



**HM Inspectorate
of Probation**

**An Independent Review
of a Serious Further Offence case:**

Anthony Rice

May 2006

Foreword

In October 2005 Anthony Rice was convicted of the murder of Naomi Bryant on 17th August 2005, at a time when he was being supervised on a Life Licence by Hampshire Probation Area. A number of other agencies had been working jointly with the Probation Service on this case through the Hampshire MAPPA (Multi-agency Public Protection Arrangements).

It is very much to the credit of the Hampshire MAPPA authorities that they took the initiative to approach this Inspectorate direct to request an independent review of this case. Furthermore they readily accepted that our report would, as ever, be published so that it could lead to lessons being learned by all the relevant responsible authorities involved.

Accordingly we set out in Chapter 1 our Principal Findings and our Key Recommendations. Then the main body of the report leads to the Analysis and Practice Recommendations in Chapter 10, and the Conclusion in Chapter 11, which includes an additional Final Recommendation.

A key theme that becomes apparent throughout this report is that although managing offenders from start to end of their sentence is in many ways a science it is not an exact science. With this genuinely very difficult case people at all stages in processing the case took their responsibilities seriously, and conscientiously made decisions and acted accordingly. However, we have found a number of deficiencies, in the form of mistakes, misjudgements and miscommunications at various stages throughout the whole process of this case that amount to what we call a cumulative failure, leading to lessons for the design and implementation of offender management more widely. In particular, the human rights aspect is posing increasing levels of challenge to those charged with delivering effective public protection.

As ever, we put all these in the wider context of the continuing changes for, and rising expectations on, the National Probation Service and other responsible authorities. When dealing with such a difficult case as this one, managing *Risk of Harm* effectively is extremely hard to get right, as we have found here.

Having previously moved on from its original remit “To advise, assist and befriend” offenders, the Probation Service’s new purpose is to “Punish, Help, Change and Control” offenders within a new broader National Offender Management Service. This consolidates the other changes in recent years, such as the confirmation of a clear role to work with others in helping to protect the public through the effective management of *Risk of Harm* – the “Control” purpose. The Parole Board’s decisions are also under increasing public scrutiny, and accordingly our Final Recommendation suggests a major appraisal of current policy and practice in relation to the release of prisoners from indeterminate sentences.

Everyone owes it to victims and the public generally to ensure that from the hideous murder of Naomi Bryant, and the loss to her family and friends, that these lessons are learned about how to manage offenders more effectively from the start to the end of their (sometimes very long) sentences.

Andrew Bridges
HM Chief Inspector of Probation

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1. Principal Findings and Key Recommendations

Principal Finding 1: A cumulative failure

- 1.1.1 As we have said in previous reports, when an offender is being supervised in the community it is simply not possible to eliminate risk altogether. It is also impossible to eliminate risk from Parole Board decisions. But, as we have also said, the public is entitled to expect the authorities to do their job properly, i.e. to take all reasonable action to keep risk to a minimum.
- 1.1.2 Although managing offenders from start to end of their sentence is in many ways a science it is not an exact science. When dealing with a genuinely very difficult case such as this one, offender management is extremely hard to get right, and it can of course be easy for us to exercise the judgement of hindsight when looking at a case that has gone badly wrong. Accordingly we have been careful with our Findings and Recommendations. Nevertheless we find evidence to conclude that on balance Anthony Rice should not have been released on Life Licence in the first place, and once he had been released he could and should have been better managed.
- 1.1.3 This Principal Finding arises from our analysis of a complex picture where a sequence of deficiencies in the form of mistakes, misjudgements and miscommunications at all three phases of the whole process of this case had a compounding effect so that they came to amount to what we call a *cumulative failure*.
- 1.1.4 The issue that emerges from taking an overview of the whole process is that of *lead responsibility* for the case. We found it was often not clear who was 'in charge of the case' and that there were (often inevitably) transfers of key responsibilities from one person to another. We call these *diffusion* of and *discontinuities* in, *lead responsibility for the case*, and we consider that these were key contributing factors to the cumulative failure. In that sense the cumulative failure relates partly to some of the individuals and partly to the system in which they worked.
- 1.1.5 In our view it would have been a significant benefit in this case to have had someone designated to exercise *lead responsibility* for managing the case throughout the custodial period, through release and into the community. We also recognise that logistically this is very difficult to achieve, especially with people serving Life and other indeterminate sentences. Furthermore it would be essential that this role would have to be carried out to a very high standard.

Key Recommendation 1:

- *The National Offender Management Service should, within the future arrangements for managing all sentenced offenders, give special consideration as to how to provide effective start-to-end offender management for each indeterminately sentenced prisoner.*

Principal Finding 2: Management of the sentence while in custody

- 1.2.1 There was an enormous investment into the assessment and treatment of this very difficult case throughout his time in prison, and any decisions made were necessarily finely balanced ones. But it was a major mistake to fail to bring forward the file from Anthony Rice's previous prison sentence, which would have shown that he was a former offender against girls as well as against adult women.
- 1.2.2 This was in turn a contributing factor in the assessment made in 2001 that Anthony Rice was ready to move straight from a Category B prison to Category D (open prison) conditions – in our opinion a misjudgement based on insufficient evidence in favour of doing so.
- 1.2.3 In this and in other key decision points in the process it is possible that an independent assessment, by someone not involved in working closely with the prisoner delivering treatment, might have weighed the available evidence differently.

Key Recommendation 2:

- *At the key decision-making points¹ in a prisoner's sentence there should be a separate assessment of the prisoner that is independent of the treatment and which takes into account all available evidence.*

Principal Finding 3: Management of release on Licence

- 1.3.1 Based on the reports received about the progress that he had made during his sentence and his proposed resettlement plan, the Parole Board made a final decision in 2004 that Anthony Rice, who was five years past his 'tariff date', was safe to release. We consider that in doing so they gave insufficient weight to the underlying nature of his *Risk of Harm* to others, and we think this happened for a combination of reasons:
- They did not have full knowledge of his past offending behaviour, in particular that he had been an offender against children.
 - They received cautiously encouraging but ultimately over-optimistic reports of Anthony Rice's progress under treatment
 - Their own earlier decision in 2001 to transfer him to open prison conditions in our view set in motion a momentum towards release. As we see it that Parole Board decision created in this case a set of expectations that release had now become a matter of 'when' not 'if'. (We believe it has a similar effect in other 'Lifer' cases.)
 - It was also from 2001 that in our view the people managing this case started to allow its public protection considerations to be undermined by its human rights considerations, as these required increasing attention from all involved, especially as the prisoner was legally represented.
- 1.3.2 A crucial dimension to our finding is that the 2001 decision was in a sense the key decision that made the eventual release decision more

¹ The key decision-making points are the decision to move to open prison conditions and the decision to release on temporary licence (ROTL), as well as the decision about final release on Licence.

likely, because the momentum towards release started from that point. Accordingly in this report we treat the entire period of open prison conditions as being part of the 'release decision' phase rather than the 'period in custody' phase of the case.

- 1.3.3 Hence we find a problematic ambiguity in the role of the open prison conditions phase for a life-sentenced prisoner that we believe needs to be addressed. In theory the idea is that a spell in open prison conditions provides an opportunity for the prisoner to be tested both on what he has learned from his treatment and on how he consequently behaves – leading to a final decision about his release. We understand and certainly support this principle. But we consider that in practice the expectation by the prisoner is often significantly different from this: *You are now in the last phase before release, and unless you blow it completely you will be out before long.*
- 1.3.4 We certainly support the positive use of open prison conditions as part of a phased programme leading to release, and we also think that it is right that the decision to make this move should be a Parole Board decision. But we believe that consequent expectations about open conditions need clarifying with all involved, including confirming that there will be a clear priority focus on giving proper weight to the nature of the *Risk of Harm* to others still posed by the prisoner. We appreciate that this would be difficult to establish, raising questions for example about how best to handle prisoners whose release plans get 'stalled' while in open prison conditions.
- 1.3.5 This whole process is additionally complicated by the human rights considerations in each case which have grown in importance following a series of Court judgements. Prisoners are now legally represented at Parole Board hearings, often by counsel, who also have recourse to judicial review. It is a challenging task for people who are charged with managing offenders effectively to ensure that public protection considerations are not undermined by the human rights considerations.

Key Recommendation 3:

- *In recognition of the significance of the move to open prison conditions, the way in which indeterminate sentenced prisoners are managed during their period there should be reviewed in order to ensure that expectations by all involved are clearly giving priority to public protection.*

Principal Finding 4: Management of Life Licence after release

- 1.4.1 We have identified a number of mistakes, misjudgements and miscommunications that we attribute to a series of assumptions made by the different agencies involved, and exacerbated by the issues around the changes of supervising Probation Officer at and after release. The MAPPA (Multi-agency Public Protection Arrangements) panel handling the case allowed its attention to the public protection considerations of this case to be undermined by its human rights considerations.

Key Recommendation 4:

- *When managing a High Risk of Harm offender in the community, although proper attention should be given to the human rights issues, the relevant authorities involved should maintain in practice a top priority focus on the public protection requirements of the case. This means making good use of the very good guidance and training materials available for MAPPA, including in particular the advice to pursue an ‘investigative’ approach at all times.*

A note on the structure of this report:

In Chapters 2 - 6 we outline the purpose and context of this independent review, including the terms of reference, the background and the legal and professional context.

Chapters 7, 8 & 9 cover the three phases of Rice’s sentence in turn: management while in custody, management of the release decision including the whole period in open prison conditions, and management of the Licence after release.

Chapter 10 analyses the themes emerging from each of those three phases, offering also our practice Recommendations, while our Conclusion addresses emerging long-term implications for Offender Management as we see them.

A note on language:

In the rapidly changing world of the Probation Service and related organisations, many terms have been undergoing at least one change of name. We summarise here some of the Probation-related terminology we use; there is a much fuller Glossary at the end.

When we say:

home Probation Officer

seconded Probation Officer

supervising Probation Officer

Offender manager

Senior Probation Officer

We are referring to:

the Probation Officer working in the offender’s home area during the custodial phase

the Probation Officer working in the prison establishment (i.e. seconded to work with HM Prison Service)

the Probation Officer exercising *lead responsibility* for managing this specific offender’s post-release Licence in this case

The officer exercising *lead responsibility* for managing a specific case as this role is currently expected to evolve in the future.

A first-line manager, in many instances one who manages a team of Probation Officers.

For transparency we have often used ‘plain English’ instead of the official term: e.g. sometimes ‘Lifer’ for life-sentenced prisoner, or ‘hostel’ in preference to ‘Approved Premises’. However, it is important to note that the status of Langley House Trust hostels such as Elderfield is different from that of the Approved Premises, ‘approved’ by the Home Secretary.

For the sake of simplicity, we have referred throughout to ‘Parole Board meetings’ and ‘MAPPA meetings’ even when referring to specific panels of those bodies that assemble for the purpose of considering or managing specific cases.

2. Outline of events leading to this independent review

- 2.1 On the 17th August 2005, a 40 year old woman, Naomi Bryant was sadistically murdered at her home address in Winchester, Hampshire. Anthony Rice was arrested on 19th August 2005 and the following day was charged with the murder.
- 2.2 Anthony Rice had been released from prison on 12th November 2004. He was serving a Life Sentence, which he had received in 1989 for an attempted rape. He was subject to life licence supervision, and was being jointly managed by Hampshire Police and Hampshire Probation Area under the Multi Agency Public Protection Arrangements (MAPPA). He was living at Elderfield, Otterbourne, Winchester. This is a Residential Training and Rehabilitation Centre run by a registered charity, the Langley House Trust.
- 2.3 On 28th October 2005, Anthony Rice was convicted of the murder and of a further offence of wounding, a serious physical assault on a lone woman. The latter had been committed on 24th April 2005 but was initially undetected. He was sentenced on both counts to life imprisonment with a 25 year tariff. He had already been recalled to prison under the terms of his Life licence.

3. Terms of Reference

- 3.1 Following Anthony Rice's conviction, HMI Probation undertook to provide an independent review of the case. Hampshire Probation Area, Hampshire Police and Langley House Trust had already completed internal reviews, and it is to their credit that they requested an external overview of the management of the case, in the full knowledge that this would be a publicly available document. All staff and managers interviewed co-operated fully and openly with the enquiries.
- 3.2 The terms of reference were agreed on 11th December and were as follows:
- To enquire into the arrangements made for the supervision of Anthony Rice between the period 12th November 2004 and 17th August 2005
 - To advise on the suitability of arrangements made in preparing Anthony Rice for release from prison on life licence
 - To assess the effectiveness of the MAPPA procedures as applied in this case, including communication between the Supervising Officer, members of the MAPPA risk management meeting and staff at Elderfield hostel, Langley House Trust.
 - To set out any wider issues to be learned from the management of this case.

4. Sources of information

- 4.1 Interviews were undertaken with staff and managers from Hampshire Probation Area, Hampshire Police, Elderfield hostel, London Probation Area and HM Prison Leyhill. Mr Rice's solicitor was provided with an opportunity to comment, for which he sought permission from his client.
- 4.2 We examined the following records:
- Hampshire Probation Area case files
 - Hampshire Police intelligence reports
 - Elderfield case files and contact logs
 - London Probation Area case files
 - Records from MAPPA meetings held in Hampshire and elsewhere
 - Prison case files dating back to the early 1980s
 - The Parole dossier
 - Papers held by the Home Office's Lifer Review and Recall Section
 - Hampshire and Isle of Wight Multi Agency Public Protection Arrangements Protocol (fourth edition, 2003)
 - MAPPA policy and guidance for probation staff in Hampshire Probation Area
 - Information about Elderfield Training and Rehabilitation Centre and Langley House Trust.
- 4.3 We had access to the internal reviews conducted by Hampshire Probation Area, Hampshire Police and Langley House Trust, and interviewed the authors of these documents. Similarly we have also seen and discussed with the author the internal report commissioned by the Prison Service, focusing on the psychological assessment and treatment of Anthony Rice during the Life sentence he received in 1989.
- 4.4 We consulted the Public Protection Unit of the National Probation Directorate (NPD PPU) and the Lifer Review and Recall Section (LRRS) about general issues. We also sought advice on specific matters from HMI Constabulary and HMI Prisons.

5. Outline of the murder and background to the case

5.1 Events of 17th August 2005

- 5.1.1 On Wednesday 17th August Anthony Rice was sitting on a bench in Winchester when he saw Naomi Bryant, someone it appears he had previously met just the once in a local public house the previous Saturday. They went together to a nearby public house, but Anthony Rice left to keep an appointment with his Probation Officer at 14.30. He later returned and he and Ms Bryant continued spending the day together, visiting public houses in Winchester. At 18.50, Anthony Rice withdrew £20 from a cash machine at a Tesco store and they walked back to Ms Bryant's house.
- 5.1.2 Ms Bryant's body was found at 22.30 by her 14 year old daughter, Hannah, and her former partner, Hannah's father. She had been strangled manually with a pair of tights and repeatedly stabbed.
- 5.1.3 Anthony Rice had left the scene. It was later established that he had returned to Elderfield, changed his clothes and caught a bus to Southampton before hitch hiking to London where he was arrested on 19th August.
- 5.1.4 In interview, Anthony Rice admitted the offence, though giving varying accounts of the events of the afternoon. But he did state that he had decided to kill Ms Bryant when they had met earlier in the day. He described a deep set anger inside himself that needed to be satisfied. During the day he had a battle inside his head about whether or not to commit the offence. He stated that there was no sexual motive to the assault, and he denied committing a sexual offence on the victim. Nevertheless there is evidence that he was seeking to gratify his own very strong desires by committing this premeditated sadistic murder.
- 5.1.5 In a subsequent police interview, Anthony Rice disclosed that on 24th April 2005 he had followed a lone 58 year old woman in Southampton and hit her hard on the back of a head with a brick. This incident followed an altercation with a prostitute.
- 5.1.6 The full history of Anthony Rice's development is beyond the scope of this review. Some contextual information is important, however, and we have sourced this from reports in Anthony Rice's case files dating back to 1989.

5.2 Background information about Anthony Rice

- 5.2.1 Anthony Rice was born on 23rd January 1957. Reports prepared at the time of his court appearance in 1989 state that he was the middle of five children, and that his father was a heavy drinker and violent within the home, subjecting him to extreme and humiliating punishments. His mother left the family home when he was about 12 years old. Anthony Rice stayed with his father, from whose attitudes he says that he developed contempt for women and a desire to hurt and control them. From the age of 13 he used drugs.

- 5.2.2 From a later report we learn that shortly after his mother's departure Anthony Rice assaulted a woman over the head with a piece of wood. This did not lead to a charge, but there followed a series of violent and sexual assaults on women and, as we learned, girls too.

5.3 Previous convictions

- 5.3.1 Anthony Rice had made eight previous court appearances for a total of 22 offences from the period 1972 to 1989.
- on 28/8/72 he was convicted at the Dundee Children's hearing of six offences which included slapping the faces of female passers-by and indecent assaults in four instances.
 - On 1/8/75 he was convicted of four indecent assaults at the Aberdeen Sheriff Court. He received a Probation Order for two years. This offence involved a serious sexual assault on a five year old girl
 - On 30/6/76 for further offences of indecent assault he was sentenced to Borstal Training
 - In 1979 he was convicted of a Lodging offence and was admonished
 - On 16/12/82 he was convicted of a rape and four other assaults at the Edinburgh High Court and received seven years imprisonment. The main offence involved seizing the victim by the throat and raping her at knife-point. All the other four also reportedly involved the use of a knife, and two were against girls (14 and 12).
 - On 6/6/87 he was convicted of threats to kill at Guildford Crown Court and received a two year prison sentence. He had been released on parole from his previous sentence and went to his sister's house. When he found that he was unable to stay there as she had friends staying, he found out where they lived and made threats to kill them.

5.4 Life sentence

- 5.4.1 On 5/6/89 Anthony Rice was convicted of an attempted rape, indecent assault and assault causing actual bodily harm (ABH) at the Central Criminal Court. This offence involved an assault on a woman in the street at midnight. He dragged her into a garden, threatened to kill her if she struggled and indecently assaulted her over a period of 90 minutes. This offence occurred thirteen days after his release from prison, and after he had been drinking. Reports from this period state that he admitted that he had been planning the rape during his five years in prison.
- 5.4.2 Anthony Rice was sentenced to Life Imprisonment. A tariff was set that he should serve a minimum of ten years in custody.

6. The legal and professional context

6.1 *Discretionary life sentences*

- 6.1.1 The sentence Anthony Rice received was a *discretionary life sentence*² – an indeterminate sentence with a tariff set by the Home Secretary on the recommendation of the sentencing judge to meet the requirements of retribution and deterrence. After the expiry of a tariff date, release is dependent solely on public protection considerations.
- 6.1.2 In 1991, following the case of *Thynne, Wilson and Gunnell v United Kingdom* (1990) Parliament turned the system of releasing discretionary life sentence prisoners into a more judicial procedure. Under Section 34 of the Criminal Justice Act 1991 the final decision on the release of such prisoners moved from the Home Secretary to the Parole Board. This change in responsibility continued when this Section 34 provision was repealed in 1997 and replaced with Section 28 of the Crime (Sentences) Act 1997.
- 6.1.3 Under this provision Section 28(5) provides that if the Parole Board directs the release of a prisoner who has served the tariff part of his sentence, it shall be the duty of the Secretary of State to release him on licence. Section 28(6) provides that the Parole Board shall not direct the release of a prisoner who has been referred to it by the Secretary of State unless it is “satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined”. Directions under this Act specify that “The test to be applied by the Parole Board in satisfying itself that it is no longer necessary for the protection of the public that the prisoner should be confined, is whether the lifer’s level of risk to the life and limb of others is considered to be more than minimal”.
- 6.1.4 Three members of the Parole Board (a judicial chair, psychiatrist and one other member) sit as a Discretionary Lifer Panel to review the case of discretionary life-sentenced prisoners. The first review is held three years before the expiry of the tariff date, and further reviews are held every two years thereafter. The prisoner has the right to attend the oral hearing and is usually legally represented. This Parole Board panel considers reports prepared by the home Probation Officer and prison staff including the Lifer manager, personal officer, seconded probation officer, psychologist, education officer and medical officer. The release decision is made by the Parole Board and enacted by the Lifer Review and Recall Section on behalf of the Secretary of State. However, this panel also has the responsibility earlier in the lifer’s sentence of making the recommendation to the Home Secretary concerning the prisoner’s move to Category D (open prison) conditions.

² As distinct from a *mandatory life sentence*, where the law prescribes that the sentence for a particular offence, principally murder, must be life imprisonment. A *discretionary life sentence* is for offences where the Court has a choice about imposing this rather than a determinate (fixed-length) sentence.

