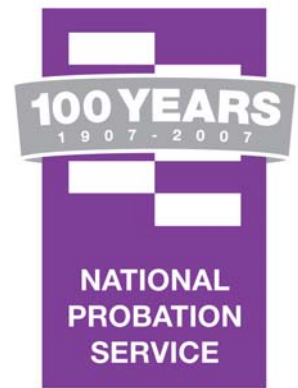


# Probation Circular



## PC11/2007 – DEPORTATION OF EUROPEAN ECONOMIC AREA (EEA) NATIONAL PRISONERS

**IMPLEMENTATION DATE:** 1 June 2007

**EXPIRY DATE:** May 2012

**TO:** Chairs of Probation Boards, Chief Officers of Probation, Secretaries of Probation Boards

**CC:** Board Treasurers, Regional Managers

**AUTHORISED BY:** Richard Mason, Head of Offender Assessment & Management Unit

**ATTACHED:** Annex A: Form EEA NOMS 1

Annex B: Guidance to Offender Managers,

Annex C: Guidance to CCD caseworkers

Annex D: Equality Impact Assessment Form

**RELEVANT PREVIOUS PROBATION CIRCULARS**

PC37/2006, PC 4/2006

**CONTACT FOR ENQUIRIES**

[Joe.Woods16@homeoffice.gsi.gov.uk](mailto:Joe.Woods16@homeoffice.gsi.gov.uk) or 020 7217 2240

### PURPOSE

To inform offender managers of a new duty to co-operate with the Criminal Casework Directorate of the Border and Immigration Agency (formerly the Immigration & Nationality Directorate) in assessing European Economic Area National prisoners for deportation from the UK.

### ACTION

For Probation Areas:

- To be aware of their responsibility in providing the Criminal Casework Directorate with information to help them to consider whether to pursue deportation of EEA National Prisoners, and for any subsequent Appeal hearing against deportation.
- To ensure that the contents of this circular are implemented from 1 June 2007.

### SUMMARY

Recent EU legislation (Citizens Directive 2004/38/EC) provides new criteria which enable EU member states to deport EEA Nationals following the commission of a criminal offence. To ensure that the Criminal Casework Directorate is able to proceed with deportation of those offenders who meet the criteria information is required from offender managers. This will address the EEA National prisoner's likelihood of re-conviction and the risk of serious harm. Such information, provided on form EEA NOMS 1, may also be used in any subsequent appeal against deportation at an Asylum & Immigration Tribunal hearing. This PC describes the process for the Criminal Casework Directorate to request information from offender managers and provides guidance on dealing with such requests.









## REQUEST FOR INFORMATION ON A EUROPEAN ECONOMIC AREA (EEA) PRISONER

<b>From:</b> Border and Immigration Agency (formerly Immigration & Nationality Directorate) - Criminal Casework Directorate	
Request Date	
CCD Caseworker	
Telephone	
E mail	

<b>To</b> Offender Manager;	
Address; OM Unit,	
Telephone	
E mail	
Request required by;	

The Criminal Casework Directorate (CCD) is considering whether to pursue the deportation, on release from custody, of the EEA National prisoner named over the page. The Offender Manager has an important role in providing CCD with additional information to assist their decision making.

- The Offender Manager will be informed by CCD of whether deportation proceedings are to be pursued.
- It is the responsibility of the Offender Manager to liaise with offender supervisors and other prison staff and Victim Liaison Officers, where appropriate, in completing this form.
- Guidance on completing this form is contained in Annex B of Probation Circular 11/07
- **To be completed by CCD:**  
Section 1; case reference details
- **To be completed by the Offender Manager:**  
Section 2; Information sources, offending & sentence type;  
Section 3; Risk of Harm  
Section 4; Likelihood of Re-Conviction  
Section 5; In absence of OASys, other available Risk of Harm & Likelihood of Re-Conviction information.  
Section 6; Summary of information
- If a recent OASys Assessment is not available Sections 3 & 4 cannot be completed but any relevant information should be provided in Section 5.

