether concerns around travel still exist and the marker is appropriate. A PIW marker will drop off automatically after 6 months and therefore the Police will be responsible for ensuring that any markers are reviewed at this point.

At the conclusion of the case, when the Channel Panel Chair closes the case, the Police will be responsible for removing any markers in place. If the subject is returned to Prevent Case Management, it may be appropriate for the marker to remain.

Mental Health Hub Pilot Areas:

In areas where new Mental Health Hubs are being piloted (West Midlands, Metropolitan and North West), cases which are referred to the Mental Health Hubs should proceed as per Dovetail Guidance but the LACC should be informed that the Mental Health Hub have the case for assessment. The results or recommendations from the Mental Health Hub should be provided to the Channel Panel as per existing pathways.

MAPPA

It may not be appropriate for a case to continue through Channel due to involvement in other statutory support mechanisms *e.g. Multi-Agency Public Protection Arrangements (MAPPA)*. MAPPA is reserved for those who present the highest risk of harm in their community and they will always take primacy, although advice may be sought from the LACC and Police.

In some cases where MAPPA is providing a single agency management of offenders and additional concerns are identified in relation to radicalisation, liaison may take place between the agency managing the offender and the Channel Panel Chair to determine if this could be better managed in Channel.

Where an individual is no longer managed under MAPPA and/or subject to statutory supervision by the National Probation Service (NPS) and subsequently becomes vulnerable to being drawn into or attracted

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to terrorist-related activity, the individual should be assessed and considered for support under the Channel process. Where there has been previous contact with partner agencies, information should be sought from them to ensure the most effective support is put in place.

Prisoners

The use of Channel should be considered as one of the tactical options available to Prison staff in the secure estate when an offender is identified through the Pathfinder process as being of genuine concern as vulnerable to being drawn into terrorism.

In such circumstances the Regional Counter Terrorism Coordinator and/or Regional Probation Counter Terrorism Coordinator should provide the Prevent Officer with all relevant information who will ensure deconfliction checks take place. If suitable for Channel, the Prevent Officer can liaise with the LACC and where appropriate initiate contact with the individual of concern within the prison environment, including introducing them to a provider from the *Register of Approved Specialist Intervention Providers*. This is outlined in greater detail in the *NOMS/NCTPHQ Joint Protocol: December 2014 (See Useful Documents and Resources. Page 53-54)*

Police Responsibilities:

For the cases where the subject is resident in one of the Local Authority areas covered by the pilot, the police will be responsible for the following:

- Receipt of referrals from public and partners and ensuring that this is passed to the [REDACTED] for deconfliction.
- To Receive Prevent referrals from [REDACTED] and record these on the PCM tracker.
- To conduct initial enquiries to establish the nature of the referral and decide whether the subject requires multi-agency safeguarding support or requires police management under PCM.
- Where the referral requires multi-agency safeguarding support, to build a subject and referral record on CMISv2 and complete initial screening and assessment within 5 working days.
- To consider any travel risks associated with the individual and ensure appropriate markers are placed on watch lists as per the guidance contained with *NCTPHQ Guide to Watchlisting Individuals in Prevent Case Management*. o make a decision following information gathering by LACC as to whether the police hold a reasonable believe that the subject is vulnerable to radicalisation and make formal referral to Channel Panel.
- To attend Channel Panel as statutory partner and support as required. This support should be based around policing responsibilities. This will include responsibility for CT related risks and mitigation.
- To update local intelligence systems following case conclusion or ensure that intelligence is re-submitted to the [REDACTED] for [REDACTED] should the case no longer be appropriate to be managed within Channel.

The above list is not definitive. It should be noted that the objectives of Dovetail are to enable the management of the case by the Local Authority rather than the police. Therefore it is not envisaged that the police will be involved in many enquiries that they currently undertake. Where it is right and appropriate for the police to conduct enquiries or actions on behalf of the Channel Panel then this should continue, however the police should not be making enquiries on behalf of other agencies who are best placed to make them, e.g speaking to a student in a school. A common sense approach should be adopted and this will be a decision made by the Channel panel.

Local Authority Responsibilities:

The Office for Security and Counter Terrorism have produced guidance to Local Authorities for their roles and responsibilities during the pilot. See Appendix A.

The Local Authority will be responsible for the following:

- Receiving Channel Referrals from the police and building a case on CMISv2.
- Co-ordinating information gathering between partner agencies,
- Conducting an assessment as to the suitability of the case to proceed to panel,
- Notifying the police when a case is ready to proceed to panel for a decision to be made,
- Co-ordinating and administering Channel panels,
- Ensuring appropriate interventions are provided to reduce vulnerabilities,
- Closing cases and passing back to Police.

Appendix A - OSCT Local Authority Guidance for new Channel Pilot.

The OSCT Dovetail Guidance will be circulated as a separate document.

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