- 6.1.5 All life-sentenced prisoners are released under the supervision of the Probation Service, and are subject to life licence. Section 31(1) of the 1997 Act provides that the licence remains in force for the duration of the prisoner's natural life (or until recalled to prison) but the supervision element may be suspended in due course. The licensee may be recalled to prison at any time if it is considered necessary to protect the public.
- 6.1.6 Following release, the Lifer Review and Recall Section monitors progress through regular reports prepared by the Probation Service. This is a caseworking section of NOMS (National Offender Management Service) which, on behalf of the Home Secretary, receives and carries out Parole Board decisions.
- 6.1.7 The number of life-sentenced prisoners released each year has increased during the current decade, at least in part as a reflection of the long-term increase in the lifer population over the last forty years. But the changes outlined above, plus the further major change in 2002 when the decision-making for mandatory life sentences also moved from the Home Secretary to the Parole Board, mean that constant monitoring is required.
- 6.1.8 When numbers are low and also when it is hard to compare like with like, it is difficult to be sure when a change is just a short-term fluctuation or the beginning of a long-term trend. Nevertheless there is evidence indicating an apparent increase since 2003 in the proportion of cases being reconvicted;³ the proportion being recalled to prison on recommendation of the Probation Service for other reasons is also increasing.

6.2 Life Sentence Structure

- 6.2.1 A typical male life-sentenced prisoner sentenced in 1989 would go through the following stages:
- First Stage establishment, where he would undertake assessments and complete a sentence plan, setting out what offending behaviour concerns will be addressed in custody
 - Second Stage Category B/ Category C prison, where much of the work identified in the sentence plan would be undertaken
 - Third Stage Category D Open/ Semi-open/ Resettlement prison, where he would undergo testing in conditions as near as possible to those in the community. The move to open conditions can only take place on the recommendation of the Parole Board and with the approval of the Secretary of State.

³ Figures from the Lifer Review and Recall Section show that in 2002/3, the last year during which most Lifers were reviewed under the 'old' arrangements, 233 were released of which 9 (3.9%) were reconvicted by the end of 2004/5. In 2003/4, the first year under the 'new' arrangements, 330 were released, of which 19 (5.8%) were reconvicted by the end of 2004/5, a comparable if relatively short period of time. In each case, just under half the reconvictions were for more serious offences (4 of 9; 8 of 19). The 2002/3 does not look like an unusually low figure compared with earlier years, and current indications are that the figures for 2004/5 will be in a similar range to 2003/4. So although one should always be cautious, there does appear to be an increase in reconvictions since 2003.

6.2.2 Anthony Rice was initially assessed as a Security Category A prisoner (highest level of security) and was sent to HMP Wakefield. In due course, when his security category was reduced, he moved to HMP Grendon, and finally to open conditions at HMP Leyhill.

6.3 Role of the home Probation Officer

6.3.1 In 1989 reports prepared for a court hearing were known as Social Inquiry Reports. In the case of serious charges which might result in a life sentence, the details of the offence were not usually fully discussed in the report. In this situation, as in Anthony Rice's case, a Post Sentence History Report was prepared. The purpose of this was to provide some background information about the prisoner to the receiving institution. There was and is a strong expectation that from this point on the home Probation Officer will provide an ongoing contact point in the home area for both the prison and the prisoner.

6.3.2 Although it is good probation practice to build and develop a relationship with the prisoner, the reality is that direct contact is often minimal in the early years. At times of competing demands on resources, few Probation Areas have prioritised ongoing work with long-term prisoners, particularly at the point in the sentence when it is too early to establish release plans. However, in our view it is clearly good practice that this contact is established early enough for this work to be undertaken thoroughly.

6.3.3 For example, when the Parole Board starts to review the case, the home Probation Officer will have a specific contribution to make in assessing the offender's resettlement plans. This may involve helping him or her to consider appropriate options for release, taking into account the protection of victims or other potential victims. In the case of an offender who poses a high *Risk of Harm*, this work may need to start some considerable time before release.

6.3.4 Although all life-sentenced prisoners have committed serious offences, not all will continue to present a high *Risk of Harm* (RoH) to others. It is important that a thorough assessment of both the level and the nature of the prisoner's *RoH* is undertaken.

6.4 Offender Assessment System (OASys)

6.4.1 The Offender Assessment System was developed jointly by the Prison and Probation Services and introduced into the National Probation Service from 2001. It is a comprehensive system designed to:

- Assess how likely an offender is to be reconvicted⁴
- Identify criminogenic factors associated with offending, such as attitudes and behaviour, and social and economic factors
- Assess the *Risk of Harm* to others and of self-harm

⁴ For this purpose it is usually supported by an *OGRS score*. The Offender Group Reconviction Scale is an assessment tool now used by Probation staff that uses a statistical formula derived from large sample groups, and using *static factors* (ones that cannot change), to provide a predicted likelihood of reconviction to be produced, expressed as a percentage. OGRS is useful for mainstream offending, but not for unusual offending patterns such as that for Anthony Rice – hence the recourse to other tools.

- Link assessments with supervision and sentence plans
 - Indicate the need for further specialist assessments
 - Measure how an offender changes during the sentence or period of supervision.
- 6.4.2 OASys was introduced into the 42 Probation Areas of England and Wales in a staged way, initially as a paper based system. It was intended that all areas would be using the electronic version by April 2004. OASys is also used by the Prison Service. The idea is that when IT systems are eventually connected, it will be possible to transmit the assessments electronically between the prison and the probation area, and between different areas. At present this facility is not fully available nationwide, and, where it is, functionality problems are being reported.
- 6.4.3 The *Risk of Harm* part of the assessment classifies an offender according to one of four levels:
- Low – no significant, current indicators of *Risk of Harm*
 - Medium – the offender has the potential to cause harm but is unlikely to do so unless there is a change in circumstances
 - High – the potential event could happen at any time and the impact would be serious
 - 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.
- 6.4.4 “Determining imminence of harm is primarily a professional judgement that is strongly influenced by an understanding of the triggers for offending, evidence of previous serious harm and accurate information about an offender’s current circumstances”⁵.
- 6.4.5 Standards applicable until March 2005 required a full OASys (*Risk of Harm* assessment, likelihood of reoffending assessment and initial supervision plan) to be completed within fifteen working days of sentence or release from custody. For an offender such as this who presented a high or very high *Risk of Harm*, a plan for managing the *RoH* should be prepared within five working days.
- 6.4.6 The assessment and supervision plan should be reviewed at least every sixteen weeks or after a significant incident or change of circumstances, including transfer to a new area.
- 6.4.7 Supervision plans should state how the *Risk of Harm* and the likelihood of reoffending will be reduced or managed, through both *restrictive* and *constructive interventions*, and objectives should be focused on achieving outcomes. The introduction of OASys was supported by national training and guidance.
- 6.4.8 Hampshire Probation Area had incorporated the requirement to complete OASys in the local MAPPA policy and procedures, but had not produced any additional guidance to staff specifically about OASys.

⁵ Probation Circular 19/2004b

6.4.9 Risk Matrix 2000 is an evidence-based *actuarial* risk assessment tool for assessing violent and sex offenders. It has been approved by the Association of Chief Police Officers for use by the Police Service in England and Wales. The requirement to complete the tool can be triggered by OASys, but it can also be completed as a stand-alone assessment. It is also incorporated into other assessments, such as psychological assessments completed within prisons.

6.5 Multi-Agency Public Protection Arrangements (MAPPA)

6.5.1 Alongside the development of OASys, the Criminal Justice and Court Services Act (2000) imposed duties on the Police and Probation Services in each of the 42 areas to establish the MAPPA. This provides the statutory framework for inter-agency co-operation in assessing and managing violent and sex offenders in England and Wales. The Criminal Justice Act (2003) included the Prison Service as part of the Responsible Authority for each area, and placed a duty to co-operate on a number of agencies, including health, housing, social services, education, Youth Offending Teams, Jobcentre Plus and electronic monitoring providers.

6.5.2 The MAPPA framework comprises four core functions:

- The identification of MAPPA offenders;
- The sharing of relevant information among those agencies involved in the assessment of that risk;
- The assessment of the risk of serious harm; and
- The management of that risk.

6.5.3 Offenders falling within the remit of MAPPA comprise the following:

- Category 1: Registered sex offenders
- Category 2: Violent and other sexual offenders
- Category 3: Other offenders who are considered to pose a risk of serious harm to the public.

6.5.4 In OASys terms all of the Probation cases referred come within the High or Very High *Risk of Harm* categories. However, the MAPPA framework identifies three levels within which the *RoH* posed by each of these individual High or Very High *RoH* offenders can be managed:

- Level 1 – ordinary risk management, where the offender can be managed by one agency
- Level 2 – where the active involvement of more than one agency is required to manage the risk. Local police and probation managers generally convene meetings held at this level.
- Level 3 – the Multi-Agency Public Protection Panel. This is responsible for the management of the ‘critical few’ who are assessed as being a high or very high risk of causing serious harm and can only be managed by a plan which requires close co-operation between agencies at a senior level. In Hampshire this panel is chaired by a Probation Service senior manager.

- 6.5.5 Rigorous risk assessment and robust risk management are at the heart of good public protection arrangements. However, as Professor Hazel Kemshall has pointed out, “The desirable outcome of MAPPA is effective risk management. However this should not be understood as ‘zero risk’ as this position can never be achieved”⁶. Decision making will never be infallible, but must be defensible; that is, it should be possible to show that:
- All reasonable steps have been taken
 - Reliable assessment methods have been used
 - Information has been collected and thoroughly evaluated
 - Decisions are recorded (and subsequently carried out)
 - Policies and procedures have been followed; and
 - Practitioners and their managers adopt an investigative approach and are proactive.
- 6.5.6 The Hampshire MAPPA protocol and policy and guidance for staff stress the importance of using OASys and Risk Matrix 2000 to identify the level of risk and to determine the appropriate level of MAPPA management.
- 6.5.7 Probation Circular 54/2004 highlights the critical contribution an offender can make to changing their offending behaviour and for taking responsibility not to re-offend. However the circular comments “what we do not foresee is offenders or their representatives becoming formal members of the MAPPA, attending MAPPPs etc; but we do envisage a healthy move to get offenders to contribute more to the risk assessment and management processes.” Offenders must be aware that they are being managed through the MAPPA and what that means for them as individuals.
- 6.5.8 However, Hampshire policy states that offenders should be invited to the MAPPA meetings unless this:
- Would interfere with a criminal investigation or prosecution
 - Be likely to seriously affect the individual’s mental health
 - Seriously compromise the interests of a third party
 - Interfere with, rather than assist, a thorough risk assessment or risk management plan⁷.
- 6.5.9 Our observation is that we understand that in a number of cases there is good evidence to suggest that this approach has reaped a number of benefits in many cases where attending a MAPPA meeting has helped them resettle effectively. However, as we shall see, in our opinion in this case the practice contributed to the deficiencies we describe later.

6.6 Victim contact

- 6.6.1 Although the primary focus of the MAPPA is the risk and behaviour of the offender, it is vital that the assessment and management plans properly reflect the concerns of the victim.

⁶ 2003 – quoted in Probation Circular 54/2004

⁷ *MAPPA Policy & Guidance for Probation Staff in Hampshire Probation Area* (Updated 29/8/03)

- 6.6.2 Section 69 of the Criminal Justice and Court Services Act (2000) imposed a statutory duty on Probation Areas to consult and notify the victims of sexual or other violent offences about the release arrangements for the offender where he or she is sentenced to one year or more in prison. Victims should be contacted within two months of the sentence being passed and offered:
- Face to face contact with the Probation Service
 - The opportunity to be kept informed about developments throughout the offender's sentence, if they wish; and
 - An opportunity to contribute to the eventual release plans, to have their views taken into account by the Parole Board or other decision-maker, and to receive information about licence conditions which are directly relevant to them or members of their family
- 6.6.3 In practice, it can be difficult for victims to be traced where the offender was sentenced some time before the Act was introduced. It is relatively common to find that the victim (or victim's family) of a prisoner sentenced more than seven years previously cannot be traced.

6.7 Sex Offender registration

- 6.7.1 The Sex Offender Act 1997 defines sex offenders as those offenders convicted or cautioned since September 1997 for certain sexual offences, or who at that point were serving a sentence for a like offence. Registration requirements were updated by the Sexual Offences Act 2003.
- 6.7.2 All registered sex offenders automatically enter the MAPPA criteria under Category 1. The MAPPA must then decide on the appropriate level of management.

6.8 Sex Offender Treatment Programme (SOTP)

- 6.8.1 This overall Programme runs in both prisons and in the community, and can involve up to three distinct programmes: Core, Extended and Relapse Prevention.
- 6.8.2 The Core programme runs for an average of 180 hours. It is described as a *cognitive-behavioural* approach to treatment, in that it focuses on the offender developing a better understanding of his offending (identifying *dynamic risk* factors). Tackling deviant arousal, distorted thinking patterns, lack of empathy, denial and minimisation, and patterns of offending are also treatment targets. The primary purposes of the programme are to increase the offenders' motivation to avoid reoffending and to develop the self-management skills necessary to achieve this.
- 6.8.3 If a prisoner is assessed as having extra treatment needs he would undertake a second stage of treatment on the Extended SOTP. The goals of this programme are to identify and challenge patterns of dysfunctional thinking, improve the management of emotions, improve relationships and intimacy skills, address deviant fantasy and sexual arousal and to understand the links of these to sexual offending.

- 6.8.4 For sex offenders who have completed the SOTP in custody but who have a long gap before their eventual release, a Relapse Prevention Booster programme can be completed.
- 6.8.5 Following release, and dependent on a Structured Assessment of Risk and Need (SARN) the offender might complete either a Relapse Prevention programme in the community or a further full SOTP.

6.9 Assessment of Risk of Harm before release

- 6.9.1 During the transitional period between former assessment systems and the full implementation of OASys during 2001 - 2005, many Probation Areas were unable to undertake a complete new assessment on all serving prisoners. Most prioritised new cases, those nearing their release date, and those who, on the basis of existing information appeared to present a high *Risk of Harm* to others.
- 6.9.2 For a life-sentenced prisoner who had reached open conditions it would be reasonable to expect that a full assessment would be completed to inform decisions about resettlement plans and release on temporary licence. This assessment should then form the basis of a MAPPA meeting convened in the home probation area. The prison would have a significant contribution to make to the meeting. Options for the future would be evaluated on the basis of the risk assessment, and a robust risk management plan agreed between the relevant agencies.
- 6.9.3 Case transfer: It is not unusual for an offender to move to a new area on their release from prison. Sometimes the move might be required in order to protect the original victim. In other cases this happens because the offender is referred to a particular hostel in another area. But as we noted both in our review of Hanson and White, and in our thematic report on the subject of 'moved cases' in 2004, this point of discontinuity presents an obstacle to the effective management of the case.
- 6.9.4 In September 2004 Probation Circular 52/2004 was issued, requiring probation areas formally to accept the supervision of an offender who has moved into their locality. Previously a system of negotiation and temporary 'oversight' had sometimes been used, especially when it was not clear for how long the offender's relocation was going to last. The Circular also makes it clear that for an offender being managed through MAPPA levels 2 or 3, any request for permission to change address must be considered through the MAPPA procedures, with a decision informed by a multi-agency risk assessment.

- 6.9.5 The high *RoH* paradox: Whether or not an offender is making a change of area, the final point to note here is a current paradox with high *RoH* cases. The question is often asked: if a prisoner is high *RoH*, why is he being released from custody at all? – Surely, if he is high *RoH* he should be kept inside if the state has the power to continue to do so? The effect of this logic, if strictly applied, would be that no one released early from prison would ever be subject to Level 2 or 3 MAPPA management because they would only be able to have secured release by demonstrating that they didn't need it.
- 6.9.6 However, this logic also prevents the Parole Board from having the option of concluding that a prisoner could be safe to release from prison provided that he were subject to Level 3 quantity and quality of restrictive interventions. While we are not arguing that as being the appropriate assessment for Anthony Rice, we do argue that the current controversy concerning levels of *RoH* for early-released prisoners needs to be resolved. In our view it may be helpful to emphasise that these 'levels' are not describing 'inherent qualities of the offender', but instead are describing the level of *restrictive intervention* required in order to keep to a minimum the offender's *Risk of Harm* to others.

6.10 Accommodation for offenders

- 6.10.1 High *RoH* offenders are often more appropriately resettled in their 'home' area where they are well known to the police, probation and other key agencies and where this knowledge contributes to effective management of their *RoH* to others. Under Supporting People arrangements, Local Authorities have a responsibility to consider their accommodation needs. However there are some who, for valid reasons, cannot return to their original area (for example, risk to the victim, or media interest). In many cases they may be referred to an Approved Premises – a hostel run and managed by the Probation Service – with a view to this providing a guaranteed place on release, and a supportive environment for a transitional period. Approved Premises are experienced in dealing with offenders who pose a High *Risk of Harm*, but demand for places can be high.
- 6.10.2 Other accommodation for offenders is also provided by the Langley House Trust (LHT), a charity and registered social landlord. LHT manages 17 residential establishments across England. Each belongs to one of six different projects: Fresh Start, Resettlement, Drug Rehabilitation Centres, Registered Care Homes, Residential Training Centres and a direct access hostel. Currently LHT manages a total of 270 beds, 228 of which are supported by 24-hour cover, and 42 have partial cover, although this provision of cover is not always the equivalent of that provided by Probation Service Approved Premises.
- 6.10.3 However, LHT's provision does include a small number of beds, located in three different projects, which are available for offenders requiring a level of 'Enhanced Supervision' for the protection of the public. In these establishments additional security measures are in place, similar to those in an Approved Premises. These may include

alarmed doors and windows, movement alarms, CCTV and staff self-security systems. Elderfield is not one of these projects.

6.11 National Standards

- 6.11.1 At the time of Anthony Rice's release the *National Standards on Required Levels of Contact, Achieving Compliance and Ensuring Enforcement (2002)* were in place. It was a requirement of the standards that supervising officers act in accordance with the *Lifer Manual*⁸ when dealing with life sentence cases. Contact levels should reflect the assessment of the level of risk to the public, but the probation area should, as a minimum, ensure that:
- The first appointment is arranged for the day of release or, if not practical, on the next working day;
 - Arrangements are made for further weekly contact during the first four weeks following release, including a home visit within ten days
 - Contact is at least fortnightly for the second and third months following release and at least monthly thereafter. (In practice contact is likely to remain weekly for three months and fortnightly for the remainder of the first year)
- 6.11.2 A new Standard from March 2005 provides more explicitly for differential levels of contact depending on the assessed level of risk.

⁸ *PSO 4700 Lifer Manual* issued in 1999 and updated periodically in 2000, 2001, 2002 and 2004

7. Management of Anthony Rice's sentence while in custody

- 7.1 Anthony Rice started his prison sentence in HMP Wakefield. There he completed a Sex Offender Core Programme as well as other courses, focusing on social skills, anger management and attitudes towards women.
- 7.2 In August 1994 he was reclassified from the highest security category, Category A, to Category B, and was then able to apply to transfer to HM Prison Grendon. This is a specialist prison where therapeutic work is undertaken with men with personality disorders, all of whom are serious offenders serving long sentences. The group therapy sessions are challenging; HM Inspectorate of Prisons stated in its recent inspection at Grendon, "it is not unusual for prisoners to demand to be transferred back to less threatening, ordinary prisons. There is no hiding place in the group, and often for the first time prisoners will be made to confront the true hideousness of their crimes."
- 7.3 In order to determine the appropriate treatment route for a sexual or violent offender, it has now become common practice to assess the offender's psychopathic⁹ traits by administering a PCL-R¹⁰ assessment. A score of over 30, indicating personality traits associated with psychopathy, may lead to a decision to exclude the individual from certain programmes. A score of over 25 would suggest that careful consideration be given to the individual's suitability for a particular programme. Our understanding is that PCL-R may not have been available during the early part of Anthony Rice's sentence, but during his period at Grendon it would have been a pre-requisite for attendance on the Core Sex Offender Treatment Programme (SOTP).
- 7.4 We have not been able to find a complete PCL-R assessment for Anthony Rice in the record, but we have found a written record that indicates that the assessment was completed and that Anthony Rice scored 22. Hence we have some evidence of some psychopathic traits, but we have neither the detail of what they were, nor whether this was used to determine the appropriate treatment route for him. The score indicates some psychopathic traits, but it falls short of the levels represented by the 'significant' scores of either 25 or 30.
- 7.5 This is noteworthy because there is evidence (albeit disputed) that individuals with a significant level of psychopathic traits are unsuitable for certain treatments, and Anthony Rice was quite close to that level – though of course just below.