<b>Section 1 Reference details</b> To be completed by the CCD case officer	
<b>Prisoner's Last Name</b>	<b>Prisoner Forename(s)</b>
<b>IND Reference Number</b>	<b>PNC Reference Number</b>
<b>Date of Birth</b>	<b>Nationality</b>
<b>Prison Number</b>	<b>Prison</b>
<b>Legacy Case Reference Number</b>	<b>C-NOMIS Number</b>

**Section 2 Information; sources, offending and sentence type.**

To be completed by the Offender Manager

<p><b>2.1 Information Sources;</b></p> <p><b>Standard Delivery Report Prepared?</b></p> <p><b>Fast Delivery Report Prepared?</b></p> <p><b>No PSR prepared</b></p> <p><b>OASys completed;</b></p>	<p>Yes (Date )</p> <p>Yes (Date )</p> <p>Yes</p> <p>Yes (Date ) No</p>
<p><b>2.2 Conviction Details</b></p> <p><b>Does the prisoner have previous convictions:</b></p> <p><b>In the UK</b></p> <p><b>In other countries</b></p> <p><b>Is the prisoner:</b></p> <p><b>Extended Sentence for Public Protection (EPP)?</b></p> <p><b>Imprisonment for Public Protection (IPP) ?</b></p>	<p>Yes No Not Known</p> <p>Yes No Not Known</p> <p>Current Previous Never</p> <p>Current Previous Never</p>
<p><b>2.3 Is the EEA national a MAPPA nominal</b></p> <p><b>If it has been set, what is the MAPPA (management) level</b></p>	<p>Yes No</p> <p>1 2 3</p>

**Section 3 Assessment of Risk of Serious Harm; this information should be taken from the most recent OASys assessment/review**

To be completed by the Offender Manager

Please include here;

a) The level of Risk of Serious Harm;

Low    Medium    High    Very High

b) What are the Risk factors?

c) Details of who is at risk?

d) any other risk information which will be relevant to CCD;

**Section 4** Likelihood of Re-conviction; this information should be taken from the most recent OASys assessment / review

To be completed by the Offender Manager

4.1 Offending information;

4.2 Accommodation;

4.3 Education, training and employability;

4.4 Drug/Alcohol misuse;

4.5 Lifestyle & Associates;

4.6 Include here details of any other significant information from OASys Sections 1-13;

4.7 Date OASys assessment completed/reviewed (dd/mm/yyyy)

4.8 Assessment of likelihood of reconviction – OASys score (max=168);.....

Low (0-40)    Medium (41-99)    High (100-168)

**Section 5**

To be completed in the absence of an OASys assessment;

To be completed by the Offender Manager

**5.1 If a full OASys assessment has not been completed, please state why and indicate when & by whom it will be completed;**

**5.2 Please provide information regarding the risk of serious harm and very serious harm to others; please state evidence.**

**5.3 Please use any other information available to you, including OGRS (Offender Group Re-Conviction Score) + Pre-Sentence Report to comment on the likelihood of reconviction**

**Section 6. Summary of information available from the Offender Manager;**

**6.1 OGRS(Offender Group Re-Conviction Score) - %**

**6.2 From OASys: Likelihood Of Reconviction**

**Low                      Medium                      High**

**6.3 Risk of Serious Harm/Very Serious Harm to others**

**Low                      Medium                      High                      V High**

**6.4 Multi-Agency Public Protection Arrangements**

**MAPPA                      Yes                      No**  
**Nominal Case?**

**If yes, MAPPA                      Level1                      Level2                      Level3**  
**level**

## Guidance to Offender Managers on completion of form EEA NOMS 1

1. The purpose of the form is to provide information to the CCD on EEA National prisoners who could be subject to deportation. This will be used by CCD to target their resources on EEA prisoners where it seems likely that deportation can be effected. The offender manager is not required to make a recommendation on deportation; this is a matter for the CCD. However, offender managers have an important contribution to make through their professional assessment of the offender's "propensity to re-offend" which is a key concept in deciding whether deportation should be pursued.
2. Citizens Directive 2004/38/ EC underpins current policy and provides considerable protection for EEA nationals when they have been resident in an EU Member State for a lengthy period and have achieved a degree of cultural and social integration. It specifies that previous criminal convictions shall not, in themselves, constitute grounds for expulsion and that the EEA National's personal conduct must present a 'genuine, present and sufficiently serious threat affecting one of the fundamental interests of society' for deportation to be warranted.
3. In some cases offender managers will have had little contact with the offender, and offender supervisors and other prison staff may be better placed to provide the required information. In such cases the offender manager retains overall responsibility for completing and returning the pro-forma to CCD within the timescale specified. The information provided in response to requests from CCD should represent an objective assessment of the risk posed by the offender and should not be influenced by the perceived likelihood or otherwise of deportation action.
4. Much of the required information can be drawn from an OASys assessment, if one has been completed.
5. The CCD will be considering an individual's 'propensity to re-offend', a concept which includes both the likelihood of reconviction and the risk of causing serious harm. Therefore information both from sections 1-13 and the Risk of Serious Harm section in OASys should be included. Propensity to re-offend is similar in meaning to likelihood of re-conviction. A key aspect is whether the offender is likely to repeat the offence(s) of which they have been convicted. The Asylum & Immigration Tribunals (AITs) which hear appeals against deportation have stated that, "...Removal of an EEA National is not based on past conduct **but on future risk...**" Case law made by the AITs will further clarify the circumstances in which EEA Nationals can be deported.
6. **Sections 1 (Reference Details) and 2 (Information, sources offending & sentence type)**, should be completed in all cases by the CCD caseworker and by the offender manager respectively. Where it is known that there are previous convictions from jurisdictions outside the UK this information should be recorded in Section 2.2.
7. **Sections 3 (Assessment of Risk of Harm) and 4 (Likelihood of Re-Conviction)** draw upon the most recent OASys assessment and these sections

should only be completed if an OASys has been prepared. **Section 4** asks the offender manager to comment on a number of factors drawn from OASys sections 1-13 which have particular relevance in considering whether to proceed with deportation.

8. **Section 5 should only be completed where there is no OASys assessment** and Sections 3 & 4 cannot, therefore, be completed. Please provide as much information as possible here, detailing the source of the information such as a Risk of Harm screening and Pre-Sentence Report.
9. **Section 6** is a summary of Likelihood of Reconviction and Risk of Serious Harm to others. Please note that this summary should be used in conjunction with the responses to earlier sections of the pro-forma. Where no OASys has been completed the offender manager may be unable to complete this summary.
10. It is not expected that the prisoner will be specifically interviewed for the completion of this form. It will be sufficient to rely on any report or collateral information available, including any information which has emerged since sentence on the offender's behaviour either in custody or previously in the community.
11. The completed form should be returned to the CCD caseworker within the period specified, preferably by e-mail (or fax), with copies to be kept on file. For monitoring purposes the completed form should also be copied to the Probation Area's FNP Single Point of Contact. The offender manager will be informed of a decision to proceed with deportation by the CCD but should not assume that deportation will necessarily be the outcome. Appeal hearings at Asylum & Immigration Tribunals (AITs) can overturn the CCD's deportation decisions and offender managers should proceed with managing such cases without making assumptions as to the final determination of CCD or AITs.

**Guidance to CCD Staff on requesting information from Offender Managers on EEA National prisoners, (form EEA NOMS 1.)**

1. Form EEA NOMS 1 is designed to provide you with information to assist you in making your decision as to whether deportation proceedings should be initiated on an EEA National prisoner. You should email your EEA NOMS 1 request to the probation service offender manager responsible for the case. Requests should also be copied to the Foreign National Prisoner Single Point Of contact (SPOC) for that Probation Area. The Discipline Office in the prison where the EEA National is held should assist you in identifying which offender manager you should send your request to. If you have difficulties in locating an offender manager the FNP SPOC for that Probation Area should be contacted for assistance.
2. The EEA NOMS1 form will be completed by the offender manager in conjunction, where appropriate, with the offender supervisor and other prison staff. While it may be the case with some EEA National Prisoners that the prison staff have had greater contact with the prisoner, it is the responsibility of the offender manager to co-ordinate the completion and return of the pro-forma. A form completed early in the sentence may have limited information if no Pre-Sentence Report or OASys (see below) has been prepared.
3. The term '**propensity to re-offend**' is not used by offender managers/supervisors or other prison staff. Instead, they consider **likelihood of re-conviction** and the **risk of serious harm** the offender poses. These are assessed through OASys (Offender Assessment System), which is usually completed before, or shortly after, an offender receives a custodial sentence.  
The offender will have an **OASys score** (0 to 168, categorised as low (0-40), medium (41-99) & high (100-168)) which indicates **the likelihood of re-conviction** and of **risk of serious harm to others**. The risk of serious harm to others is categorised as **low, medium, high, or very high**.  
CCD caseworkers should use this information together in examining an EEA National's "propensity to re-offend" when considering whether to proceed with deportation.
4. **Section 1 (Reference details)**; will be completed by the CCD case officer and gives basic details about the prisoner. This should be the same as provided to CCD by the prison on form CCD 2.
5. **Section 2 (Information; sources, offending & sentence type)**; tells you what information has been used to complete the form and will give you an indication of how comprehensive it is likely to be. A **Standard Delivery Report** is prepared by an offender manager during a court adjournment, usually of 3 weeks, so is likely to contain a lot of information about an offender. It will be prepared after a full OASys assessment has been completed. A **Fast Delivery Report** is prepared within 5 working days of sentence so will be less detailed and will not be informed by an OASys assessment. Sometimes an offender is sentenced without any form of pre-sentence report at all. Where an OASys assessment has not been completed pre-sentence, it may be that neither is it completed sufficiently soon after sentence to be available when the CCD request the offender manager to complete an EEA NOMS 1. In such a case the offender manager will base their response on the pre-sentence report (if prepared) and any other information received before or after sentence. Given that risk levels can change over time, it is important to note the date on which an OASys was prepared.