⁹ 'Psychopathic disorder' is defined within the Mental Health Act 1983 as "a persistent disorder or disability of mind (whether or not including significant impairment of intelligence) which results in abnormally aggressive or seriously irresponsible conduct". This is a legal rather than a medical definition, which encompasses a range of personality disorders, including psychopathy. (Probation Circular 40/2005)

¹⁰ PCL-R (Psychopathy Checklist Revised) is a 20-item scale of assessment and is a tool designed to measure the presence or level of psychopathic traits.

- 7.6 Research by Seto and Barbaree (1999) found that for individuals with high PCL-R scores, good behaviour in treatment was actually associated with greater recidivism rather than with lower recidivism. This replicated earlier findings by Rice, Harris and Cormier (1992). Two possible hypotheses were posited: either these individuals were adept at exhibiting behaviour that would contribute to positive ratings by therapists, or treatment provided them with the opportunity to “learn manipulative or other interpersonal skills that serve to increase their risk for serious recidivism.” (Barbaree, H. 2005). Subsequent research has challenged these findings, but during the 1990s and beyond such research has served to support concerns about offenders with psychopathic traits undertaking *cognitive-behavioural* programmes.
- 7.7 Be that as it may, in any event Anthony Rice remained at Grendon for seven years, undertaking an intensive programme of therapy, including a Sex Offender Treatment Programme (SOTP), psychodrama and the Reasoning and Rehabilitation *cognitive-behavioural* skills programme. He was assessed as suitable for such treatments, and, given the very finely balanced nature of the issues, we find that this assessment was reasonable.
- 7.8 However, we note with concern that no part of the record of Anthony Rice’s first Life sentence identified him as a man with any earlier convictions for a sexual offence against a child. Yet his previous convictions include offences of indecent assault in 1972, 1975 and 1976. The age of the victims was not identified on the print out of his record. Whilst this was common police recording practice at that time, a recent PNC (Police National Computer) check revealed that this information was in fact readily available on the system.
- 7.9 Furthermore, when we examined the prison record for this review we found records from his previous sentence (that is, previous to his first Life sentence) that identified him clearly as an offender against a child. We believe that these old records have only just caught up with the current prison record, so our concern is that it appears that during his first Life prison sentence these records were not brought forward. Insufficient questions were asked and insufficient evidence was sought about Anthony Rice’s previous pattern of offending.
- 7.10 This omission has a number of implications. It would appear that Anthony Rice concealed this fact during his years of therapy and as a result the assessments were incomplete. The age range of his victims may have been a significant factor in assessing the potential risk he posed. This would have been very likely to affect the options for his release plan, and it is certainly possible that Elderfield (the hostel he went to on release) might have been regarded as unsuitable. Accordingly the failure within the Prison Service to identify him as a previous offender against children is a significant deficiency in the custodial phase of his sentence.
- 7.11 Thus Anthony Rice continued to be assessed as an offender solely against adult women. In June 1996 the Parole Board decided that the risk he posed to women had not yet reduced sufficiently for him to

move to open conditions. They subsequently concluded again two years later that although he was making progress, further work was necessary.

- 7.12 Anthony Rice had a third review in 2001. In January of that year, a psychologist prepared a detailed report based on a structured risk assessment format known as SRA-2000. The *static factors* (those based on historical information, which, by definition cannot change) indicated a very high likelihood of reoffending (72% likelihood of sexual reconviction within 20 years).
- 7.13 However, in relation to the *dynamic factors* (those which may be amenable to change), Anthony Rice had made significant progress. He had shown evidence of taking responsibility for his behaviour, of increasing his level of victim empathy and of altering his distorted attitudes towards women. As a result his overall risk level was assessed as *High*, rather than *Very High*.
- 7.14 The psychologist's report and most of the other reports at that time (January 2001) recommended that Anthony Rice be moved from HM Prison Grendon to a Category C prison where he would be able to continue work on his sexual offending through the Extended Programme. This would help to reinforce some aspects of his work on the Core Programme. Indeed it is on record that Anthony Rice himself wanted this. Specifically, there was a plan to address his offence-related fantasy, and to measure his progress objectively using a *PPG assessment – Penile Plethysmography* is a test used to measure physical sexual arousal in response to a range of images. It can be used to measure deviant sexual preferences.
- 7.15 However, by the time of the Parole Board hearing on 6th September 2001, some eight months after the psychologist's report, Anthony Rice had undertaken some additional sessions in Grendon. This had focused on developing his cognitive and behavioural strategies to control deviant fantasies. The panel received a report stating that this work had addressed Rice's outstanding treatment needs, and that a PPG was no longer necessary. Furthermore we have been advised that it would not have been available within this country at that time in any case. The panel recorded that it heard in person from the Governor at Grendon who supported the new assessment. Accordingly the panel accepted the assessment that the *PPG* and the Extended Sex Offender Treatment Programme were no longer necessary.
- 7.16 In our opinion the inability (for whatever reason) to administer a PPG meant that there was no objective evidence of the progress Anthony Rice had made through his years of treatment. Such a test could have assessed whether there was still any arousal to violence, and may also have picked up any deviant interest in children. Instead, in the absence of the PPG, the decisions to move Anthony Rice to open conditions and to dispense with the need for the Extended SOTP were made on the basis of a relatively short period of additional work. We strongly recommend that, if the PPG can be made available and has proved to be a reliable indicator of deviant sexual preferences, no sex offender

on an indeterminate sentence should be moved to open prison conditions without undergoing this testing. An alternative option is to pursue a programme of testing with an offender using a polygraph.¹¹

- 7.17 Accordingly, the Parole Board panel recommended Anthony Rice's transfer to open conditions, where he would undertake other SOTP work, develop his educational and employment skills, and prepare and test a release plan. Anthony Rice requested that his next review be deferred from the usual two years to three years to allow him the time to complete the work identified.
- 7.18 This move to open prison conditions is a much more significant development than may be evident at first sight. It constitutes the first tangible step by an indeterminately sentenced prisoner towards his or her eventual release. As such this step is quite properly controlled by a highly managed decision-making process: the Parole Board has to recommend the move, and the Secretary of State has to accept that recommendation, before the move can take place.
- 7.19 Yet, as we will see, one effect of this procedure is, paradoxically, that it appears to lead to a growing expectation by both prisoner and staff that the final decision to release is now largely a matter of time. This in turn has its own effect on how the management of the release arrangements unfolds, as perhaps can be illustrated in this case.

¹¹ A device often called a 'lie detector'. Polygraph testing is a method of testing if a subject is lying, by tracing physiological changes during questioning. It can be used successfully in certain cases as an integral element within a properly managed treatment and testing programme with sex offenders.

8. Management of Anthony Rice's release on Licence

8.1 Transfer to open conditions and preparation for release

- 8.1.1 Anthony Rice moved to HMP Leyhill, an open prison, in March 2002. His sentence planning targets were identified as completion of the SOTP Booster programme, and progression to facility licence and then resettlement licence. An assessment for ETS (Enhanced Thinking Skills) – a further *cognitive-behavioural* skills programme - showed that this particular programme was not required.
- 8.1.2 Anthony Rice had spent seven years at Grendon – longer than the average stay at the prison – partly as a result of the relatively slow progress he had made in his early years there. His eventual move to Leyhill thus took him from a Category B prison direct to a Category D prison, missing out the transitional step. In a Category C prison he would have been encouraged to focus on vocational training and to start planning his resettlement into the community. Staff at Leyhill observed that he found it difficult to adapt from the intensive therapeutic environment of Grendon, and commented that this was not an uncommon situation for those moving there directly from there or from other Category B prisons.
- 8.1.3 The difficulty some life-sentenced prisoners have in adapting to open conditions has previously been noted by HMI Prisons. The growing consensus is that open conditions should serve as a test of the progress made to date and not as an opportunity for more treatment. Accordingly the move to open conditions should represent a decision that treatment as such has largely been completed. In this sense the decision to move to open conditions carries with it two implications: The first is the idea that 'treatment' as such has been completed; the second is that the prisoner is approaching the final stages prior to release – we return to this theme further below.
- 8.1.4 A few weeks after his reception at Leyhill, some concerns were expressed about Anthony Rice's overly familiar behaviour towards a female member of staff. He was temporarily moved back to a closed prison (Bristol) whilst this matter was fully explored. His explanation was that he was attempting to practise communication and social skills, as he had been encouraged to in Grendon. Following discussion with Grendon and by a multi-disciplinary team in Leyhill, his explanation was accepted and he returned to Leyhill some ten weeks later. It is difficult for us to form a fair judgement on this decision based on anything but hindsight, but the fact is that this was a piece of behaviour that suggested that he was not yet ready to manage his behaviour with care and responsibility in the outside world. But he was allowed to continue on his path towards release with no more than a ten-week delay. Hence Rice's adverse behaviour did not lead to a reconsideration of the entire (implicit) release decision, but merely to this short delay in its implementation.

- 8.1.5 Whilst at Leyhill, Anthony Rice completed the SOTP Relapse Prevention Booster programme. He received positive reports and was able to show a good range of cognitive and behavioural strategies for dealing with deviant thoughts. However, the psychologist preparing the report in December 2002 commented that he would need to “continually apply his coping strategies to deal with his deviant fantasies” and recommended that this area of work should be revisited regularly by his supervising officer or through referral to a community forensic psychologist if available. He also noted that Anthony Rice himself identified that forming a relationship would be “a risky time for him”.
- 8.1.6 By the time Anthony Rice had arrived at Leyhill, he had already exceeded his tariff date by over three years. Staff at the prison were well aware that there was a lot of work for him to do before his fourth review by the parole panel, when the decision of whether or not to release him would be made. For this period to progress satisfactorily, the links with the home Probation Area were critical in order to address both resettlement needs and offending related factors. ‘The Treatment and Management of Sexual Offenders in Custody and the Community’, which was jointly published by the Prison Service and the NPS in October 2002 notes the importance of good communication with the home Probation Officer about the prisoner’s progress, in order that post-release treatment and support meet identified areas of risk and need. It recommends that home Probation Officers should attend the post-programme review.
- 8.1.7 Accordingly, on Anthony Rice’s return to Leyhill from HMP Bristol In July 2002, a seconded Probation Officer contacted the Probation Officer in his home Area, which was London. However, in common with many other Probation Areas, London Probation Area had given a lower priority to resettlement work at a time of staff shortages and budget constraints. Prisoners serving long sentences were not allocated to named case managers until shortly before their release, and prison visits were, in the main, not permitted at that time.
- 8.1.8 Hence this was virtually the first involvement the home Area had had with Anthony Rice since October 2001 when Rice had been informed that the officer then holding his case had left the area and the Senior Probation Officer (SPO) would be his point of contact pending a major reorganisation of work within London Probation Area. Previously it appears that the Probation Service had been in contact with Anthony Rice since 1983. It is clear from notes of meetings at Grendon that an officer from London had visited him, but subsequent probation staff did not have any knowledge of the contact from this period of time and the records have not been retrieved.
- 8.1.9 At this stage of open prison conditions there was an expectation that a release plan should be formulated with the prisoner. This would normally be done by the home Probation Officer in liaison with the seconded Probation Officer. However, because of the situation in London outlined above, with the case being held by the Senior

Probation Officer in an interim capacity, on this occasion it was the seconded Probation Officer who started this discussion with Anthony Rice. In turn Rice in September suggested to his London officer the possibility of release to a Langley House Trust (LHT) project located in the north of England.

- 8.1.10 Resettlement options should at this stage have been considered using OASys as the basis for a structured risk assessment. This would have identified previous patterns of behaviour, trigger factors and warning signs, and highlighted the protective factors which could help to reduce or contain the risk. This would have ensured that appropriate accommodation was considered as a part of the whole risk management plan. However, no OASys was prepared at this stage – this was well before the final decision in London to implement fully the roll-out of OASys in April 2005.
- 8.1.11 A referral was made to the LHT project in January 2003. It is not clear why this hostel was identified as an option, except that Anthony Rice said that he had friends in that area. Staff at Leyhill and in London were aware that it was a hostel that would accept offenders who were assessed as presenting a high Risk of Harm to the public. It was felt that the staffing levels at that hostel could provide the support Anthony Rice would need after spending many years in custodial institutions.
- 8.1.12 The possibility of him returning to the London area does not seem to have been explored as a serious option, although his former local authority would have had a responsibility to consider rehousing him. As a general rule the home area option would rightly be considered first unless this option were precluded by the location of the victim of the previous offence.
- 8.1.13 Anthony Rice was sentenced before Victim's Charter work was introduced, and attempts by London Probation Area to trace the victim of the original offence through the CPS documents failed. The victim could therefore not be identified and located. In the event, in any case Probation staff decided that it was preferable to pursue the option of Rice being released to a different area.
- 8.1.14 In June 2003, staff from the LHT project visited Anthony Rice to assess his suitability for a place there. The notes of the assessment interview undertaken by the hostel are limited, leading to a fairly superficial assessment. His attitude towards women was not discussed, but the assessor "did not see any particular reason for concern" and recommended him for a place at the hostel, subject to the approval of the local MAPPA there, where his case was discussed at meetings held in June and July 2003. Further information was provided by the SPO in London. At this stage, OASys had still not yet been fully implemented in the London Probation Area, so it is not surprising to find that no OASys had been completed.
- 8.1.15 After a period of some uncertainty, the prison was informed in December 2003 that Anthony Rice could not be accepted at the LHT project due to Police objections made through the local MAPPA. A

multi-disciplinary team in the prison met to consider the alternatives, and two probation managed Approved Premises (hostels) were identified. However, before these were pursued, Probation in both London and Leyhill learned that Anthony Rice's referral had been passed on to other LHT projects and he was now being considered by Elderfield in Otterbourne, Hampshire. The Elderfield manager visited him on 7th January 2004.

- 8.1.16 The original referral of Anthony Rice to Langley House Trust had not been informed by an OASys assessment, hence the information transmitted to Elderfield at this later stage was therefore also limited.
- 8.1.17 Elderfield is different from the other LHT project, being described as "a Training and Rehabilitation Centre (which) aims to enable and equip former offenders to address their physical, emotional and spiritual needs within a caring environment". The hostel is set in large grounds in the quiet Hampshire village of Otterbourne. The grounds are used to provide training in horticulture, and residents are expected to take a part in maintaining and cultivating the site. Members of the local community offer help on a voluntary basis, teaching other practical and craft skills. Some residents have been there for many years following their release from prison.
- 8.1.18 In 1998, local residents had expressed concern about rumours that proposed changes to Elderfield would alter the type of resident there. They received assurances from the then Chief Executive that there was "no intention to change the resident group at all". In 2002, a further letter reiterated that there were "no plans whatsoever to change the style of Elderfield" and that "to say that residents are leaving to make room for new and more ex-offenders is simply not true".
- 8.1.19 Langley House Trust still insists today that this is true, on the grounds that the range of offenders they take has not changed over the years, but what they have done is to provide much more active assessment and staffing now than they have in the past. Although this may indeed be the case, it is clear to us that a serious offender like Anthony Rice was being considered and accommodated while the security arrangements there were limited. Staff do not check the residents at night and there is no perimeter CCTV, door or window alarms. Residents have their own keys and can access the property freely at any time.
- 8.1.20 When prison and probation staff became aware that Anthony Rice's referral had been re-directed from the other LHT project to Elderfield, it seems clear that they assumed that the two hostels offered similar facilities. No-one, it appears, asked about Elderfield's regime, or whether it met the needs of a high *RoH* offender. In turn it would appear that Elderfield, for their part, made an assumption that the relevant Probation staff were aware of what their hostel could, and could not, provide. The Elderfield manager visited Leyhill and then asked London Probation to refer the case to Elderfield 'subject to MAPPA consent'.

- 8.1.21 London Probation Area promptly made contact with Hampshire Probation Area to inform the local SPO in Winchester of the situation. Release to Elderfield would mean that the case would be transferred to Hampshire Probation Area.
- 8.1.22 Had London Probation Area been actively involved in managing Anthony Rice as a current case, it is likely that a London MAPPAs meeting might have been held at an earlier stage, and various resettlement options considered. However, since this had not yet happened in London, Hampshire managers took the pragmatic view that as Elderfield had already agreed in principle to accept Anthony Rice for release on temporary (resettlement) licence, the MAPPAs meeting could be convened in Hampshire. This decision was in line with the Hampshire MAPPAs protocol, demonstrated that they were taking responsibility for managing the case, and was in that sense a reasonable decision.
- 8.1.23 Various case papers were faxed from London to Hampshire. These included details of the index offence and post-sentence summary, the latest SOTP (Sex Offender Treatment Programme) report and the summary prepared for the Parole Board.
- 8.1.24 Underlying all the developments we describe above is the additional theme that respondents acknowledge in interview: At this stage in the sentence of a life-sentenced prisoner in open prison conditions there is a strong implicit assumption that he can expect to be released shortly unless a strong reason arises not to do so. The staff of various authorities rightly work conscientiously to create options for release plans for a prisoner, as they did in this case. But as also in this case the implicit growing assumption is that it is now a case of *when* the man is going to be released, not *if*. Accordingly it is not entirely surprising if the relevant authorities may have felt under pressure to find and provide a solution for the Parole Board rather than ask for a postponement in order to assess new accommodation options.

8.2 Release on temporary licence (ROTL)

- 8.2.1 Before he would be considered for resettlement leave, Anthony Rice was expected to progress towards release on 'facility licence', which would allow him to work outside the prison. This, and temporary release on resettlement licence, is commonly known as ROTL (Release on Temporary Licence). Anthony Rice applied for facility licence in September 2002, but this could not be granted until the home Probation area had confirmed that all attempts had been made to contact the victim of the original offence. After some delay, his application was in due course approved in January 2003, and he was then able to work outside the prison five days a week in a local laundry. The conditions of his release on facility licence were:
- no unsupervised one-to-one contact with women
 - not to consume alcohol
 - to inform probation/ prison staff on forming any relationships.

- 8.2.2 Anthony Rice was allowed to travel by himself to and from the laundry and to interact with the female staff group. No incidents were reported, and he received a positive report from his employer.
- 8.2.3 Accordingly Anthony Rice reached the final stage of preparation prior to his eventual full release from prison. Arrangements were made for him to be released on 'resettlement' ROTL. On 27th February, the Hampshire police were notified by the local Senior Probation Officer of Anthony Rice's referral to Elderfield, and were informed that resettlement ROTL was being planned. A MAPPa meeting was arranged to coincide with his first resettlement ROTL period so that Anthony Rice could also attend.
- 8.2.4 Hampshire's prompt and pragmatic response helped to facilitate Anthony Rice's resettlement ROTL. This was a well intentioned initiative on their part, since they were taking into account the earlier delays in Rice's process towards release. However, this also meant that the focus of the MAPPa meeting was on how well or otherwise Anthony Rice was adapting to Elderfield, rather than on a more objective assessment of whether or not Elderfield actually offered the best resettlement option for this particular offender. Similarly, while inviting Anthony Rice to the meeting had the benefit of allowing the relevant workers an opportunity to meet him, it also diverted some time and attention away from the task of sharing information and assessing the risks he posed.
- 8.2.5 Before his eventual release on Life Licence, Anthony Rice had six periods of resettlement ROTL. The dates when these took place were:
- 15th – 19th March 2004
 - 26th to 30th April 2004
 - 9th – 14th June 2004
 - 21st to 27th July 2004
 - 1st to 7th September 2004
 - 13th to 19th October 2004
- 8.2.6 On each occasion the licence conditions included:
- No unsupervised one to one contact with women
 - Not to consume alcohol or enter premises licensed for its consumption
 - To inform probation/ prison staff on forming any relationships
 - To travel directly to and from the hostel and abide by the hostel rules
 - To report to [named Probation Officer / or duty manager at Elderfield] on [date/time]
- During the first and second resettlement ROTLs there was an additional condition of attendance at the planned MAPPa meetings.
- From the second ROTL onward, further conditions were added:
- To reside at Elderfield
 - Not to leave the village of Otterbourne.
- 8.2.7 Anthony Rice made no secret of the fact that he found the conditions excessively restrictive. He voiced this concern when he attended the MAPPa meetings held on 18th March and 29th April. Nevertheless, it was reported that he had settled in well at the hostel. The meetings noted, however, that there was not much emotion in the way he

presented, and that he was, as yet, relatively untested in this new environment. The need for the proposed licence conditions was endorsed, and it was agreed that he would continue to be managed at MAPPA Level 3. In view of the fact that he had reoffended within two weeks of his last release from prison, the police planned to undertake surveillance. This was a responsible decision in our view, and not disproportionate in view of his record.