6. **Multi-agency Public Protection Arrangements (MAPPA)**. Prison staff will, within a few weeks of sentence, be able to initially determine whether a prisoner is a 'MAPPA nominal'. This will be based on whether the current offence is one of 12 months or more and is for a sex or violence offence. Previous offences can also contribute to this determination. If a prisoner is assessed as a MAPPA nominal it means that towards the end of the custodial part of the sentence, the prisoner will be discussed at a multi-agency public protection meeting (comprising representatives from the Police, Probation, Social Services, Prison, Housing, Health and any other relevant agencies) local to their release address. MAPPA is a process to manage the risk of harm the offender poses in the community. There are three MAPPA levels, which indicate how they will be managed in the community – Level 3 is managed through a meeting of Agency Senior Managers, Level 2 is managed by an inter agency meeting of practitioners chaired by a manager and Level 1 is single agency supervision

7. **Section 3 (Assessment of Risk of Serious Harm)** deals with whether a prisoner is likely to **cause serious harm to others**. It breaks down the risk of serious harm to those in the community into three categories:

- **Risk to Children:** This would normally apply to an offender who has physically, emotionally or sexually abused a child, who may be known to them or not, and is assessed as likely to abuse the same child or other children in the future.
- **Risk to Public:** This indicates an offender who presents a threat to the public at large and will have already shown violent behaviour towards people known or unknown to them.
- **Risk to known adult:** This refers to an offender who has been physically, sexually or psychologically violent to another adult in very specific circumstances which lead the assessor to conclude that they continue to present a threat to that person but not to the general public.

In each category, the level of risk of serious harm is assessed to be:

- **Very High-** there is an imminent risk of serious harm. The potential event is more likely than not to happen imminently and the impact would be serious.
- **High** – there are identifiable indicators of risk of serious harm. The potential event could happen at any time and the impact would be serious.
- **Medium** – there are identifiable indicators of risk of serious harm. The offender has the potential to cause serious harm but is unlikely to do so unless there is a change in circumstances for example, failure to take medication, loss of accommodation, relationship breakdown, drug or alcohol misuse.
- **Low** – current evidence does not indicate likelihood of causing serious harm.

A distinction is also made between whether the offender presents this risk of harm:

- **In the community**
- **In custody**

Some offenders, for example, might be at risk of harming others through violence in the community but are compliant within prison. Others continue to present a risk of violence whilst in custody.

8. **Section 4 (Likelihood of Re-Conviction)** asks the offender manager to provide information which will specifically assist CCD staff in reaching judgements against the criteria in the Directive. The OASys score is an overall indication of whether the offender's likelihood of re-conviction is:

- **Low:** 0 – 40
- **Medium:** 41 – 99
- **High:** 100 – 168

OASys scores are included so that it can be seen when cases are borderline. It is important to remember that this covers all types of offences from the petty to the very serious and also to bear in mind that this is not a scientific prediction but is rooted in the assessor's professional judgement.