- 8.2.8 However, in May the former home Probation Officer (in London) and the seconded Probation Officer (in Leyhill) shared their concerns about the severity of the conditions proposed. The latter wrote to Hampshire Probation Area in May, requesting that staff from Leyhill attend the next MAPPA meeting to contribute information about the work that Rice had done on the SOTP booster and to discuss the appropriate level of restrictions during his periods of resettlement leave. The officer took the view that Rice was already travelling alone to work in the community, and that requiring him to stay within the hostel would be counter-productive to the resettlement process. Hampshire replied that they would not be reconvening the MAPPA meeting to change this at that stage as they believed that he needed to be managed at Level 3 and that the proposed conditions were necessary. Again we consider this a responsible decision at this stage, and not disproportionate.
- 8.2.9 The Hampshire probation record notes that in June a police officer had telephoned to express some concerns about the suitability of Elderfield as a placement, in view of its proximity to a school. This seems to have been regarded as a misunderstanding by an officer new to the case and to the MAPPA. There is no evidence that Anthony Rice's conviction for an offence against a child was known to the police at this time, and so this was not brought to the attention of the MAPPA.
- 8.2.10 The relevant meeting was held on 29th July. We found no minutes of that meeting, so it is not clear who attended. This was the point when they decided, appropriately in our view, that Anthony Rice's licence conditions should not be relaxed and that he should continue to be managed at Level 3. No other MAPPA meetings were held until after Anthony Rice's release from prison in November.
- 8.2.11 To this point three MAPPA meetings had been held but the minutes are brief and it is not clear what information was shared beyond the basic referral details. The hostel manager was unable to attend the first meeting, although he submitted a letter stating that the ROTL had got off to a good start and that he believed the MAPPA should support the placement. None of the attendees at the meeting had previously met Anthony Rice. No separate OASys had been prepared (one was being done in London), and the assessment interviews undertaken by Elderfield had been limited in scope. At that point London Probation Area still held responsibility for contact with Anthony Rice but were not invited to the meetings.
- 8.2.12 Furthermore it appears that Prison staff had also not been invited. The meeting therefore missed an opportunity to gain valuable information from those who had worked intensively with him and were well

informed about his progress on the Sex Offender Treatment Programme. We have commented in a previous thematic inspection report on the transfer of cases that the point of a transfer between Probation Areas, especially when also at the point of release from custody, is a time when it is especially difficult to maintain effective management of *Risk of Harm*.

- 8.2.13 A well managed MAPPP should, at this point, have taken an interrogative approach to assessing the level of *Risk of Harm* that Anthony Rice continued to pose. Their assessment needed to bear in mind both *static* and *dynamic* factors, and identify any significant gaps in the information available. A more thorough approach may have helped to highlight the missing prison reports and the lack of knowledge about the age of the victims of the early indecent assaults.
- 8.2.14 Although we are very conscious that it is easy to be wise after the event, nevertheless we find it striking that both the focus and the implicit purpose (in practice) of the MAPPA meeting were not quite right. If Anthony Rice's first ROTL had been delayed until after a MAPPA meeting had been held, the relevant people who knew the case well could have attended the meeting, and a well-informed full assessment of *Risk of Harm* could have been made. This should have been the primary purpose of the meeting, whereas in practice its primary purpose came to be for workers to meet Anthony Rice.
- 8.2.15 Furthermore, a more detailed assessment at this stage should have led the meeting to consider how the risks could most effectively be managed, and then plan accordingly. Asking these questions would have led to greater clarity in identifying appropriate licence conditions and how they would be monitored and enforced. Regrettably, the focus of their attention at this stage came to be on the proportionality of the conditions, instead of on their effectiveness in managing *Risk of Harm*. This pattern was to continue, as we discuss again later.
- 8.2.16 The ROTL conditions were eventually amended for the Life Licence, which we also discuss later. However, it is worth noting at this stage that the hostel log for 2nd and 3rd September states that Anthony Rice "went out for a drink" with other residents. Yet his conditions precluded the consumption of alcohol and entering a public house. Although there is no evidence of specifically where he went, and no problem was noted with his behaviour, this demonstrates a less than vigilant approach to the monitoring of the licence condition.
- 8.2.17 This would have given the wrong message to Anthony Rice in two ways. First, the 'no alcohol' condition was there as a standard ROTL condition, and for that reason alone he should therefore not have been permitted alcohol. So this failure to act had the effect of signalling to him that his licence conditions generally were not going to be monitored vigilantly. Had Leyhill been informed that Rice had entered a public house, it is likely that the prison would have taken serious view of the breach of the condition of ROTL. As it was, the principle of licence conditions being important had been undermined at an early stage. Secondly, and even more seriously, alcohol should in any case

have been identified as a risk factor from his previous offence. This made it all the more important that clear boundaries were placed around his alcohol consumption.

- 8.2.18 **Case transfer:** Following the meeting on 29th July, Hampshire Probation Area agreed to accept responsibility for the supervision of the Life Licence, and London Probation Area was requested to forward the file. They did so on 8th September, together with a well-completed OASys, which referenced previous reports, and identified the factors behind Rice's offending behaviour ('*criminogenic*' factors) and the circumstances likely to increase his *Risk of Harm* to others. Anthony Rice was classified as presenting a high *Risk of Harm* to the public.
- 8.2.19 This was an appropriate assessment, and it exemplifies the paradox which recurs from time to time of a person being released from an indeterminate sentence into the community with a high *ROH* assessment. Meanwhile it is worth noting here that despite the limited nature of the service being provided to its life-sentenced prisoners London Probation Area had done a sufficient job with Anthony Rice. Formally, it would have been better for them to hold a MAPPA meeting in London before transfer, but it is difficult to see how this would have added value in practice to the release plan arrangements. What was needed was a rigorously managed process organised in the prospective area of release.
- 8.2.20 Accordingly, the case file was sent from London to Hampshire. In a most unfortunate development the prison part of the file, containing some of the ongoing assessments, was archived on arrival in Hampshire. This administrative mistake became one more compounding factor in this case.
- 8.2.21 The supervising Probation Officer in Hampshire was unaware of these missing contents until this file was retrieved from the archives as a result of a search instigated by our undertaking this review. These reports draw attention to Anthony Rice's potential risk to female staff as well as to members of the public. Even without these reports this was a factor that we believe might have been raised but it does not appear to have been considered in his supervision. Furthermore it appears that neither the Probation Officer nor Elderfield staff took an investigative approach and questioned the gaps in the information provided.

8.3 Management of final release on Life Licence

- 8.3.1 The oral hearing of the Parole Board panel took place on 17th August 2004. This was a meeting attended by Anthony Rice, his counsel making legal representations on his behalf, the London home Probation Officer who had prepared the required documents, and the manager from Elderfield.
- 8.3.2 On the face of it, the decision to release Anthony Rice was supported by evidence of his progress provided in reports. He had completed all the offending behaviour programmes that had been identified and appeared to have developed a good understanding of his behaviour and the risks he posed. He had undertaken unescorted resettlement

leaves and no problems had been reported. His prison record was good and he had received positive reports from his work placement. Furthermore his tariff of ten years had expired and he had served in excess of fifteen years. The panel identified the need for a high level of support, but believed that this support and monitoring would be available through the hostel.

- 8.3.3 No transcript of the panel hearing is available, but the probation case record notes that the panel questioned Anthony Rice about how he would manage to comply with the numerous conditions. The London Probation Officer was not in a position to answer operational questions about how Hampshire would monitor the proposed conditions and no-one from Hampshire Probation Area had been able to attend the hearing. The Parole Board's decision was deferred for up to 28 days for "confirmation of the identity of (your) Home Probation Officer and a short report confirming that contact has been made and detailing any further suggested licence conditions".
- 8.3.4 There followed a further period of delay before Anthony Rice was eventually released on 12th November. During this period there was some communication between the Parole Board and the Lifer Review and Recall Section of the Home Office about the legitimacy and the wording of the proposed conditions. Some minor amendments were made, but although the Lifer Review and Recall Section remained unhappy with the conditions, they were required by law (section 31(3) of the Crime Sentences Act, 1997) to act in accordance with the recommendations of the Parole Board. To continue to delay Anthony Rice's release could have been challenged as unlawful.
- 8.3.5 Anthony Rice's Life Licence, as eventually agreed, included six standard conditions as required under the Crime (Sentences) Act 1997
- 1. He shall place himself under the supervision of whichever probation officer is nominated for this purpose from time to time
 - 2. He shall on release report to the probation officer so nominated, and shall keep in touch with that officer in accordance with that officer's instructions
 - 3. He shall, if his probation officer so requires, receive visits from that officer where the licence holder is living
 - 4. He shall initially reside at [Elderfield address] and must not leave to live elsewhere without obtaining the prior approval of his probation officer; thereafter he must reside as directed by his probation officer
 - 5. He shall work only where approved by his probation officer and shall inform his probation officer at once if he loses his job
 - 6. He shall not travel outside Great Britain without the prior permission of his probation officer
- and additionally he had these conditions:
- 7. He shall comply with a curfew in Elderfield House from 8.00pm to 8.00 am each night
 - 8. He shall not leave the boundaries of the village of Otterbourne as defined in a map to be provided by his Probation Officer, except when accompanied by a member of staff, such a condition shall be reviewed within 3 months of release
 - 9. He shall not seek to contact or approach lone females, (excluding professionals involved in his case) without the prior approval of his probation officer

- 10. He shall not engage in substance misuse
 - 11. He shall inform his probation officer upon forming any relationship
 - 12. He shall comply with whatever requirements are made of him by his probation officer with regard to addressing his drug and sexual offending behaviour problems
- 8.3.6 The Lifer Review and Recall Section expressed some concern about conditions (8) and the original wording of (9). Following discussions between the section and the Parole Board, the latter, prohibiting contact with females, was amended to the wording as stated above.
- 8.3.7 Boundary conditions are frequently specified in licences, but usually these are intended to exclude the offender from an area where they may encounter the victim, or present a risk to other potential victims. Condition (8) was unusual in that it sought to contain Anthony Rice within a specified area.
- 8.3.8 The specific purpose of this condition, with this specific wording, remains unclear to us. We can infer a general desire to impose a restriction of liberty for this problematic offender, which we can understand, but there is no evidence of systematically thinking through either what this would achieve or how it would be enforced. Either Anthony Rice was 'safe' to go unescorted outside the hostel premises or he was not, or there was an area that he should be excluded from – but this particular boundary definition was not logical.
- 8.3.9 As we shall see below, this in turn made it more difficult for the authorities in Hampshire to be clear what purpose they were serving in trying to enforce this condition, or be clear what arguments might exist to oppose any application by them to vary the condition. And the Hampshire authorities needed to devise a plan both to enforce this condition and communicate this clearly to Anthony Rice so that he understood unequivocally where he stood on this point.
- 8.3.10 We note that there is no evidence of the Hampshire authorities considering the option of electronic monitoring as a means of enforcing the curfew. This would not have been a straightforward option to arrange, for various reasons, but we are disappointed to note that the option was not even explored.
- 8.3.11 Meanwhile the Lifer Review and Recall Section remained concerned that the conditions were problematic, and might be excessively restrictive in terms of the Human Rights Act. However, the advice offered to the Parole Board highlighted the fact that the Act allows for interference with the rights of an individual where this is necessary for public safety and the protection of the rights of others.¹² The panel was satisfied that Anthony Rice would abide by the conditions and specified that condition (8) would be subject to review within three months of his release.

¹² Interference with the right to respect for private and family life (Article 8 of the European Convention of Human Rights) and freedom of assembly and association (Article 11) are not absolute and can be justified if the conditions can be shown to be both necessary and proportionate in order to protect the rights of others.

- 8.3.12 It is not within the scope of this review to evaluate the legal arguments surrounding the licence conditions. However, we find it regrettable that attention to effectiveness and enforceability was undermined by the attention devoted to issues of lawfulness and proportionality. From a practical point of view it is difficult to envisage how some of the conditions could be monitored and enforced. It is not hard to imagine how the lack of clarity regarding 'forming relationships' or 'approaching lone females' could have been manipulated by Anthony Rice. Without overwhelming evidence of breach it would have been difficult to substantiate action which may have resulted in return to prison.
- 8.3.13 There are similar concerns about the condition of 'not to engage in substance misuse', which was different from the clearer wording on the ROTL licences 'not to consume alcohol or enter premises licensed for its consumption'. We believe that the intention was to widen the condition from alcohol to include other drugs, but the effect was to make the prohibition less clear.
- 8.3.14 The boundary condition, which we have already mentioned, was supported by a map of the Otterbourne area, defining the two main roads through the village. We have been advised that the intention was to confine Anthony Rice to these two roads and that this was explained to him. However, we have found no contemporary evidence of this intention, so if he had been found in other, more secluded parts of the village, it would have been difficult to challenge his behaviour by arguing that he had breached this condition.
- 8.3.15 Furthermore, as we have already stated, the purpose of this condition was not clear. During his ROTL Anthony Rice had been travelling to and from Leyhill unaccompanied. Even if he had been a more compliant offender, it would have been hard for him to understand the underlying consistency in the conditions to which he was subject. He was as likely to pose a risk to lone women within the prescribed zone as to those he might encounter anywhere else.
- 8.3.16 Condition (7) imposed a curfew at the hostel. This is a commonly used condition and would be a normal requirement for those residing in an Approved Premises (Probation Hostel), where it would be monitored every night by checking that the offender was physically in the premises at curfew time. Security systems in Approved Premises would also alert staff to anyone attempting to leave the building during the night. In contrast to these arrangements it is clear that Elderfield did not have similar security systems and that it was not part of their normal procedures physically to check the presence of a resident at his curfew time. In our opinion the various authorities assumed that since Elderfield were prepared to take this dangerous offender they must have had suitable security arrangements, while Elderfield assumed that since the authorities were prepared to send him there their security arrangements must have been suitable.
- 8.3.17 In any event, throughout his period at Elderfield, Anthony Rice continued to challenge the licence conditions 7, 8 and 9. They were vulnerable to his challenge partly because they were unusually

intrusive and partly because their rationale was unclear. The effect of all this was to draw attention away from using licence conditions as an aid to effective management of Rice's *Risk of Harm* by taking up time in debating their purpose and proportionality.

- 8.3.18 It is worth noting that Probation Circular 42/2003 "Parole, Licence and Recall Arrangements" and Probation Circular 16/2005 "Criminal Justice Act 2003 – Early Release and Recall" (which replaced 42/2003) both offer clear guidance on the wording of additional licence conditions. Both circulars are applicable only to determinate sentence prisoners. The Lifer Manual has hitherto provided no comparable guidance, although we are advised that such guidance is currently being prepared.

9. Management of Anthony Rice's Life Licence after Release

9.1 November 2004 – January 2005

- 9.1.1 Anthony Rice was released from Leyhill prison on 12th November 2004 and reported to Elderfield, where he was seen by hostel staff and later by his supervising Probation Officer.
- 9.1.2 We have already commented on the problems created by the wording of the licence conditions. In this context it is not surprising that Anthony Rice started to test the enforceability of the conditions from the day of his release, when he arrived smelling of alcohol, and discussed with his supervising Probation Officer the meaning of conditions 8, 9 and 10.
- 9.1.3 When hostel staff challenged him about his drinking, he replied (we learn) that it was acceptable for him to drink in moderation. Whilst there is no evidence that his use of alcohol caused any problems during his period at Elderfield, the wording of the condition in the Life Licence left workers in some uncertainty as it now appeared true that a moderate drink in a public house no longer constituted a breach of licence. The lack of clarity in the changed condition enabled Anthony Rice to make an early gain on his own terms.
- 9.1.4 On 23rd November a MAPPA meeting was held. The OASys completed by London had arrived in Hampshire since the previous meeting and was in the Probation file. This assessment could have made a valuable contribution to the MAPPA meeting's understanding of Anthony Rice, but we can find no evidence that the MAPPA received or made use of it. In particular this assessment usefully highlighted the fact that the previous offence happened when, according to earlier reports, Anthony Rice had been released from prison to a hostel where he felt unsupported and was unhappy that he was not immediately allowed to find work. Furthermore, the link between drugs and his early offending, and between alcohol and his last offence was pertinently noted in this OASys assessment. It was a misjudgement in the MAPPA meeting not to ensure that they had accessed the fullest information, and either received or made the fullest possible assessment of *RoH*.
- 9.1.5 The OASys assessor also expressed some concern about his understanding of the reasons behind the stringent conditions. In relation to his attitudes to women and to his offending the comment is made: "it is difficult to fully assess whether he has learnt what to say or whether his insights are genuine.....He says that he no longer has inappropriate fantasies but this is not possible to assess".
- 9.1.6 This assessment also rightly notes that "being released into the community on life licence will be a time when his behaviour and the way he is feeling about himself will need to be closely monitored. If he fails to talk about his feelings and acknowledge any difficulties he might be experiencing then this should cause concern....Any relationships he forms with women will need to be monitored."

- 9.1.7 Assessment is a dynamic process, and the OASys should have been updated on Anthony Rice's arrival in Hampshire, to reflect the changes in his circumstances, as required by PC 52/2004. The London assessment had been completed electronically but the Hampshire Area was at this time still using the handwritten version. We found a number of deficiencies at this point in the process, some of which arose from this factor.
- 9.1.8 Instead of completely re-doing the assessment and *Risk of Harm* analysis, (which would have meant re-inputting it) the supervising Probation Officer simply updated the supervision plan. But although this new supervision plan was completed promptly its content was limited: the objectives identified were simply for Anthony Rice to comply with the conditions of his licence - this did not provide a clear enough framework for work with him.
- 9.1.9 The plan should have focused much more clearly on the factors related to this man's offending behaviour and the work to be done to achieve progress. There was a clear need to deploy *constructive interventions* like a Relapse Prevention programme to help him learn to become less likely to reoffend, and a need to manage *restrictive interventions* to keep to a minimum his opportunity to harm others, but these were not covered in the plan. In short, we looked for structured sentence planning with a focus on outcomes, and we did not find it.¹³ In that sense the content of the plan was deficient.
- 9.1.10 Following that, the plan was reviewed quarterly. Although this frequency met the requirements of National Standards for normal cases it did not follow the MAPPA guidance for this type of case, which states that the plan should be updated and amended following MAPPA meetings. In addition the content remained insufficient.
- 9.1.11 Like the earlier meetings, the minutes of the MAPPP held in November are brief, and provide little evidence of a detailed and structured risk assessment. A more rigorous approach would have considered the warning signs to note. This would have provided the hostel with a better guide on what behaviour to look out for and to report to the meetings¹⁴.
- 9.1.12 The police had completed a Risk Matrix 2000 assessment, which classified Anthony Rice as presenting a high risk of violent or sexual offending. However, the assessment had only taken into account his sexual offending and not his violent offending. The same assessment completed in the prison in 2001 confirms that the inclusion of violence would have raised him from high to very high risk.
- 9.1.13 Hence we find two further deficiencies at this point. First, we found no evidence that this assessment was shared with the MAPPA meeting as required by the protocol. Second, the quality of the assessment itself

¹³ We are aware that there was an intention to refer him to the Relapse Prevention Programme, but our point is that this was not recorded in the plan, and thus not part of the accountable planning process.

¹⁴ In the case of Anthony Rice, 'warning signs' would be more about him going quiet and becoming less visible, rather than the observable erratic behaviour that indicates raised risk with other offenders.

was deficient, in that it did not take into account his previous violent offending. There is a link here with our finding in our 2005 joint inspection of sex offenders: *“Most (RM2000) assessments were completed by a constable. There was little evidence of management oversight, as the majority of assessments were not countersigned.”*¹⁵

- 9.1.14 The licence conditions were outlined to the meeting, but there was no record of any discussion about how they would be monitored and enforced. This meeting was an opportunity to establish a protocol for the management of the supervision and to be clear with Anthony Rice that the conditions of his licence would be strictly enforced, but this opportunity was missed.
- 9.1.15 Any concerns about the conditions were not expressed and, critically, assumptions were made about how the curfew condition was going to be enforced. Probation staff and police believed that Elderfield would physically check that Anthony Rice was in the hostel during his curfew time, as would normally happen in a Probation hostel (Approved Premises). However, this hostel did not have the necessary security systems to allow them to do so. Elderfield staff, for their part, assumed that their systems were understood, as they had accommodated other high risk offenders in the past. It appears that they believed that their partners on the MAPPA understood that they could only enforce a curfew ‘by exception’ i.e. if the resident happened to be caught outside his place of curfew during the curfew period.
- 9.1.16 The lack of clarity about the whole package of conditions contributed to this mistake. As above, some of the conditions would clearly only be enforced if evidence of breach were to come to light. For example, there were no plans that Anthony Rice would be continually monitored for three months to ensure that he did not leave the boundary of Otterbourne; this condition too would be enforced ‘by exception’, or reactively. This was at least apparent to all parties. However, we have found that there were differences in expectation about how the curfew would be enforced, as we have already described. The different approaches to enforcing the conditions were never spelled out.
- 9.1.17 Furthermore, had the difficulty of monitoring a curfew at Elderfield been discussed prior to Anthony Rice’s release on life licence, one possibility is that this particular hostel may not have been seen as an appropriate placement for him. An alternative option was that the police could have arranged ad hoc visits to see him at the hostel after the curfew time. As we have already said, the option of enforcement through electronic monitoring should at least have been considered, and in doing so might have clarified the extent of the problem of monitoring a curfew at Elderfield. The further possible option, satellite tracking, had been considered by the Probation Officer, but although a pilot scheme was running in Hampshire it was more suitable for monitoring exclusion (as in domestic violence cases) rather than containment, and for this and other reasons was not available for sex offenders.

¹⁵ Joint inspection by HMI Probation & HMI Constabulary: *Managing Sex Offenders* (Dec 2005)

- 9.1.18 In view of the fact that Anthony Rice had previously offended soon after his release from prison, surveillance by the police was considered at earlier MAPPA meetings. For this to go ahead, an application would have to be approved by police senior managers. Surveillance might have involved either a short period (unlikely to exceed a few days) of continuous monitoring, or sporadic periods of monitoring. However, in the event, the police representative on the MAPPP had changed and it would seem that he was not fully briefed about previous discussions. No application for surveillance was made and this option was not raised again.
- 9.1.19 In our joint inspection on sex offenders we noted that *“requests for surveillance....were being prioritised in the context of a focus by police forces on volume crime. Generally surveillance was difficult to obtain. ...it was commented that they were rarely implemented due to a lack of resources, and, if they were implemented on high risk of harm sex offenders, it was rarely for the duration requested. Police officers working with sex offenders would have welcomed an enhanced in-house surveillance capability to enable them to be more proactive.”*¹⁶
- 9.1.20 The MAPPA meeting then considered reducing the management of Anthony Rice to Level 2, but (rightly) felt it to be too soon to do so. However, the action plan agreed by the agencies was limited to monitoring and liaison – but we believe that it could and should have been better than this. At this stage, the package of both *constructive* and *restrictive interventions* should have been clearer. This would in turn have informed the continuing reviewing of the supervision planning. On his part, Anthony Rice remained unhappy about the conditions of his licence but agreed that he would abide by them.
- 9.1.21 During the next three weeks, the hostel log reports that Anthony Rice appeared to be in a positive mood. This dipped towards the end of the year, and a MAPPA meeting held on 5th January noted that he had been surly and rude to staff following a refusal to relax his licence conditions on New Year’s Eve. He was described as having become “moody and detached”. He had been drinking socially with other residents, but his use of alcohol was felt to be under control. However, we note that the progress report prepared by the seconded Probation Officer in June 2004 for the Parole Board panel had noted that “any suggestion that Mr Anthony Rice has started to use alcohol to excess or drugs should be viewed as an indication that his level of risk has substantially heightened. Mr Anthony Rice also needs to guard against isolation and brooding. He should be encouraged to take part in interactive activities in his leisure time.”
- 9.1.22 Had the assessment by the earlier MAPPA meeting been fully informed by these observations, the significance of Anthony Rice’s behaviour might have been more fully considered. However, the meeting held on 5th January 2005 in fact concluded that there were no major concerns and felt that he had “made good progress and adapted well to being on licence to date”.

¹⁶ Joint Inspection on Managing Sex Offenders in the Community – Para 7.19

- 9.1.23 The same meeting agreed to Anthony Rice's request for the boundary condition to be relaxed so that he could travel, unescorted, outside Otterbourne Parish boundary for planned activities twice a week, for a maximum of four hours on each occasion. Up to this point the evidence is that the boundary condition had been conscientiously managed, with him going outside the prescribed boundary only when escorted, such as to attend MAPPA meetings. Things changed from this point on, following the decision at this meeting.
- 9.1.24 The activities were to be planned in advance and authorised by the supervising Probation Officer, and Anthony Rice would be expected to provide evidence that the planned activity had been undertaken wherever possible. The police would circulate information about his activities; however, it was not clear how they would be informed about his plans. The record shows that from then on he started to undertake unsupervised visits as agreed with his supervising Probation Officer both to report to the Probation Office and the Job Centre. However, we have found little evidence in practice of liaison with the police or of confirmation of his activities.
- 9.1.25 There are two separate issues here: first, whether MAPPA had the authority to vary the condition in this way – which they didn't – and, secondly, whether it was wise to make this change even if they had had the authority to do so. As we discuss again further below, at certain points in the process they appear to have let their desire to encourage his resettlement to displace their priority need to focus on public protection.
- 9.1.26 Nevertheless, in contrast to this point, when Anthony Rice's curfew times were also considered by the meeting, they were maintained as stated in the licence (8pm to 8am). Throughout January he continued to ask his supervising Probation Officer to have the curfew lifted.
- 9.1.27 It was this same meeting on 5th January that decided that Anthony Rice could now be managed at MAPPA Level 2. The local MAPPA protocol states, rightly, that "cases should be managed at the lowest appropriate level, determined by defensible decision-making". However, the minutes of the meetings held do not provide sufficient specific support for this decision, so we are unclear about the thinking behind it and therefore doubt its wisdom. Our point is that it is unwise to focus too much attention on the progress achieved in a case such as this, building up too strong a sense of reassurance. Instead they needed to be continually asking themselves "What is the worst that could happen now?"
- 9.1.28 The effect of reducing the MAPPA management to Level 2 was that the meetings would no longer be chaired and attended by senior staff from the police and probation area. The police were subsequently represented by a Police Constable. It is now accepted that her workload at the time was excessive, and that the line management structure did not offer her an easily identifiable source of support. We have been advised that the organisational structure has subsequently

been reviewed. However, at the time this constituted one small but significant reduction in the arrangements to monitor Anthony Rice.

- 9.1.29 In a further development, on 16th January a member of the hostel staff noted that she thought she saw Anthony Rice walking along a road which was outside the boundary. He denied this, stating that he was in a local public house at the time and could prove it. We can find no evidence that this was reported to the police or the supervising Probation Officer, or to subsequent MAPPA meetings. We cannot know for sure why this was not reported onward, but we infer that an episode such as this would have reinforced in the minds of both Rice and the staff member that the MAPPA meeting did not have the full picture about this offender's progress.

9.2 February – April 2005

- 9.2.1 The next MAPPA meeting was held on 2nd February. A letter from Anthony Rice's solicitor had been received, arguing that conditions 8 and 9 were in contravention of his human rights, and indicating that a Judicial Review might be sought. The letter was discussed but the meeting agreed not to remove the conditions. Anthony Rice reported that he felt happier at Elderfield and was enjoying his planned outings. He also stated that he was looking for work and had an interview with Jobcentre Plus. Although the meeting made, in our view, the best available decision in not seeking to change the licence conditions at this stage, it is striking to us that one of the effects of the solicitor's intervention was that again more attention was paid in the meeting to the fairness and proportionality of the restrictive interventions rather than their effectiveness in keeping *Risk of Harm* to a minimum.
- 9.2.2 In a separate aspect of this case, under Hampshire's MAPPA protocol, the Jobcentre Plus should be notified about offenders being managed at Level 3. PC 54/2004 states that, in informing the local Jobcentre Plus about an offender, the 'nature of the employment from which the offender should be restricted' may be disclosed. The supervising Probation Officer subsequently liaised with the Jobseeker's Advisor and the placement provider, but there is no evidence that the MAPPA meeting had discussed the potentially difficult issue of identifying employment that should be deemed unsuitable.
- 9.2.3 This meeting also considered an alarming report from the Elderfield manager that (whilst on ROTL) Anthony Rice had told a young female assistant in the local garage that he had been in prison for electrocuting someone. Yet the significance of this grandiose and potentially grooming behaviour was not analysed. Instead Anthony Rice became annoyed that this matter had been reported, and for the next few days he behaved in a sullen manner in the hostel.
- 9.2.4 The meeting agreed to amend his curfew from 8pm to 10pm and 11pm on Wednesdays to allow him to be able to go to the quiz at the local public house. It was also agreed to extend his hours away from the hostel from four to six hours on Saturdays. This decision seems to have been based on a perception of his progress and an

understandable desire to motivate and encourage him to start to lead a more normal life. However, this was less than a month since the MAPPA meeting's decision not to alter the curfew, and appears to us to be an example of how Anthony Rice seemed to be dictating the pace.

9.2.5 On 7th March, Anthony Rice started his training course. It was understood that this would involve placements in different towns in the South (possibly Basingstoke, Reading and Havant). He was also placed at a supermarket in Winchester. During the period of his training, which lasted until mid-April, Anthony Rice was leaving the hostel before 8am and, having gone out in the evening, returned at or just after 10pm. There is no evidence that issues about the curfew were discussed with him or between agencies. Nor was there any reflection on how his employment conflicted with the boundary condition (as it had been redefined in the January and February MAPPA meetings). At the same time, his supervising Probation Officer was still discussing with him his requests for other outings. This was bound to leave the supervised offender with the impression that these two conditions were not being managed particularly assiduously.

9.2.6 Following this, there were two incidents when Anthony Rice was seen outside the prescribed boundaries. On 8th March, he was seen in the Shawford area by a member of hostel staff. She was concerned because he was in an isolated spot and recognised that this matched his previous offending. This was rightly reported to the supervising Probation Officer, who in turn rightly raised the issue with Rice. His explanation was that he missed a bus, went to check on train times as a possible alternative and returned to the bus stop. Following discussion with the Senior Probation Officer it was decided that this matter should not lead to recall action, but that a warning letter would be issued. However, it was 5th April before this letter was finally sent. Although it is possible for a warning letter to be effective in these circumstances, its impact will be seriously undermined by not being done promptly. It is certainly less likely to impress on the offender a sense of being closely managed.

9.2.7 Indeed, by the time Anthony Rice received the warning letter for the first incident there had been a second incident. He was reported to have "walked back from Winchester" on 25th March. He claimed to have walked the bus route to a mile outside the city because buses were irregular on Good Friday. He produced a bus ticket that substantiated this and no further action was taken.

9.2.8 These two incidents are examples of the muddled thinking that surrounded the licence conditions and their enforcement. Because it was not clear to all concerned either what the purpose was of some of the conditions or how they were to be enforced it is not surprising that the different staff found it difficult to manage them in a coherent way, let alone make it all make sense to Anthony Rice. At this point Elderfield staff recorded their understanding that "he is to catch the bus to travel outside Otterbourne so he is not walking on the route to Winchester". This raises the question of what controls the authorities

were intending to exert while at the same time permitting Rice to cross his defined boundary, plus also the question of how any such controls would be enforced.

- 9.2.9 We are not able to conclude with confidence about what Anthony Rice himself thought he was doing. It is possible that he was genuinely uncertain about the significance of complying with the boundary condition, reflecting the confusing way this was being applied. Alternatively, as a police intelligence report prepared prior to his release predicted, he may have been attempting to “gain in-depth geographical knowledge to assist with this offending”. Either way, however, he would have received the implicit message that people were uncertain as to how to manage his curfew and boundary conditions. Had his behaviour been reported to the MAPPAs and discussed in a rigorous and mindful way, a different message could have been conveyed to him, through tighter case management and surveillance if necessary.
- 9.2.10 The extent of the muddle was then revealed on 30th March when Probation staff consulted the Lifer Review and Recall Section about the conditions. They learned that amendments to the boundary condition would need to be approved by the Parole Board, and that any application to this effect would not be considered a high priority.
- 9.2.11 Accordingly the MAPPAs meeting held on 19th April discussed the recognition that it had acted outside its authority in approving the amendments to the curfew and boundary conditions. It was agreed that the forthcoming report to the Lifer Review and Recall Section would include the recommendation about the changes. Remarkably, however, no action was taken to withdraw the approval and there is no record that this possibility was even discussed. Indeed the meeting agreed to extend the curfew to 11pm every night. The report was submitted to the Lifer Review and Recall Section on 21st April and notes that the decision to manage Anthony Rice at MAPPAs Level 2 was a reflection of the progress he was making.
- 9.2.12 We recognise the dilemma faced by the MAPPAs meeting, although as we have said the problem does not appear to have been recorded. We infer that they would not have wanted to put back the progress towards reintegration achieved by Rice to date by in effect requiring him to give up his training course, which would have been the effect of re-imposing the boundary and curfew conditions in full. However, they not only continued to exceed their own authority by continuing to relax these conditions (even further) but they also continued with a reduced level of their own scrutiny of the case (Level 2). This may have sent a message to Rice of recognition and encouragement for his progress to date, but it may also have sent an implicit message that the controls to which he was subject were becoming even less important.
- 9.2.13 With many offenders, particularly the ones with either negative or mixed motivation, there is a dilemma about whether intensive intrusive interventions will either help to control the offender’s behaviour or put the offender under so much stress as to precipitate the behaviour one

is trying to prevent. Nevertheless, although we recognise this dilemma, we did not find that this had been explicitly discussed at the MAPPA meeting, and in any event even if this had been the stated reason for relaxing the controls we could not have supported that approach in a case like this. The MAPPA could have held a better balance by recognising the progress he had made with the *constructive interventions* in his sentence plan while still holding to the importance of vigilantly maintaining the prescribed *restrictive interventions*.

- 9.2.14 It was reported to the same MAPPA meeting that Anthony Rice had told the police that he was confused about his curfew and boundary conditions. As we have discussed above, this was perhaps not surprising. The local police officer who had drawn up the boundary map had expressed his concern about the “walk from Winchester” and had asked if the date of the meeting could be changed to allow him to attend. This was not possible, and there is no evidence that these concerns were communicated to the MAPPA police representative, or followed up. The meeting thus missed this opportunity to examine the confusion around the conditions and to record clearly how any proposed amendments to the conditions would be managed. Greater clarity would have ensured that minor breaches could be enforced rigorously, and would have demonstrated to Anthony Rice that the agencies were working together carefully to manage his supervision closely.
- 9.2.15 We finally note about this meeting that Elderfield staff reported their concerns that Anthony Rice’s “bitterness” was developing. Yet when Anthony Rice joined the meeting he was praised for how well he was getting on. This again illustrates a recurrent theme in the MAPPA meetings: the decisions made by the meeting, and particularly the feedback to Anthony Rice, did not reflect the evidence presented. The decisions and feedback were more about encouraging the offender than about soberly assessing the current *Risk of Harm* issues and how best to manage them.
- 9.2.16 On 24th April there was an assault on a lone female in Southampton. Following his arrest in August for the murder, Anthony Rice admitted this offence. He said that he had told Elderfield staff that he was going to bed but left by the back door. He caught a bus into Southampton where he attempted to obtain the services of a prostitute, but after an altercation with her, she ran off. This angered him. He decided that he could not return to the hostel too early in the morning as he would set the lights off and arouse suspicion. He wandered around town until he found a woman alone, and followed her. He decided to hurt her, and hit her across the back of the head with a brick as hard as he could and ran off, returning to the hostel around 8.00 am. During the following week, hostel staff noted that Anthony Rice was behaving in a demanding way and using dominant body language. He also tried to make an opportunity to work alone with a female worker.
- 9.2.17 Although this offence was consistent with Anthony Rice’s profile and modus operandi, the Police did not at that point connect it with him. He

later reported that he expected the police to call the following day, but when they did not, he started to feel that he could do anything and get away with it. Police records also identify another assault on a lone woman in Winchester in November. Although Anthony Rice has not admitted to this or to any other subsequent incidents, had he been interviewed about this incident it would have given him a clear message that the police were being vigilant about his presence in the area. Police intelligence also now suggests that he may have been frequenting areas where prostitutes operated. The person who made two assaults on prostitutes fitted his description, but no charges were brought.

- 9.2.18 The police ViSOR¹⁷ system did not become available until Summer 2005, when the process of converting existing records began. This system would therefore not have helped to identify Anthony Rice.

9.3 May – August 2005

- 9.3.1 The next MAPPA meeting was held on 24th May. Employment options for Anthony Rice were considered. The Probation Officer agreed to pursue the possibility of work in a laundry as Anthony Rice had gained similar experience when in Leyhill. But instead of assessing any possible risks and discussing whether disclosure to an employer would be appropriate, the meeting saw Anthony Rice's willingness to reveal his offending history as a barrier to gaining work. He was reported to be enjoying his computer course, and wished to increase his attendance from two to three days a week. There is no evidence that his attendance was verified.
- 9.3.2 The notes of the meeting reflect some contradictions. It was reported that "he has had no feelings of reoffending but there are times when he feels he wants to go back to prison". The notes of his contribution to the meeting state that "he is trying to find employment but feels every door is a closed one", yet also record that "Tony has no concerns at present. [Probation Officer] feels that he is coping well. He's stayed motivated and is still doing his computer course". In attempting to motivate and encourage Anthony Rice, the meeting failed to pay sufficient attention to indications that all was not well.
- 9.3.3 Anthony Rice had expressed a wish to move to Park Farm, semi-independent accommodation on the Elderfield site. His request had been refused, but the minutes of the meeting do not record the reasons for the refusal or whether this was assessed as a future option.
- 9.3.4 On 26th May the Parole Board agreed to remove the boundary condition from the licence and to vary the curfew to run from 11pm to 6am. The following day Anthony Rice obtained work at a laundry. His hours of work were 1.00 pm to 11.00 pm Monday to Friday and 8.30 am to 4.30 pm on a Saturday. It is not clear how he would be back at the hostel by the new curfew time of 11pm during the week. In the event, throughout June, where his presence in the hostel is recorded, it

¹⁷ Violent and Sex Offender Register. See Glossary.

appears that he was often in between 10pm and 11pm. There is no evidence that anyone checked that he was working, or that he had disclosed his offences. Encouraging though it was that he had got into employment, it was a bad misjudgement by the MAPPA not to be able to demonstrate that they had ensured that the employer had been made aware of the nature of this new employee's offending behaviour.

- 9.3.5 Anthony Rice had still not undertaken the community based Relapse Prevention Sex Offender Treatment Programme (SOTP). Although his supervising officer had referred him to the programme shortly after his release, there were no immediate places. This is not an unusual situation; many areas are unable to run sufficient SOTPs to meet the demand from all relevant offenders. In these circumstances places have to be prioritised, and there were two possible views about the timing of such a programme for Anthony Rice.
- 9.3.6 As our joint thematic inspection report *Managing Sex Offenders in the Community* has noted, there is a tension for workers between public protection and quality of life issues. On the one hand, it was important to help him to establish a settled life in the community as part of the strategy for reducing the likelihood of reoffending. A period of living in the community would provide a better basis for his return to relapse prevention work, and on this basis the prison psychologist, reporting to the Parole Board in 2004, recommended that this work should take place approximately 18 months after release. In this sense it was understandable that Rice was not rushed into such a programme immediately on release. On the other hand, however, there was a clear need to test out whether the strategies learned by Rice for avoiding deviant fantasy were robust once he was out in the community on full release, and his earlier attendance on the programme might have provided that opportunity.
- 9.3.7 Furthermore, as the time came to plan his referral to the programme, Anthony Rice's employment raised a new dilemma for the relevant staff. There was some discussion about which took precedence – his work or an appointment to undertake psychometric tests (a prerequisite for attendance on the programme). It was agreed, rightly in our view, that he would undertake the programme.
- 9.3.8 In June the supervision of Anthony Rice transferred temporarily to another officer, whilst the original Probation Officer was away on a period of planned sick leave. Although the new officer knew the case, that officer had a high workload split between two locations and two line management structures – a situation, which it is acknowledged, was unsupportable. It appears that the MAPPA had endorsed the approach that the new officer would simply 'oversee' the case in the temporary absence of his original supervising officer. In practice this meant that he would now be seen fortnightly at the probation office, and that communication between probation and hostel staff would now be less frequent, though still within the minimum prescribed by National Standards. Until that point contact had taken place weekly, usually at the hostel, and as such had exceeded the relevant national standard.