9. **Section 5** will only be completed if no OASys assessment has been prepared. In this section offender manager is asked to give known information about **likelihood of re-conviction** and **risk of serious harm to others**. However, they are likely to have less detail available than when an OASys has been prepared. It refers to a **Risk of Serious Harm Screening** which is completed before a full OASys has been undertaken, to indicate whether the offender might present a risk of serious harm to the public.
10. **Section 6** is a summary matrix of the contents of the whole report. Where no OASys has been completed, the offender manager may be unable to complete this summary. OGRS (Offender Group Reconviction Scale) is a statistical measure of an individual's likelihood of re-conviction within a 2 year period, measured as a percentage.
11. **Contact with offender managers;** on receipt of form EEA NOMS 1 should you need clarification or additional information you should contact the completing offender manager. It is important that you keep the offender manager informed of whether you are going to proceed with deportation and if so, the outcome of those proceedings and any subsequent Asylum & Immigration Tribunal hearings. You are requested to copy to Foreign National Prisoner SPOCs all requests to offender managers for completion of form EEA NOMS 1. This is for monitoring purposes.
12. **Appeals against deportation at Asylum & Immigration Tribunals;** CCD case officers should request updated information from Offender Managers, on form EEA NOMS 1, to have available sufficiently up to date risk information. Information contained on EEA NOMS 1 is likely to change during the course of a prisoner's sentence, therefore the information contained in an EEA NOMS 1 form completed soon after sentence will often differ from that available towards the end of sentence when appeals may be considered.

## A. INITIAL SCREENING

### 1. Title of function, policy or practice (including common practice)

*Is this a new policy under development or an existing one?*

PC11/2007 Deportation of European Economic Area National Prisoners

The Circular introduces a framework for the communication of information on risk of serious harm and likelihood of re-conviction from Offender Managers in Probation Areas to caseworkers in the Border [Adrian – is it Border or Borders?] and Immigration Agency's Criminal Casework Directorate (CCD). The information will be used to assist CCD to make decisions regarding the possible deportation of EEA Nationals.

### 2. Aims, purpose and outcomes of function, policy or practice

*What is the function, policy or practice addressing? What operational work or employment/HR activities are covered? What outcomes are expected?*

The Circular informs Offender Managers of a new duty to co-operate with CCD caseworkers assessing European Economic Area (EEA) national prisoners for deportation from the UK. It sets out that under a recent EU Directive (2004/38/EC), CCD are required to show that an EEA national's conduct represents a 'present, genuine and sufficiently serious threat' to society to justify deportation. From this, the circular outlines the importance to CCD caseworkers of information on 'propensity to re-offend' and provides a proforma which CCD caseworkers will use to request information on risk of serious harm and likelihood of re-conviction – based, where possible, on information from the Offender Assessment System (OASys) – from Offender Managers.

### 3. Target groups

*Who is the policy aimed at? Which specific groups are likely to be affected by its implementation? This could be staff, service users, partners, contractors.*

European Economic Area (EEA) nationals who offend and are imprisoned in England and Wales.

*For each equality target group, think about possible positive or negative impact, benefits or disadvantages, and if negative impact is this at a high medium or low level. Give reasons for your assessment. This could be existing knowledge or monitoring, national research, through talking to the groups concerned, etc. If there is possible negative impact a full impact assessment is needed. The high, medium or*

*low impact will indicate level of priority to give the full assessment. Please use the table below to do this.*

Equality target group	Positive impact – could benefit	Negative impact - could disadvantage (High, medium, low)	Reason for assessment and explanation of possible impact
Women	✓	L	<p><b>Potentially positive impact</b>                      The outlined process provides for greater consistency in the level and type of information, on risk of serious harm and likelihood of re-conviction, available to CCD caseworkers to enable them to make decisions on in which cases to proceed with deportation.</p> <p>The information provided by Offender Managers to CCD will be taken from OASys assessments, where available. OASys provides an individualised assessment of an offender based on a thorough analysis of his or her needs and of the risks he or she poses. Staff completing OASys cannot simply tick boxes but are required to explain the conclusions they have drawn, citing evidence for those conclusions. This is an important safeguard. The OASys assessment provides a strong evidence-based assessment system, which is used by an Offender Manager to develop an assessment and sentence plan for an individual offender.</p> <p><b>Potentially negative impact</b>                      Deportation of women offenders in particular has the potential to disrupt families, although EU Directive 2004/38/EC sets out family situation as one of the factors which Member States must consider before</p>