- 9.3.9 Overall, the two Probation Officers who supervised this case did what was required of them both by National Standards and by the decisions of the MAPPA. But this case required an especially rigorous and unrelenting focus on the public protection dimension of the case, and in practice that requirement was not met.
- 9.3.10 Meanwhile Anthony Rice's increasingly rude and demanding behaviour was being noted in the hostel in June. His further requests to move to Park Farm were denied, but then he was told that if his behaviour and attitude improved this move would be considered. A week later, on 28th June he moved into the semi-independent accommodation. This move appears to have been made by the hostel without direct reference to the MAPPA – although it was a change significant enough to require Anthony Rice, as a registered sex offender, to notify the change of address to the police. There was liaison between the hostel and the new supervising Probation Officer beforehand, but the move was only reported to the MAPPA afterwards, at the meeting held on 6th July. There was no discussion about how his curfew would now be monitored and no hostel staff were present at the meeting.
- 9.3.11 Anthony Rice told the meeting that his hours of work had changed and that he would need to leave the hostel at 5am. It was agreed that an application would be made to the Parole Board for the curfew to be amended to “comply with any reasonable curfew as imposed by your supervising officer”. The application was reviewed on 12th August, but the outcome had not been heard at the time of Anthony Rice's arrest and recall. In the meantime the MAPPA meeting was again exceeding its powers by in effect approving Rice's absence from his place of curfew during part of the curfew period. One can understand that there was a desire to promote his resettlement by not jeopardising his employment, but until the Parole Board approved the change the MAPPA meeting was exceeding its powers.
- 9.3.12 Meanwhile, from March to July Anthony Rice had no formal sessions with his keyworker at Elderfield, although his availability decreased from 27 May when he started work. These sessions should have been held weekly throughout his stay, but there are only five sets of notes on file. Hence a standard that Langley House Trust set for itself was not achieved in this case.
- 9.3.13 Accordingly, from the point when he moved into Park Farm onwards Anthony Rice was effectively free to come and go from the hostel as he pleased. He was reportedly undertaking a computer course three mornings a week and working at the laundry on the shifts as described, but there is no verification of this recorded. The hostel log notes that he sometimes called in around 10.00pm but on other days was not seen. There is no evidence that these occasions were *breaches* of his curfew – but equally no evidence that he was complying with it either. A curfew that previously was not being monitored in any systematic way was now subject to even less control.
- 9.3.14 During this period the MAPPA meetings made erroneous assumptions about Anthony Rice's level of compliance and the progress he was

believed to be making. Accordingly they sanctioned an overall level of supervision that would be suitable for many life licensees at this stage following release but not for Anthony Rice.

- 9.3.15 On Wednesday 17th August – the day of the murder – Anthony Rice kept his appointment with his supervising Probation Officer at her office. He reported that everything was going well at Elderfield and at work, and she noted nothing unusual about his manner. On our part we again make the observation here that he was an offender who (unlike many) does not necessarily show any observable ‘warning signs’ of raised risk in advance of what he is about to do. He was in fact on that very day in breach of his licence condition not to contact or approach lone females, since he had just arranged to meet up again with Naomi Bryant later that day, but with this offender and in these circumstances that condition was almost impossible to enforce.
- 9.3.16 He was not seen at the hostel the following day. The officer started emergency recall action immediately on hearing that Rice was wanted by the police in connection with the murder.

10. Analysis and recommendations

Our overall analysis is that a number of mistakes, misjudgements and miscommunications at all three phases of the whole process of the case had a compounding effect so that they led to a cumulative failure. In this chapter we analyse the identified issues at each phase of the process, and offer our recommendations for future practice.

10.1 *Management of Life sentences while in custody*

- 10.1.1 Failure to identify Anthony Rice as an offender against children: First, the file from his previous sentence was not retrieved and brought forward for use during his current sentence. When the file came to light during this review we found that it was clearly labelled (correctly) but that it had not been available to anyone managing the current sentence. Second, the information about the offence details and the ages of the victims of the old offences was available from the Police National Computer, but was not accessed during this sentence. It was a major mistake to fail to bring forward the file from Anthony Rice's previous prison sentence, which would have shown that he was a former offender against girls as well as against adult women. It was a misjudgement not to investigate in order to obtain as full information as possible about all of Anthony Rice's history of offending behaviour.
- 10.1.2 This information should have then been used as part of Anthony Rice's treatment programme, and it should then have been made available to the Parole Board and to the authorities managing his supervision following release. The fact that he was an offender against children as well as adult women might well have affected Elderfield's decision to accept him. In that sense this failure contributed to the overall cumulative failure. This is the first example of what we mean when we say that at all stages an 'investigative approach' is required when assessing and managing offenders' *Risk of Harm* to others. At all stages of the process people should check that they have in front of them all available information about the case, especially all available details of past sexual or violent offending.
- 10.1.3 No one really 'in charge of' the case / Low-level involvement by the home Probation Officer: We note that it was consistent with customary practice that there was relatively little involvement by the home Probation Officer during the main custodial period, including during the last two years. Even the original Home Office Circular from 1984, and subsequent Lifer Manual, do not set out expectations of high level of contact. We recognise the logistical and organisational issues involved, but this low level of involvement from the home Probation Officer means that currently there is little expectation of a real contribution by him or her towards sentence planning. Much would have to be changed for this current role to be transformed into the high quality rigorous start-to-end offender manager role that we think that cases like this need.

- 10.1.4 Even in prison, the Governor is in charge of the institution while the psychologist might be the leading treatment provider. But the fact that by necessity there is then a complete break in the management of the offender every time he moves institution illustrates further the point that as things stand there is no one responsible for being 'in charge of' the case from start to end of the sentence. We of course recognise that this is logistically very difficult to achieve in practice, but at present the *discontinuities* in both management arrangements and record-keeping make it difficult for those eventually managing the case in the community to gain a full 'long view' understanding of the offender and all the public protection considerations of the case as a whole.
- 10.1.5 An offender who doesn't show observable warning signs of raised risk: An illustration from this case of the need for a long view is the fact that Anthony Rice is recorded as having committed his original offence the same day that he had had a session with a psychologist. Whereas in the majority of high *Risk of Harm* cases it is a reasonable expectation that one will see warning signs of worsening behaviour it appears that, unusually, Anthony Rice is a case where those warning signs may not be apparent at all even to a well-trained person. This has implications for managing such a person in the community – if one cannot readily 'read' when his behaviour is likely to become more 'risky' he will be much harder to manage effectively after release. Some of the usual approaches such as rewarding improved behaviours while monitoring for warning signs will be less reliable. That consideration should in turn inform the decision to release in the first place. This all makes the case even more compelling for having someone to take the long view when managing an offender such as this.
- 10.1.6 Need for independent assessments: There is more than one illustration of this principle. Our view, consistent with that of the Prison Service's own internal review, is that the psychologist's assessment that Anthony Rice was ready to move direct from Category B to Category D (open prison) conditions, was a misjudgement based on insufficient evidence in favour of doing so. The fact that this assessment was being made by the psychologist who was also delivering treatment may be a factor in this case. In this and in other contexts it has often been found valuable that an assessment by an independent person might weigh the evidence differently. Someone not involved in delivering treatment is sometimes better able to see the recent progress made in a clearer perspective and in proper proportion to the size of the overall problem presented by the case as a whole.
- 10.1.7 On their part, the Parole Board needs a clear basis on which to decide whether or not to accept the assessments provided in the reports they received. We are aware that there are no easy answers to this, especially as in this case the prison Governor gave clear support to the psychologist's assessment at the 2001 hearing. But in certain circumstances it may still be beneficial for the Parole Board to undertake a case assessment independently themselves.

10.1.8 And should the time come when an offender manager is in charge of such a case, it is likely that assessment of progress will need to be kept separate from treatment provision for similar reasons. We should emphasise here that the point is not that the independent assessment will always be the right one (they may not always be), but that the people making key decisions about the case – a future offender manager and the Parole Board – should be informed by having both types of assessment available to them. This will all contribute to the well informed long-term perspective that needs to be developed and maintained with a case such as this.

10.1.9 **Principal Finding [as given in Chapter 1]:**

There was an enormous investment into the assessment and treatment of this very difficult case throughout his time in prison, and any decisions made were necessarily finely balanced ones. But it was a major mistake to fail to bring forward the file from Anthony Rice's previous prison sentence, which would have shown that he was a former offender against girls as well as against adult women.

This was a turn a contributing factor in the assessment made in 2001 that Anthony Rice was ready to move straight from a Category B prison to Category D (open prison) conditions – in our opinion a misjudgement based on insufficient evidence in favour of doing so.

In this and in other key decision points in the process it is possible that an independent assessment, by someone not involved in working closely with the prisoner delivering treatment, might have weighed the available evidence differently.

10.1.10 **Key Recommendation:**

- *At the key decision-making points¹⁸ in a prisoner's sentence there should be a separate assessment of the prisoner that is independent of the treatment and which takes into account all available evidence.*

10.1.11 **Practice recommendations:**

- *The future information system for offender management should be capable of holding full details of each offender's history of offending behaviour, which the offender manager for the case is responsible for creating and maintaining.*
- *The National Probation Directorate should establish with Probation Areas the principles and resourcing for 'home Probation Area' involvement with life-sentenced prisoners at different points in the custodial sentence, revising the Lifer Manual accordingly if necessary.*

¹⁸ The key decision-making points are the decision to move to open prison conditions and the decision to release on temporary licence (ROTL), as well as the decision about final release on Licence.

- *Life-sentenced prisoners should be allocated to a named offender manager, who should maintain some contact with the prisoner throughout the custodial period. Offender managers should be aware of the importance of their contributions to the Parole Board panels, especially where a move to open conditions may be proposed.*
- *If the PPG (Penile Plethysmography) test has proved to be a reliable indicator of deviant sexual preferences and can be made available, no sex offender on an indeterminate sentence should be moved to open prison conditions without undergoing testing with a programme using either this or a polygraph.*

10.2 Management of release on Licence

- 10.2.1 Expectations of release: The underlying theme of this phase is that once the decision to move to open prison conditions had been made, the expectations of release developed their own momentum. We observe that some external commentators have asked the question whether Government is putting pressure on the relevant authorities to reduce the prison population by releasing dangerous offenders into the community – but we see no evidence of that. Instead something else appears to happen that is much more subtle, and which arises for a combination of reasons.
- 10.2.2 The strength of a system of phasing a release decision is also its weakness. It makes sense to phase the release plan, testing the prisoner in open prison conditions and retaining the option of moving him back to closed conditions if the signs are not good. But it also means that an intelligent prisoner can form the expectation that all he has to do now is avoid mistakes and he can expect release. Meanwhile, on their part, when the Parole Board come to make their final decision some two or more years later it is in some senses a constrained decision, as the decision has been ‘half-made’ at an earlier stage when the prisoner was recommended for open prison conditions. We therefore return to this point later.
- 10.2.3 Static v dynamic factors: *Static factors* are the characteristics of one’s life history that once in place cannot be changed (date of birth, history of offending behaviour etc), while *dynamic factors* can subsequently be changed (employment status, thinking skills etc). Treatment must by definition focus on the offender’s *dynamic factors*, and effective treatment can often lead to improvement in these. There were two aspects to the very challenging problem of assessing a case such as Anthony Rice: the first was to assess whether the progress he seemed to be demonstrating was ‘real’; the second was to weigh this against the overall picture of ‘*Even after this progress, just how dangerous is he still?*’

- 10.2.4 The risk faced by all staff involved in a case such as this is that they can sometimes overvalue the progress made on the *dynamic factors* in relation to the *static* ones. An able offender manager should be able to retain the necessary long view, keeping the *static* and *dynamic* factors in proper proportion with each other. This in turn would assist the Parole Board in doing the same.
- 10.2.5 Flawed resettlement planning/diffused responsibility for the case: The resettlement planning process started in good time, first on arrival in Leyhill, and then restarted on his return there from HMP Bristol in July 2002. But it all took a long time, in part because the home Probation Officer in London was a Senior Probation Officer holding the case on what was expected to be an interim basis. The key problem was to find a suitable address for Anthony Rice's prospective release, and it was at this point that responsibility for managing the process of the case became most diffused and unclear.
- 10.2.6 The home (Senior) Probation Officer was taking a low-key 'holding' role only, knowing from an early stage that Anthony Rice was unlikely to return to London, or at least that area of London in particular, though it was London's responsibility to make referrals to the alternative areas. Meanwhile Probation staff in other areas received information about the case, and knew on their part that they needed to assess the case as potential supervisors of the Life Licence. The seconded Probation Officer could, and often did, chase the process, but was by definition not in a position to assess in detail the suitability of any resettlement plan option.
- 10.2.7 Alongside this, the managers of any hostels to which the case was referred had to assess the suitability of their hostel for the offender. For an offender as high *Risk of Harm* as Anthony Rice such an assessment should be supported by the local MAPPA. Such an extended 'team' can work very well when they combine successfully to produce an effective managed resettlement plan, but it can also happen that shared responsibility slips easily into a muddle of mistaken assumptions and diffused responsibility when not well managed. It was at this point in the process that the case could most have done with having someone having clear *lead responsibility*.
- 10.2.8 Chapter 8 describes how Anthony Rice was referred to a potentially suitable Langley House Trust hostel in the north of England. Staff from there visited him in Leyhill, assessed him as provisionally suitable but eventually had to reject him due to Police objections made through the local MAPPA. The referral then went on, within Langley House Trust, to another LHT project, Elderfield in Hampshire. The Elderfield manager visited Leyhill, and like his counterpart, assessed Rice as provisionally suitable, though acceptance was subject to the consent of the local MAPPA.
- 10.2.9 But Elderfield was a very different hostel from the other one – a proper assessment of its suitability for Anthony Rice needed to be made, but this did not happen. Why? Our assessment is that a series of assumptions and miscommunications took place at this point, perhaps

driven by a laudable desire on the part of all involved to implement this prisoner's progress towards his expected release without unnecessary delay. If a prisoner is 'hard to place' there is an instinct by staff trying to place him to be grateful to a hostel that is prepared to take him rather than to start the difficult discussion about *'Are you sure you will be able to manage this man in practice? Do you realise what difficulties he will present you with? How effective are your arrangements for managing these problems?'*

- 10.2.10 And under the current arrangements, whose job was it to have this discussion with Elderfield? The London officer was notionally responsible for the referral, but was only 'holding' the case, and like the seconded officer might expect the Probation Service in Hampshire to be best placed to assess the suitability of the premises. On their part, however, Hampshire were simply on the receiving end of a referral of an offender about whom they had limited information, but understood that the Elderfield manager had made an assessment that his hostel was capable of managing this offender. (We have already noted that in any case the very material consideration that Anthony Rice was an offender against children was not known to any of the parties involved at this stage.)
- 10.2.11 Hence, in the absence of an offender manager who might have overall lead responsibility for managing the case, we find that the flawed resettlement plan arose from a series of miscommunications and assumptions. Each person involved thought that the other parties had made fully informed decisions, and that he or she could therefore safely take action accordingly:
- Elderfield was prepared to take Rice because they assumed that Probation knew what their hostel was like and thought it suitable for this offender
 - Probation assumed that as Elderfield had visited and assessed Rice they fully understood about him and had decided that they could manage him
- 10.2.12 Public protection v human rights considerations: Underlying all the activity we have described was the growing significance of the human rights consideration in this case. Under the current arrangements, following the earlier test cases, once the tariff date has passed the authorities are increasingly in the position of having to justify keeping the prisoner in custody rather than having to justify why he should be released. Prisoners can and do make use of legal representation to argue their case and if necessary bring an action for judicial review. At an oral hearing of a panel of the Parole Board the prisoner will have, as Anthony Rice had in 2004, counsel to represent him. The staff representing the Secretary of State, and the Parole Board members, have to apply themselves to testing "whether the Lifer's level of risk to the life and limb of others is considered to be more than minimal". In this context it is a challenging task for people who are charged with managing offenders effectively to ensure that public protection considerations are not undermined by the human rights considerations.

10.2.13 **The decision to release:** The Parole Board has, as always in such cases, undertaken an internal review of their decision in the Anthony Rice case. Our discussion of this perhaps best illustrates what we mean by a cumulative failure. The internal review concludes by indicating, in effect, that given where the case was by August 2004, the panel made an arguably reasonable decision. We can recognise the point that once Anthony Rice was past his tariff date, and had been transferred to open prison conditions, and had behaved sufficiently well in the two years since his early setback, and had reports saying that open prison could do no more for him, and had what appeared to be a sufficient release plan, it would be hard to justify why release should not now go ahead.

10.2.14 But this is what we mean by the weakness of the phased decision-making process. For all its strengths, which we would not wish to see taken away, the phased approach breaks the release decision into (at least) two parts, meaning that the Parole Board has two separate limited decisions to make, instead of one 'whole' one. The phasing also has the effect of creating a momentum towards release between the two parts so that at the end one has to find a good reason to stop release rather than have to find a good reason to justify it.

10.2.15 If we take a 'long view' approach to the assessment – and we accept that we have the benefit of hindsight in this case – we think that it is clear that in 2004 Anthony Rice's "level of risk to the life and limb of others" was even then still "more than minimal". In coming to this opinion we set aside our knowledge of subsequent events, but on the other hand we do include the knowledge of Rice that should have been available to the Parole Board at the time but wasn't.

10.2.16 We have endeavoured to explain here why at this phase of the case a succession of events compounded to lead to a decision to release that did not give enough weight to the evidence of Anthony Rice's *Risk of Harm* to others. This analysis provides further evidence of the need for an offender manager to lead on taking the 'long view' of the case. It also helps to explain why the authorities subsequently managing him on release in a new area might not fully appreciate straight away the level and nature of his *Risk of Harm* to others. All of this presages why we describe the whole case as a cumulative failure.

10.2.17 **Principal Finding [as given in Chapter 1]:**

Based on the reports received about the progress that he had made during his sentence and his proposed resettlement plan, the Parole Board made a final decision in 2004 that Anthony Rice, who was five years past his 'tariff date', was safe to release. We consider that in doing so they gave insufficient weight to the underlying nature of his *Risk of Harm* to others, and we think this happened for a combination of reasons:

- They did not have full knowledge of his past offending behaviour, in particular that he had been an offender against children.

- They received cautiously encouraging but ultimately over-optimistic reports of Anthony Rice's progress under treatment
- Their own earlier decision in 2001 to transfer him to open prison conditions in our view set in motion a momentum towards release. As we see it that Parole Board decision created in this case a set of expectations that release had now become a matter of 'when' not 'if'. (We believe it has a similar effect in other 'Lifer' cases.)
- It was also from 2001 that in our view the people managing this case started to allow its public protection considerations to be undermined by its human rights considerations, as these required increasing attention from all involved, especially as the prisoner was legally represented.

A crucial dimension to our finding is that the 2001 decision was in a sense the key decision that made the eventual release decision more likely, because the momentum towards release started from that point. Accordingly in this report we treat the entire period of open prison conditions as being part of the 'release decision' phase rather than the 'period in custody' phase of the case.

Hence we find a problematic ambiguity in the role of the open prison conditions phase for a life-sentenced prisoner that we believe needs to be addressed. In theory the idea is that a spell in open prison conditions provides an opportunity for the prisoner to be tested both on what he has learned from his treatment and on how he consequently behaves – leading to a final decision about his release. We understand and certainly support this principle. But we consider that in practice the expectation by the prisoner is often significantly different from this: *You are now in the last phase before release, and unless you blow it completely you will be out before long.*

We certainly support the positive use of open prison conditions as part of a phased programme leading to release, and we also think that it is right that the decision to make this move should be a Parole Board decision. But we believe that consequent expectations about open conditions need clarifying with all involved, including confirming that there will be a clear priority focus on giving proper weight to the nature of the *Risk of Harm* to others still posed by the prisoner. We appreciate that this would be difficult to establish, raising questions for example about how best to handle prisoners whose release plans get 'stalled' while in open prison conditions.

This whole process is additionally complicated by the human rights considerations in each case which have grown in importance following a series of Court judgements. Prisoners are now legally represented at Parole Board hearings, often by counsel, who also have recourse to judicial review. It is a challenging task for people who are charged with managing offenders effectively to ensure that public protection considerations are not undermined by the human rights considerations.

10.2.18 **Key Recommendation:**

- *The way in which indeterminately sentenced prisoners are managed during their period in open prison conditions should be reviewed in order to ensure that expectations by all involved are clearly giving priority to public protection.*

10.2.19 **Practice recommendations**

- *As soon as the prisoner has moved to open prison conditions, resettlement plans should be actively considered. These should include an assessment of available options without creating false expectations for either the prisoner or staff.*
- *OASys should be completed on a life-sentenced prisoner during his period in custody, and certainly no later than before release on temporary licence (ROTL).*
- *That the National Probation Directorate, with the Langley House Trust, specify which LHT hostels are suitable for offenders who are assessed as presenting a high Risk of Harm. As part of that, guidance should be issued on the use of Enhanced Supervision beds by released life-sentenced prisoners*
- *Where a life-sentenced prisoner may be released to a new area, both the exporting and the receiving area should attend the Parole Board panel hearing wherever possible*

In addition, taking a higher level perspective, we offer a further more far-reaching Final Recommendation at the end of our Conclusion (Chapter 11).

10.3 Management of Life Licences after Release

10.3.1 Implementing a Parole Board decision: It is worth following through here the final point from the previous section. Our assessment is that one of the reasons that the Hampshire MAPPA took on this case is that they understood that Anthony Rice had been assessed as suitable for release; they were not represented at the Parole Board oral hearing. Accordingly they felt they were implementing a Parole Board decision rather than participating in a decision as to whether or not this was a suitable release plan for this offender. The Parole Board made the release decision in August 2004 a conditional one, but it was a case of confirming that the release arrangements in Hampshire were in place rather than a case of assessing whether or not they were suitable. For all these reasons Anthony Rice's release on Life Licence went ahead in November 2004 with some flawed arrangements in place due to the mistaken assumptions and miscommunications already described.

10.3.2 Deficient assessments, supervision plans and reviews: Having taken on this case, Hampshire Probation needed to complete the most thorough assessment and sentence plan, and review it regularly. They received a good quality OASys assessment from London, but did not

share this with the MAPPA, and their own resulting sentence plan was deficient. We looked to find a structured sentence plan focused on outcomes, using *constructive interventions* where possible to help him learn, and *restrictive interventions* as needed to limit his opportunity to harm others, but we did not find this. We have also observed that the Police's completion of the Risk Matrix 2000 assessment was deficient in that it did not properly take into account his violent offending as well as his sexual offending.

- 10.3.3 We have said already that during his Licence period Anthony Rice would not have received a clear message that he was being vigilantly managed. The lack of a clear assessment and plan was a key reason for this, and furthermore left both Probation and the MAPPA exposed to criticism when things went wrong. It was a misjudgement by the MAPPA not to ensure that they had both received and accessed the fullest information, and by these means made the fullest possible assessment of Rice's *Risk of Harm*.
- 10.3.4 Assumptions about raised risk being observable: One of the things that made this a particularly difficult case to manage was that unlike many other high *RoH* cases it was already evident from the previous offence that Anthony Rice might not show observable signs when he was becoming of increased risk. But this problem did not appear to be clearly understood: the MAPPA reduced his level of risk management from Level 3 to Level 2 within two months of his release, and he was granted other reductions in the restrictive interventions deployed within six months. For a case such as this, it was a misjudgement to make these reductions so early.
- 10.3.5 The high *Risk of Harm* paradox: Linked to this point is the underlying problem of whether or not it can be justifiable for the Parole Board to release into the community someone who is assessed as high or very high *Risk of Harm* to others. It is evident that currently there is insufficient shared understanding on this issue between people who manage offenders in different parts of the system. In our view it needs to be more clearly understood that 'high *RoH*' should be taken to refer to the 'high' quantity and quality of the *restrictive interventions* needed to keep to a minimum the offender's *RoH* to others. In the case of Anthony Rice it should have been clear that a high or even very high level of *restrictive interventions* would need to be in place for a very long time before it would be justifiable to consider making any reduction.
- 10.3.6 Licence conditions: Clarity of purpose and how to enforce: We have been critical of all of the additional non-standard conditions added to Anthony Rice's licence. The specific purpose and the method for enforcing the condition were both unclear in several cases:
- Curfew: Although the curfew was in principle a sound general restriction of liberty, the means of enforcing it were not as the MAPPA assumed them to be. Residents were neither checked in nor contained as they would be in Probation Approved Premises, and so the condition was only enforced 'by exception' i.e. if Rice

happened to be caught breaking it. In practice it appears that he broke his curfew outright on several occasions, in addition to those occasions when he got tacit acceptance of him coming and going outside his formal curfew hours.

- Containment zone: We have stated that it was illogical and unclear to set a containment zone for Anthony Rice outside the grounds of Elderfield as he was as likely to pose a risk to lone women within the prescribed zone as he was to those he might encounter anywhere else. This condition too was only enforceable 'by exception' and we have seen that in practice it was not enforced. After 5th January he was allowed out of the zone unescorted for so many (often good) reasons that the condition became close to meaningless. However, this created the problem that one virtually meaningless condition undermined the credibility of the other conditions in the eyes of the offender.
- No substance misuse: This undermining of the conditions started on the day of release when Anthony Rice arrived at Elderfield smelling of alcohol. He had had a clear condition in his former temporary release licences not to drink or enter licensed premises (which in any event he had been allowed to breach). But the new broader condition, designed we understand to extend to illegal drugs, was actually less clear, and allowed him to argue that to drink in moderation in a public house was not breaching his condition not to engage in substance misuse. Given that alcohol was a recorded precipitating factor in the previous offence it was a bad misjudgement for this condition to be reworded in this way.
- No contact with lone females: There was a broad logic to this condition, because of the risk he posed, but it could only be enforced 'by exception', i.e. if evidence came to light of a contact.

10.3.7 Licence conditions: Managing (alleged) breaches: The unsatisfactory nature of some of the conditions made it difficult to enforce them, yet more could have been done to make clear what was expected of Anthony Rice, together with clarity about how breaches would be managed. Instead it appears that he set the pace by pushing the boundaries of the 'substance misuse' condition as described above, and from the earliest stage sought to stretch the curfew condition, making it hard to be clear when a breach might actually have occurred: When did a social drink become 'substance misuse'? When was a late return a breach of curfew? And, after 5th January, when was he outside his prescribed restriction zone for permissible reasons, and when for non-permissible reasons? Anthony Rice was sometimes successful in having his explanations accepted, and the one warning letter he was given for being outside his restriction zone was sent four weeks after the original incident.

10.3.8 The boundary condition was removed by the Parole Board on 26 May, and curfew amended to 11.00 pm to 6.00 am. Then in June 2005 Anthony Rice successfully negotiated a move from the main hostel at Elderfield to the Park Farm, where the curfew was in practice even less enforceable, agreed by both Elderfield and his supervising Probation

Officer, just after the May MAPPAs when his request for this had just been refused. In effect, there was a clear message to him that the controls were not being consistently managed and could be steadily reduced.

- 10.3.9 MAPPAs focus: need to avoid exceeding authority: The effects above would have been compounded by the fact that the MAPPAs exceeded its own authority by:
- Relaxing the boundary condition at its January meeting, with specified occasions when it would be permissible for him to be outside the prescribed zone unescorted
 - Relaxing the curfew condition at its February meeting by extending the hours when he could be outside the hostel
 - Noting at its April meeting that it had discovered that it had exceeded its authority by relaxing these conditions, but quite remarkably then continuing to sanction and even extend the relaxing of these conditions while requesting formal consent to change them.
- 10.3.10 Combined with the fact that the level of scrutiny had been reduced from Level 3 to Level 2 in January 2005 this series of misjudgements would all have conveyed to Anthony Rice the impression that the controls to which he was subject were not being treated as being that important.
- 10.3.11 MAPPAs focus: Duty to ensure employer informed: A much more serious misjudgement concerns the time when Anthony Rice started work. It is unclear precisely how he found this laundry job, although he did have a very good written reference from the employer of the laundry he worked at while in Leyhill. His Probation Officer was aiming to help him with finding work, and there is evidence of dialogue with the Jobcentre and another employment agency. But however he obtained the job, it was a bad misjudgement by the MAPPAs not to be able to demonstrate that they had ensured that the employer had been made aware of the nature of this new employee's offending behaviour.
- 10.3.12 MAPPAs focus: Human rights v public protection: The MAPPAs faced comparable challenges to those faced by the Prison Service and the Parole Board – challenges from Rice and his solicitor that the restrictions that he was under contravened his human rights. The MAPPAs certainly did not roll over in response to these – the February 2006 meeting held to the 'lone woman' and to the boundary (as amended) licence conditions despite the threat of judicial review. But it is clear that in their deliberations they gave more attention to justifying the proportionality of the restrictions than to planning how to manage them effectively. This is where the available guidance on maintaining the investigative approach in this work might be especially useful.
- 10.3.13 MAPPAs focus: need to avoid diffusing authority of offender manager: Group responsibility can be both a strength and a weakness. MAPPAs were developed nationally to enable more effective management of RoH in the community on the basis that partners can achieve more together than they can achieve apart. With a Probation-managed case, the offender manager's task can benefit hugely from having the views

and the actions of partners from other agencies supporting the work. When this works well, this is very effective, and it can enable a clear shared understanding by all parties (including by the offender too when present) of who is doing what by when to ensure close purposeful supervision of the offender. The weakness can arise when it is not clear who has lead responsibility, and when the authority of the offender manager is diffused. MAPPA's must aim to avoid this.

10.3.14 **Discontinuities in managing the process of the case:** A *discontinuity* often arises at the point of release from prison because of a change of supervising Probation Officer, and this often becomes necessary when there is a late change of area on release as there was in this case. Hence it would be hard to criticise any individual for this particular development, but it becomes a danger to the effective long-term management of the case when there is a change of supervising officer at this critical point. But where there is no change of area it should be possible to avoid a change of supervisor. Hence, as we said in the report on Hanson and White, there is a need to avoid 'designing in' avoidable *discontinuities* into the overall process.

10.3.15 **Principal Finding [as given in Chapter 1]:**

We found a number of mistakes, misjudgements and miscommunications that we attribute to a series of assumptions made the different agencies involved, and exacerbated by the issues around the changes of supervising Probation Officer at and after release. The MAPPA (Multi-agency Public Protection Arrangements) panel handling the case allowed its proper concerns with the human rights issues to distract it from giving sufficient attention to the public protection needs of this case.

10.3.16 **Key Recommendation:**

- *When managing a High Risk of Harm offender in the community, although proper attention should be given to the human rights issues, the relevant authorities involved should maintain in practice a top priority focus on the public protection requirements of the case. This means making good use of the very good guidance and training materials available for MAPPA, including in particular the advice to pursue an 'investigative' approach at all times.*

10.3.17 **Practice recommendations:**

- *Prison and Probation staff should ensure that they have obtained full details of previous convictions from the Police, who in turn should ensure that a full up-to-date record of previous convictions is available to all MAPPA meetings. Where a violent or sexual offence is recorded the record should be clear whether the victim was an adult, or a child or young person.*

- *The National Probation Directorate should establish the principles on appropriate ways to involve the offender in managing their own Risk of Harm. It is important that the core business of the MAPPAs meeting, of sharing and analysing information objectively, and making decisions accordingly, is not hindered by the presence of the offender.*
- *Hampshire MAPPAs should provide guidance and training to relevant staff on the conduct of MAPPAs meetings, to include the content, structure and management of the meetings.*
- *To support defensible decision-making, minutes of MAPPAs meetings should provide a record of the discussion and the plan to assess and manage the offender's Risk of Harm to others.*
- *The MAPPAs RoH management plan should identify appropriate restrictive and constructive interventions. The actions required of each agency should be clearly recorded, and the plan reviewed at subsequent meetings.*
- *Where specific conditions are included in a licence or order, the MAPPAs should record how these will be monitored and enforced.*
- *Where release on licence has been a decision of the Parole Board, any subsequent proposed amendments to the licence conditions should be referred back to the Parole Board.*
- *Invitations to MAPPAs meetings should be sent to key agencies, and where attendance is not possible, a written report should be submitted. Wherever appropriate, Prison staff should be invited.*
- *Hampshire MAPPAs should ensure that staff from all agencies attending meetings are fully briefed about the case, and are aware of the role and function of the meeting. They should be equipped to make effective contributions to the meeting with appropriate confidence, challenging minutes when these do not reflect the views expressed.*
- *OASys should be completed as required by national guidance. The assessment should be used to inform the work of the MAPPAs, and updated when additional significant information emerges.*
- *Hampshire Probation Area should ensure that case files sent from another area or agency are actually given to the offender manager.*
- *Hampshire Police should ensure that, until ViSOR is fully operational, there are alternative good lines of communication between MAPPAs representatives and Force intelligence officers.*
- *Where Risk Matrix 2000 is prepared, it should include both violent and sexual offending.*
- *A referral protocol should be developed between Hampshire Probation Area and Elderfield hostel.*
- *Langley House Trust should ensure that staff interviewing offenders referred to a hostel receive training in risk assessment.*

- *Referrals to one LHT hostel should not be redirected to another hostel without the agreement of the offender manager.*
- *Langley House Trust should ensure that the contribution of the work of the hostel to the overall risk management plan is clarified. Keyworker sessions should take place as planned and should be focused and purposeful.*
- *Langley House Trust and the National Probation Directorate should issue guidance about which LHT projects can manage high RoH offenders. These projects should have enhanced level of security and staff trained in the assessment and management of such offenders.*
- *Langley House Trust and the National Probation Directorate should clarify the criteria for the use of Enhanced Supervision beds, including whether these can in appropriate circumstances be used for Life-sentenced prisoners.*
- *The National Probation Directorate should clarify the circumstances in which prisoners released from indeterminate sentences might be subject to restrictive interventions and conditions managed by the MAPPA at 'Level 3'.*

11. Conclusion: Getting Offender Management right

- 11.1 Our conclusion about the case of Anthony Rice is that there were deficiencies in the way he was supervised by Probation and its partners in MAPPA, but he was too dangerous to be released into the community anyway.
- 11.2 The public is entitled to an explanation about how that happened, and our account has shown that a succession of specific mistakes, misjudgements and miscommunications at all three phases of Anthony Rice's Life sentence had a compounding effect that amounted to what we have called a *cumulative failure*.
- 11.3 This all took place in a climate in which it is increasingly difficult for those charged with managing offenders through their sentences to ensure that public protection considerations are not undermined by the human rights considerations of each case.
- 11.4 This review also highlights how, when it is apparent that those involved have worked hard and conscientiously, such a case needs to be examined as a Criminal Justice System (CJS) 'whole process' because any piecemeal approach will prove incomplete and inconclusive.
- 11.5 Against this background, we start with a key question: "What actions could the authorities have reasonably taken to prevent Anthony Rice murdering Naomi Bryant?" It is certainly possible to criticise various aspects of the way Probation and MAPPA managed his Licence, as we have done in this report. But it is also hard to avoid the conclusion that highly effective management in the community would only have postponed the problem, since Anthony Rice was too dangerous to release in the first place.
- 11.6 Yet the answer to the question "Why was he let out in the first place?" does not have a simple answer either. The Parole Board decision of August 2004 was in itself arguably reasonable, as their own internal review also indicates – *given that they were where they were at that point*. Our report shows how they got to that point, where based on incomplete information and an over-optimistic earlier assessment Anthony Rice had been moved to open prison conditions, and with the aid of a lawyer could now argue that he had done all he could reasonably do to justify full release on Life Licence.
- 11.7 The case of Anthony Rice is best viewed therefore in the context of the CJS process as it operated then. It was without doubt a very difficult case to manage for all involved, and we have been able to identify a number of points where one or more people have either made the wrong call or occasionally even exceeded their powers. Thus we have used the term 'cumulative failure' to capture the point that it was the accumulated effect of these key decisions and judgements that gave Anthony Rice the opportunity to commit this appalling crime.

- 11.8 We are currently moving towards a world in which we expect the new 'whole CJS process' of Offender Management to become established. This will include offenders being managed from the start to end of their sentences, an approach which in principle we strongly support. From this case we can identify some key lessons about how Offender Management could be done well in general, and how this should be applied in such a difficult case as Anthony Rice. But to do that properly we also need to establish what is reasonable for politicians and the public to expect the Criminal Justice System to achieve with convicted offenders and to respond appropriately to those expectations.
- 11.9 Managing offenders' *Risk of Harm* to others from the start to end of their sentences is in many ways a science, but by definition is never an exact science. There is research-based evidence about what is likely to be most effective at each point in the process of managing offenders through their sentences, but this is best seen in terms of 'percentage returns'. Just as some people with no criminal history whatsoever will commit a serious violent or sexual crime, it is also inevitable that occasionally someone under current supervision will commit a Serious Further Offence. And despite the fact that such exceptional cases are a very small percentage of the total under supervision, each one represents a major personal tragedy for individual victims and their families. In such instances people very reasonably ask: "Shouldn't this have been foreseen, and couldn't it have been prevented"?
- 11.10 Anyone sensitive to the powerful feelings that underpin these questions wants to empathise and give an affirmative response, but the truth is complicated. The uncomfortable answer is that, like insurance companies, the relevant authorities can examine groups of people with similar characteristics and can quite confidently predict with what percentage of each group a particular risky incident will occur. It is by contrast bordering on the impossible to predict which will be the specific individuals involved.¹⁹ This is especially the case with Serious Further Offences, where the percentage chances are very small indeed, but the impact of each individual event can be devastating for those directly involved.
- 11.11 Approximately 210,000 offenders are under the supervision of the National Probation Service at any one time. From this population about 100 commit first-level Serious Further Offences in a year, or a total of 250 if we include all types of SFO.²⁰ This latter group represents about one tenth of one per cent of the number under supervision, or approximately one case in every thousand. Can they be identified and can they be prevented from their crimes?

¹⁹ A good illustration of this is the Probation Service's Offender Group Reconviction Scale (OGRS). It is an actuarial scale, of greater value with mainstream offenders rather than an exceptional one like Anthony Rice. It is scientific in that it accurately indicates what percentage of all offenders with a given set of characteristics will be reconvicted. But the crucial judgement remains as to whether a specific individual will be part of the proportion that reoffends or part of the proportion that does not.

²⁰ 'First level' constitutes chiefly the murders and rapes; the bigger total includes a wider range of serious offences. The definition of where to draw the line of what 'counts' as an SFO is a complex issue in itself; the principle here is to capture the strategic issues rather than be distracted by detail.

- 11.12 For the general offending population, the Offender Assessment System (OASys)²¹ is probably the most advanced tool for this purpose in the world, although like all such tools its value depends largely on the skill of the people using it as well as the efficiency of the IT system it runs on²². OASys is the best available aid to identifying in a consistent and systematic way the individual High and Very High *Risk of Harm* offenders who are more likely to commit an SFO than other current offenders. The latest figures show that they are three times more likely to commit an SFO than other offenders, since 7% of this group commit about 20% of all SFOs. Accordingly Probation rightly now devotes priority resources and attention to managing these High and Very High *Risk of Harm* offenders.
- 11.13 But even with the use of the best available tools, the task of identifying individual potential serious offenders is a forbidding one. Instead of looking through the whole Probation caseload for the 100 offenders who are likely to commit the most serious further offences, the task can be narrowed to identifying the 20 offenders who fall into this category from the 15,000 or so higher *RoH* cases. This still means identifying the one individual out of every 750 of such offenders who is likely to reoffend in this way. Even more challengingly, the individuals who commit the other Serious Further Offences would need to be identified from the remaining nearly 200,000 current offenders who have not hitherto been classified as High or Very High *RoH*.
- 11.14 So the answer to our first general question is that from the mainstream case numbers it is very difficult indeed to identify the individuals who will commit SFOs, even though there is some reliable information about percentages. Nevertheless it is fair to say that with the most extreme cases such as Anthony Rice much more sophisticated analyses can and do take place, with specialist assessments and treatment methods, as we have outlined in this report. But even the most sophisticated assessments can only be an aid to decision-making, not a substitute for it. They provide evidence, on which basis responsible people exercise the best judgement they can.
- 11.15 As for our second question regarding the prevention of further offending, we have to restate what we take to be the inevitable truth: that when an offender is being supervised in the community it is not possible to eliminate risk completely. But the public is entitled to expect the relevant authorities to do their job properly, taking all reasonable steps to keep to a minimum the offender's *Risk of Harm* to others.

²¹ OASys includes within it the OGRS score, but also makes use of *dynamic* as well as *static* factors.

²² In a most unfortunate complication, some Probation Areas currently report real functionality problems with the software it runs on. This undermines many people's confidence in the value of OASys as the essential assessment and review tool that it needs to be.

- 11.16 Accordingly, future Offender Management must be designed as a 'whole CJS process' so that offenders are assessed and managed effectively in accordance with realistic expectations of what is achievable. Where offenders are lawfully at liberty it must be understood that a tiny percentage of them will commit Serious Further Offences, though the actual number is probably a higher figure than has been widely understood until now.
- 11.17 In each of these extremely distressing cases people will inevitably ask whether the relevant authorities did their job properly, but we do not recommend that in every case there should be a published independent review like this one. Such a routine response would be likely to be counterproductive. It would be both disproportionate to the problem and likely to lead to defensive rather than learning behaviour by staff and managers generally. Some cases will however continue to demand closer attention.
- 11.18 Against this background we anticipate that this Inspectorate will undertake a small number of these independent SFO reviews per year, in the cases that appear to raise the greatest concerns. On behalf of the taxpaying public, this independent Inspectorate will continue to be uncompromising in our findings where we find that people have not done their job properly.²³ Accordingly we have been strongly critical in Chapters 9 and 10.3 of the deficiencies in the way in which Anthony Rice was supervised in the community on Life Licence.
- 11.19 But our broader perspective also draws on other evidence and requires that we put specific cases such as that of Anthony Rice into a wider context. Our recently completed inspection visits to all 42 Probation Areas, plus our recent joint inspection work, gives us a good understanding of current practice. In addition to this review we are also now embarking on the Offender Management Inspection (OMI) programme, which will among other things build on our experience of inspecting *Risk of Harm* work in each area of the country. Our aim is to help to ensure that doing this work effectively becomes an integral element of normal offender management practice.
- 11.20 In the light of this wider experience the remainder of this Conclusion considers first the existing partnership approach to public protection, and then how Offender Management in general may be improved. We also make one final general recommendation based on our overall perspective on the current system for managing prisoners serving indeterminate sentences.
- 11.21 In this and other Serious Further Offence cases we have drawn attention to deficiencies that have undermined effective public protection in those particular instances. Some of these failures have occurred within the Probation Service and some within or between

²³ We acknowledge that one thing that helps us do this is that most people we talk to take an open undefensive and learning approach to reviewing the past. Our job on behalf of the public would be much more difficult if we were regularly met with the 'My representative has told me to say nothing to you' type of response. It is a credit to the Hampshire MAPPA that they *requested* this review.

other partner organisations that have key roles in public protection. This may lead some to pose the question: “Does this mean that Probation and MAPPA are generally not very good?” Our current answer as an independent inspectorate must be a mixed one.