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			<p>proceeding with deportation against an EEA national.</p> <p>Probation Areas must already ensure that OASys assessments allow for adequate exploration of diversity issues. Where the pro-forma, EEA NOMS 1, is completed in the absence of an OASys assessment offender managers should be proactive in identifying, and sensitive to, potential discriminatory issues. Probation Areas should ensure that Offender Management practice and the quality of assessment are not compromised.</p>
Men	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> Probation Areas must already ensure that OASys assessments allow for adequate exploration of diversity issues. Where the pro-forma, EEA NOMS 1, is completed in the absence of an OASys assessment offender managers should be proactive in identifying, and sensitive to, potential discriminatory issues. Probation Areas should ensure that Offender Management practice and the quality of assessment are not compromised.</p>
Asian/Asian British people	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Black/Black British people	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and</p>

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			<p>individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Chinese people or other groups	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
People of mixed race	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
White people (including Irish people)	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Travellers or Gypsies	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Disabled people	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through</p>

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			<p>OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Lesbians, gay men and bisexual people	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Transgender people	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Older people over 60	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Young people (17-25) and children	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through OASys.</p> <p><b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues</p>
Faith groups	✓	L	<p><b>Positive:</b> As above, re: consistency in level and type of information, and individualised assessment through</p>

			OASys.  <b>Negative:</b> As above, re: allowing for adequate exploration of diversity issues
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**4. Further research/questions to answer**

As a result of the above, indicate what questions might need to be answered in the full impact assessment and what additional research or evidence might be needed to do this.

**Initial screening done by:**

Name/position Adrian Russell, NOMS Offender Assessment & Management Unit  
Date 30/03/2007

## B. PLANNING A FULL IMPACT ASSESSMENT

### 1. Title of function, policy or practice (including common practice)

*Is this a new policy under development or an existing one?*

PC11/2007 – Deportation of European Economic Area (EEA) National Prisoners

The Circular introduces a framework for the communication of information on risk of serious harm and likelihood of re-conviction from Offender Managers in Probation Areas to caseworkers in the Border and Immigration Agency's Criminal Casework Directorate (CCD). The information will be used to assist CCD to make decisions regarding the possible deportation of EEA Nationals.

### 2. Aims, purpose and outcomes of function, policy or practice

*What is the function, policy or practice addressing? What operational work or employment/HR activities are covered? What outcomes are expected?*

The Circular informs Offender Managers of a new duty to co-operate with CCD caseworkers in assessing European Economic Area (EEA) national prisoners for deportation from the UK. It sets out that under a recent EU Directive (2004/38/EC), CCD are required to show that an EEA national's conduct represents a 'present, genuine and sufficiently serious threat' to society to justify deportation. From this, the circular outlines the importance to CCD caseworkers of information on 'propensity to re-offend' and provides a proforma which CCD caseworkers will use to request information on risk of serious harm and likelihood of re-conviction – based, where possible, on information from the Offender Assessment System (OASys) – from Offender Managers.

### 3. Target groups

*Who is the policy aimed at? Which specific groups are likely to be affected by its implementation? Use the initial screening to summarise potential adverse impact on each group as identified above and the reasons given. What knowledge and information do you already have, what further research or evidence should be collected in the full impact assessment?*

- √ Gender
- √ Race
- √ Disability
- √ Sexual orientation/transgender
- √ Age
- √ Faith

The new guidance has the potential to apply to any EEA national in prison.

#### 4. Impact assessment process

*Which staff will conduct the IA? (e.g. Board members, senior managers, policy leads, or a team of staff.)*

Laura Fairweather – Head of OASys Team

Janet Corcoran – OASys Operational Manager

Adrian Russell – OAMU Business Co-ordination Manager

Nick Hammond – FNP lead

*Will you include external advice from community groups or individuals?*

Yes, we will seek advice from the relevant Staff Associations.

*How will the IA be approved and integrated into senior management processes?*

In local probation Areas via training and development in offender assessment and report writing. Staff will be monitored by local Supervision and Appraisal systems. OASys Assessments are monitored by the OASys Quality Management Plan (QMP) which includes sampling and bench marking exercises.

*What is the role of the diversity manager?*

To advise as the Impact Assessment is undertaken.