- 11.22 It would be entirely wrong to draw sweeping conclusions about the working of MAPPA across the country based on the review of one particularly difficult case. Nevertheless it is fair to observe that this Inspectorate has highlighted over the last two years that in both our general and our specialist inspections we have not found *Risk of Harm* work done to a high enough standard often enough. We welcome the fact that the National Probation Service is committing itself to rectifying this, and we will do what we can to support this work. But we also have to point out that this work cannot deliver instant solutions, and it may be some time before our inspections will show evidence of significant improvements.
- 11.23 Meanwhile we expect that we shall continue to see many examples of excellent work across the country, which will understandably attract no publicity whatsoever because when an offender does not reoffend there is no news to report. We shall do all we can to identify and share good practice wherever we find it, and we will also continue to criticise without compromise where we find deficiencies in the work we see.
- 11.24 Returning to the present, however, it is already possible to distil some recurring themes from this review and our inspections and to offer some observations about getting Offender Management right in the future:
- Strategy before Structure: As we said in our Annual Report last July, and in our review of Hanson & White, there needs to be a clearer picture of **what** is to be achieved with each offender before going too far into planning the innovative organisational arrangements to deliver it. Good offender management means that each sentence will be a ‘whole CJS process’ in itself, to which a number of different people will make contributions at different times. Defining **what** each contribution is aiming to achieve (such as that made by the Police in cases such as Rice) needs clarifying before deciding whether the role is a commissioning or a providing one.
 - Principles before Procedures: The answer to each problem is not to issue a new set of Procedures. In order to achieve results effectively the principle of **how** the role of the offender manager will work needs to be more clearly planned. The offender manager needs to hold clear lead responsibility for a case, being in charge of the case ideally from start to end. Although this is logistically very difficult in practice, especially with long-term cases such as Damien Hanson and Anthony Rice, the guiding principle should be continuity of responsibility. For this reason our first Key Recommendation is to give special consideration as to how to provide effective start-to-end offender management with each indeterminately sentenced prisoner. Our other Key Recommendation aimed at offender managers concerns keeping

focused on the public protection requirements of each case, in particular by maintaining an investigative approach at all times throughout the process of the case.

- Integrating Definition, Design, Tools and Resources: We outlined in last July's Annual Report the importance of progressing each of these four important planning tasks in an integrated way. They need to be integrated into a single coherent CJS process. To illustrate this with just one aspect from this report, we know that an essential tool for the future, the National Offender Management Information System (NOMIS) is currently being designed. Once fully implemented, it should enable all people who need it to have full access to all the relevant records such as details of previous offending history plus current assessments and records of contact. This vastly improved co-ordination of information would prevent some of the problems we have identified in this review, such as information going missing and assumptions that 'someone else somewhere else' had completed assessments. But we are a long way from that at present. During the years between now and NOMIS being fully implemented it will continue to be a major challenge for all involved to maintain a coherent record of each case, particularly as it first passes between prison institutions and then has to be shared between MAPPA partners. The danger is that public expectations will continue to race ahead of what the relevant authorities have the means to achieve before NOMIS is fully implemented.

- 11.25 We trust that through this review we have discharged our duty to the public to assess the arrangements for supervising Anthony Rice in the community and to set out issues learned accordingly. We have highlighted the importance of a clear leading offender manager role even where public protection is delivered through a partnership approach. We have identified the way in which licence conditions must be very carefully considered, specifically worded and respected by all concerned so that clear consistent messages are conveyed to the offender. We have noted the importance of ensuring that partner organisations such as Langley House have the means to deliver what is required of them, and we have stressed the danger of letting an offender's apparent progress draw attention away from the *static risk factors* and the known triggers to past offences.
- 11.26 Perhaps most striking of all however in the case of Anthony Rice was the way in which a powerful momentum towards release developed during his time in open prison conditions, alongside an increasing focus on his human rights rather than on public protection. Given the extent to which these characteristics of the system may apply to many prisoners who are serving Life and other indeterminate sentences we consider that it would be wrong to ignore the broader questions that are raised.

- 11.27 If our analysis of how Anthony Rice came to be released is accepted, some people will ask: "Does this happen in other cases too?" The answer is possibly yes. We know that over the last 15 years there has been a series of test cases and judgements that have eroded the Home Secretary's powers to determine release decisions for lifers by executive action. We observe that life-sentenced prisoners now have the right to be heard and to be represented at Parole Board panel hearings. We note that they are regularly represented by counsel, while the interests of the public, victims, and Home Secretary are represented by a Prison Service official. In this context we are not alone in identifying the increasing challenge for all involved in managing offenders to ensure that public protection considerations are not undermined by the human rights considerations of each case.
- 11.28 We have also noted the indications of an increase both in recalls and in reconvictions as outlined in Chapter 6.1, though we are very aware that it is most unwise to jump too quickly to confident conclusions. Taken alongside the earlier points, however, we feel bound to conclude that this suggests that a closer look is required at our system for releasing Life-sentenced and other indeterminately sentenced prisoners.
- 11.29 We know that the number of indeterminately sentenced prisoners is projected to continue to increase as a consequence of recently implemented sentencing reform. The policy aim is to ensure that people who are dangerous should be kept in custody, while people who are safe to release should be released on licence. But this is where we are back to the science that is not an exact science. Although it is to be hoped that improved tools and skills will increase the percentage of successful assessments in the future, it is necessary to face the truth that there will always be some cases where the most skilful and conscientious people will still get it wrong.
- 11.30 A central issue, which is also part of the 'whole CJS process' of managing offenders through their sentences, is the policy and process for deciding who gets released back into the community from Life and other indeterminate sentences, and when. This is the crucial point at which a judgement is made about the level of *Risk of Harm* represented by a particular offender and whether that *RoH* can be effectively managed and even reduced in the community in order to protect the public.
- 11.31 In terms of public policy two questions need answering:
- Who should we keep locked up?
 - What should we expect to be achieved with those released?
- 11.32 As a Probation Inspectorate we have indicated here and in other reports our own answer to the second question: *Take all reasonable action to keep to a minimum the offender's Risk of Harm to others.*
- 11.33 However, we feel that the first question requires a major appraisal. It concerns the key decision that is the focus for ongoing public debate and it is important that so far as possible the answer provides a rational, transparent process in which we can all have confidence. It is

not appropriate for the Probation Inspectorate to attempt such an appraisal, especially based on the review of one case. But we consider that there is a strong 'on the face of it' case for such an exercise, although we are conscious of the cost implications. We have been led to this view having examined the management of Anthony Rice in its wider context as we see it.

11.34 Accordingly we make our Final Recommendation:

- ***There should be a major appraisal of current policy and practice for releasing prisoners from indeterminate sentences.***

11.35 We end as we began by restating that everyone owes it to victims and the public generally to ensure that from the hideous murder of Naomi Bryant, and the loss to her family and friends, that these lessons are learned about how to manage offenders more effectively from the start to the end of their (sometimes very long) sentences.

Andrew Bridges
HM Chief Inspector of Probation
May 2006

Appendix: Acknowledgements, Chronology and Glossary

Acknowledgements:

People who contributed to this Review

The HMI Probation team:

Andrew Bridges, HM Chief Inspector of Probation

Sally Lester, HM Inspector of Probation

HMI Probation Support Service

The people we interviewed, from:

Hampshire Probation Area

Hampshire Constabulary

HM Prison Service

Langley House Trust

Lifer Review & Recall Section, Home Office

Parole Board for England & Wales

Chronology

A brief chronology of key dates	
23 Jan 1957	Anthony Andrew Robertson Rice born, Dundee
1972 – 76	Three court appearances for some 12 assaults / indecent assaults
16 Dec 1982	7 yrs prison for rape, assault x 4, Edinburgh High Court
26 June 1987	2 yrs prison for threats to kill x 2, Guildford Crown Court (offences committed on home leave from prison)
5 June 1989	Life sentence for rape, indecent assault, Central Criminal Court (offence committed two weeks after release from previous sentence)
1989 – 95	At HM Prison, Wakefield
Aug 1995	Transferred to HMP Grendon
June 1996	Parole Board NOT recommend transfer to open prison conditions
Dec 1998	Parole Board NOT recommend transfer to open prison conditions
Jan 2001	Psychologist report recommends transfer to Category C prison, to undertake Extended Sex Offender Treatment Programme (ESOTP)
Sept 2001	New report, supported by Governor, concludes that additional work at Grendon means ESOTP not now needed. Parole Board RECOMMENDS transfer to open prison conditions
March 2002	Transferred to HMP Leyhill, after Home Sec accepts recommendation
Jan 2003	1 st referral to a Langley House Trust (LHT) project
Dec 2003	1 st LHT referral falls
Jan 2004	Assessed and provisionally accepted by Elderfield (2 nd LHT referral)
15-19 Mar 04	1 st ROTL (Release on Temp Licence). MAPPa meeting on 18 March
26-30 Apr 04	2 nd ROTL. MAPPa meeting on 29 April
Jun-Oct 2004	Four more periods of Release on Temporary Licence
29 July 2004	MAPPa meeting: Case to be accepted by Hampshire Probation Area
17 Aug 2004	Parole Board oral hearing. DECISION TO RELEASE once conditions etc confirmed.
8 Sept 2004	London Probation send file + OASys (Offender Assessment) to Hants
12 Nov 2004	Released from HMP Leyhill on Life Licence
23 Nov 2004	MAPPa meeting: Case to continue to be managed at 'Level 3'
5 Jan 2005	MAPPa meeting: Case now to be managed at 'Level 2.' Boundary condition relaxed, to attend agreed planned activities
2 Feb 2005	MAPPa meeting: Curfew hours extended, other conditions not relaxed.
8 & 25 Mar 05	Seen outside prescribed boundary. Warning letter sent on 5 April.
30 Mar 2005	Probation hear they need Parole Board to authorise condition changes
19 April 2005	MAPPa meeting: Report for Parole Board recommending changes to conditions (sent 21 April), but curfew extended further.
24 April 2005	Assault on lone female in Southampton, as later admitted by Rice
24 May 2005	MAPPa meeting: Discussion of employment options, but inconclusive.
26 May 2005	Parole Board agreement to remove boundary condition & vary curfew.
27 May 2005	Anthony Rice obtains employment
20 June 2005	Case taken temporarily by another supervising Probation Officer.
28 June 2005	Anthony Rice allowed to move within Elderfield to Park Farm
6 July 2005	MAPPa meeting: Report for Parole Board recommending further change to curfew condition, but variation agreed meantime.
17 Aug 2005	MURDER OF NAOMI BRYANT
19 Aug 2005	Arrest of Anthony Rice
28 Oct 2005	Convicted of murder and assault, Subsequently sentenced to Life imprisonment with a tariff of 25 years.

Glossary:

<i>Actuarial</i>	A system for measuring probabilities in a way that can be calculated, made possible by attributing numerical values to the relevant factors in someone's circumstances and behaviour.
<i>CO</i>	Chief Officer of a Probation Area
<i>Cognitive-behavioural</i>	A <i>cognitive-behavioural programme</i> is one that seeks to change behaviour by improving or changing the thinking skills of participants.
<i>Constructive intervention</i>	As distinct from a <i>restrictive intervention</i> . A <i>constructive intervention</i> is where the <u>primary purpose</u> is to reduce Likelihood of Reoffending. In the new language of Offender Management this is work to achieve the "Help" and "Change" purposes, as distinct from the "Control" purpose.
<i>Criminogenic factors</i>	Factors in someone's life that make them more likely to commit offences. <i>Criminogenic</i> factors can be either <i>static</i> or <i>dynamic</i> (see below).
<i>Cumulative failure</i>	The accumulated effect of a series of deficiencies over a period of time that compound together to produce major failure.
<i>Discontinuity</i>	A break in a work process – in this report most frequently referring to the point where the management of a specific offender is transferred from one offender manager to another
<i>Dynamic factors</i>	As distinct from <i>static</i> factors. Dynamic factors are the factors in someone's circumstances and behaviour that can change subsequent to the calculation.
<i>ESI</i>	Effective Supervision Inspection: HMI Probation's current programme of inspection of the 42 Probation areas over 3 years from June 2003.
<i>ETS</i>	Enhanced Thinking Skills: A <i>cognitive-behavioural programme</i> designed to change the thinking and attitudes that lead to anti-social behaviour for many offenders (<i>R & R</i> is a similar programme)
<i>HMI</i>	HM Inspectorate (of) e.g. Probation, Prisons, Constabulary
<i>home Probation Officer</i>	The Probation Officer working in the offender's home area during the custodial phase
<i>HPA</i>	Hampshire Probation Area, one of the 42 Probation Areas of the National Probation Service for England & Wales. Each Probation Area is a corporate body
<i>ICT / IT</i>	Information (and Communications) Technology
<i>ISP</i>	Initial Supervision Plan: In a Probation case record, the first formal assessment and plan for an individual offender's period of supervision
<i>LHT</i>	Langley House Trust.
<i>Lead responsibility</i>	In this report our point here is that many people have to carry out their assigned responsibilities in helping to ensure the effective management of a specific offender – but someone has to take <i>lead responsibility</i> for ensuring that the purposes of the sentence are achieved overall. This is in the old language either the supervising officer or the case manager, and in the new language the offender manager. We emphasise that the person undertaking this role should be expected to take the initiative in making the necessary decisions and acting on them in order to achieve this purpose.
<i>MAPP</i>	Multi-Agency Public Protection Arrangements. Where Probation, Police and other agencies work together in a given area to manage some of the particularly high <i>RoH</i> offenders
<i>NOMS</i>	National Offender Management Service: The evolving single Service designed to include responsibility for both the HM Prison Service and the National Probation Service.
<i>NPD</i>	National Probation Directorate: Although a part of the Home Office, the NPD is also the 'Head Office' of the NPS
<i>NPS</i>	National Probation Service: Consisting of 42 Probation Areas, each run by its own Board, plus the NPD
<i>OASys</i>	Offender Assessment System: The nationally designed and prescribed framework for both the NPS and the Prison Service to assess offenders, implemented in stages from April 2003. It makes use of both <i>static</i> and <i>dynamic</i> factors.

<i>Offender Manager</i>	In the new language of Offender Management, this is the term for the officer exercising lead responsibility for managing a specific case as this role is currently expected to evolve in the future, in charge of managing the case “from end to end”. See also, <i>supervising officer</i>
OGRS	Offender Group Reconviction Scale, an actuarial scale employing only <i>static</i> factors. It is derived from large sample groups and enables a predicted likelihood of reconviction (expressed as a percentage) to be produced. The score is based on a number of factors, such as type and frequency of previous offences, age at first conviction etc. The main limitation of OGRS is that the percentage score is representative of a sample group of similar offenders as a whole. In effect the score indicates the proportion of that particular group of offenders who are likely to be reconvicted. However, there remains a crucial judgment as to whether a specific individual will be part of the proportion that reoffends or part of the proportion that does not.
PC PCL-R	Probation Circular: Statutory instruction or briefing by the NPD to areas. The <i>Psychopathy Checklist – Revised</i> is a 20-item scale of assessment and is a tool designed to measure the presence or level of psychopathic traits. The revised version was developed in 1991. The PCL-R assesses two separate dimensions or factors: (1) Selfish, callous, remorseless use of others; glibness and grandiosity; (2) Chronically unstable, antisocial, socially deviant lifestyle, impulsivity and sensation seeking. (Campbell, T.W. 2005)
PAR	Parole assessment report, a report prepared by the home Probation Officer for a prisoner being assessed for release on parole.
PNC Polygraph	<i>Police National Computer</i> , which holds records of past offences A device often called a ‘lie detector’. Polygraph testing is a method of testing if a subject is lying, by tracing physiological changes during questioning. It can be used successfully in certain cases as an integral element within a properly managed treatment and testing programme with sex offenders.
PPG	<i>Penile Plethysmography</i> is a test used to measure physical sexual arousal in response to a range of images. It can be used to diagnose deviant sexual preferences.
PSR	Pre-sentence report: A Probation Service report that advises a court at point of sentence.
R & R	Reasoning & Rehabilitation: A <i>cognitive-behavioural programme</i> designed to change the thinking and attitudes that lead to anti-social behaviour for many offenders (ETS is a similar programme)
<i>Restrictive intervention</i>	As distinct from a <i>constructive intervention</i> . A <i>restrictive intervention</i> is where the <u>primary purpose</u> is to keep to a minimum the offender’s <i>Risk of Harm</i> to others. In the new language of Offender Management this is work to achieve the “Control” purpose, as distinct from the “Help” and “Change” purposes. Example: With a sex offender, a <i>constructive intervention</i> (to reduce his LoR) might be to put him through an accredited sex offender programme; a <i>restrictive intervention</i> (to minimise his RoH) might be regular meticulous monitoring of his accommodation, and/or his employment and the places he frequents, imposing and enforcing clear restrictions as appropriate to the case. The sex offender programme will hopefully have some impact on RoH in the long term, but its primary purpose is to reduce LoR. In the short term; hence cases such as this require <i>restrictive interventions</i> as well.
<i>Risk of Harm (RoH)</i>	As distinct from <i>Likelihood of Reoffending</i> . If an offender has a medium or higher RoH it means that there is some probability that he or she may behave in a manner that causes physical or psychological harm (or real fear of it) to others. The offender’s RoH can be kept to a minimum by means of <i>restrictive interventions</i> .
<i>Risk of Harm work</i>	a) In the Inspectorate’s existing language: planning and implementing <i>restrictive interventions</i> b) In the new language of Offender Management: work to achieve the “Control” purpose (as distinct from the “Help” and “Change” purposes). Hence with <i>Risk of Harm</i> , the officer works to “Control” the offender, using <i>restrictive interventions</i> that keep to a minimum the offender’s opportunity to behave in a way that is of <i>Risk of Harm</i> to others.

ROTL	<p><i>Release on Temporary Licence</i> – of which there are two types: <i>Facility licence</i> serves the following purposes:</p> <ul style="list-style-type: none">- to enable prisoners to participate in activities such as community service, employment, training, educational and parenting courses and reparation- for official purposes, eg attending civil court proceedings, police witnesses and visits to legal advisers in exceptional circumstances <p><i>Resettlement licence</i> serves two purposes:</p> <ul style="list-style-type: none">- to enable prisoners to maintain family ties and links with the community- to make suitable arrangements for accommodation, work and training on release on life licence
SDA	Service Delivery Agreement: Performance targets set at national level
seconded Probation Officer	The Probation Officer working in the prison establishment (i.e. seconded to work with HM Prison Service)
Senior Probation Officer (SPO)	A first-line manager, in many instances one who manages a team of Probation Officers.
SFO	Serious Further Offence, committed by an offender under current supervision
SLA	Service level agreement
SOTP	Sex Offender Treatment Programme. This is a <i>cognitive-behavioural</i> treatment programme for suitable sex offenders. It consists of several elements: the Core SOTP takes about 180 hours and aims to increase the sex offender's motivation to avoid reoffending, and to develop the self-management skills necessary to achieve this; an offender with extra treatment needs might undertake the Extended SOTP; later on an offender might go on to a Booster or a Relapse Prevention SOTP, or both.
SRA-2000	A system for assessing sexual reoffending in four stages. The first stage is a static risk assessment, known as Risk Matrix 2000, which predicts risk of sexual reoffending based on historical and/or stable factors. The second stage analyses psychological factors associated with offending, to determine which risk domains apply to each individual. The outcome of this analysis is a dynamic risk assessment, based on the number of risk domains which are applicable. The third stage assesses progress in treatment, if a treatment programme has been undertaken. The fourth stage provides an updated risk assessment taking stages 1 to 3 into account. The dynamic risk assessment procedure involves assessment of four "risk domains" known to be related to risk of future sexual offending. These are: 1) Sexual interest; 2) Distorted attitudes; 3) Socio-Affective Functioning; 4) Self management)
Static factors	As distinct from <i>dynamic</i> factors. Static factors are factors in someone's history that by definition can subsequently never change
supervising Probation Officer	The Probation Officer exercising lead responsibility for managing this specific offender's post-release Licence in this case.
ViSOR	See also <i>Offender Manager</i> Violent and Sex Offender Register. A database jointly developed by Police and Probation. It creates a single national database for registered and non-registered sex offenders, violent, dangerous and potentially dangerous offenders and enables better consistency of recording between police and probation.
YOI	Young Offender Institution: a prison establishment for those aged under 21