#### 5. Consultation

*Give details of any planned internal staff and external community consultation and engagement.*

*Who will be consulted, how will it be done, when, what are the aims of the consultation, what will be done with the results?*

*Are a diverse range of staff, service users and stakeholders consulted?*

*How will the impact assessment process be publicised to give as many people as possible an opportunity to take part?*

The new guidance and process will be reviewed within the next 9 months. We will undertake a monitoring exercise with both Probation Service Areas and the CCD. A consultation meeting will be scheduled with a wide range of stakeholders in order to assess the positive and negative aspects of the processes.

The policy will be amended as necessary to take account of diversity issues that are raised. The review may indicate the need to consult with other local organisations that work with EEA nationals – Refugee Councils.

## C. CONDUCTING THE IMPACT ASSESSMENT

### 6. Q & A: Effect of function, policy or practice

*What questions were identified in the initial screening above?*

The Initial Screening identified both positive and negative effects. There is not current evidence or monitoring that can be used at this stage.

*What other aspects of the way this policy is, or might be, implemented, should be explored?*

None.

*Are there any points within the policy as it stands where the potential exists for negative impact on staff or service users or stakeholders across all groups?*

None – the guidance formalises and gives a framework for what were previously adhoc requests from CCD for information.

*Is there any existing evidence to show that adverse impact on any racial group has occurred previously in this area, if so what?*

No current evidence is available.

*If not what evidence will you need to collect to assess the impact? (This might be monitoring, evidence from staff networks, evidence from service users, surveys, interviews, focus groups, wider consultation, research at national or area level on impact of similar policies or functions, etc.)*

We will collect numbers and samples of communication from each local probation areas and from CCD/IND.

*How can you be sure you have fully understood potential for adverse impact? Have relevant community members been engaged at all stages in identifying questions to ask, areas of concern?*

*What level of community consultation and engagement has taken place during the impact assessment? What were the results?*

It is not possible to be sure of the impact at this stage. Understanding will increase as the policy is implemented and monitored.

*Overall, how does the policy promote equality, eliminate discrimination and promote good relations?*

It promotes equality by using, where available, the individual assessment data contained in OASys assessments. It makes it clear to Probation Areas that the decision to deport EEA nationals is made by the CCD.

## **7. Assessment of evidence and action on results**

*What conclusions can be drawn from the consultation and the evidence collection?*

None at present.

*Support the conclusions by reference to the outcomes of consultation and evidence collection.*

None at present.

*Is there is a need to change amend or withdraw the policy or practice?*

Not at present

*In what ways will be policy promote good relations, promote equality and eliminate discrimination? Does it need amending to reflect this?*

Operationalisation of the policy will be at local Probation Area level. Probation Area policy and practice for work with offenders embraces equality of opportunity and the elimination of discrimination.

*If so, what action is needed, by when and who is responsible?*

No further action at present.

## D. FOLLOW UP TO IMPACT ASSESSMENT

### 8. Monitoring and management

*How will the policy be monitored to measure the impact of it on the target groups?*

A review will take place within 9 months to assess the impact on Probation Area resources and the quality and fairness of information provided to CCD

*Are monitoring arrangements adequate to measure the impact of the policy in relation to on all groups?*

*Race*

*Gender*

*Disability*

*Sexual orientation/transgender*

*Faith*

*Age*

Monitoring information is available for the groups described above apart from Sexual Orientation and Faith. This information is not currently collected. Further work is needed to make use of the data that will be available and to draw meaningful conclusions from it.

*What management structures are in place to ensure effective implementation of the function, policy or practice?*

The NOMS OAMU will undertake a review.

### 9. Publishing the results

*How will you publish the results of the IA and any subsequent monitoring to measure progress?*

*In what formats, aimed at which audiences? If the information accessible to those who need it?*

The results will be published on EPIC.

*How will feedback be given to those involved in consultation?*

Feedback to consultees will be given along with a revised policy as necessary.

**10. Approval and review**

*Who will give final approval of the impact assessment of the policy or function?*

Richard Mason – Head of OAMU

*How often will it be reviewed in future – by when and by whom?*

Further arrangements for review will be considered after the initial 9 month review of the new arrangements has taken place.

Final approval by \_\_\_\_\_ (name)

Date of completed IA and approval \_\_\_\_\_

