



HM Prison & Probation Service

Rehabilitation Activity Requirement

This instruction applies to:-		Reference:-
Probation Service		PI 58/2014
Issue Date	Effective Date	Expiry Date
Revised 26 June 2021	26 June 2021	n/a
Issued on the authority of	HMPPS Operational Policy Sub-Board	
For action by (Who is this Instruction for)	<input checked="" type="checkbox"/> HMPPS HQ <input checked="" type="checkbox"/> Probation Service <input checked="" type="checkbox"/> Other Providers of Probation and Community Services <input checked="" type="checkbox"/> HMPPS Rehabilitation Contract Services Team	
Instruction type	Service improvement	
For information		
Provide a summary of the policy aim and the reason for its development / revision	<p>The Rehabilitation Activity Requirement (RAR) was introduced by the Offender Rehabilitation Act 2014. The Act amended the Criminal Justice Act 2003 and repealed the Supervision and Activity Requirements replacing them with a single new Requirement that gives greater flexibility for providers of probation services to determine the rehabilitative interventions delivered to supervised individuals. The provisions relating to a RAR in the Criminal Justice Act 2003 were replaced by the Sentencing Act 2020.</p> <p>Update September 2017: This has been amended to correct a typographical error at Para 2.5 has been amended. When a RAR is attached to a Suspended Sentence Order (SSO) it must be completed by the expiry of the supervision period of the SSO. Contact details have also been updated.</p> <p>Update 26 June 2021: This has been amended to reflect The Probation Reform Programme re-design of operational processes based upon the abolition of the Public/Private sector service delivery split. Following implementation of the new measures all service users will be managed by one Probation Service. The updates ensure that following Day 1 implementation, the processes described in operational policy will align to the new design models.</p>	
Contact	Probationpolicy.enquiries@justice.gov.uk	
Associated documents	Enforcement of Community Orders and Suspended Sentence Orders Policy Framework PI 05/2018 Liaison arrangements between Sentencers and Providers of Probation Services CR1014 National Delius Recording Instructions RAR V5.5 27.9.2019 MOJ Probation Policy Team RAR Guidance .Published 7.2.2019	
Replaces the following documents which are hereby cancelled: None		
Audit/monitoring: Mandatory elements of instructions must be subject to management checks		

and may be subject to self or peer audit by operational line management or HQ managers, as judged to be appropriate by the managers with responsibility for delivery. In addition, HMPPS will have a corporate audit programme that will audit against mandatory requirements to an extent and at a frequency determined through the appropriate governance.

Introduces amendments to the following documents: None

Notes: *All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.*

CONTENTS

Section	Subject	Applies to All Staff
1.1	<u>Executive Summary</u>	All Staff
1.2	Background	
1.8	Desired Outcomes	
1.9	Application	
1.10	Mandatory Actions	
1.11	Resource Impact	
2.	Operational Guidance	
3	Enforcement	
4	Policy & Strategic Context	

1. Executive summary

- 1.1 This Instruction provides mandatory actions and guidance relating to the Rehabilitation Activity Requirement (RAR) for the Probation Service in the management of Service Users (SUs) sentenced by the Courts. In the event that Exceptional Delivery Models (EDM) are in place then staff must defer to and implement any change or variation to actions or guidance pertaining to RAR and associated operational delivery as per the EDM instruction.

Background

- 1.2 Section 15 of the Offender Rehabilitation Act 2014 (ORA 2014) amended the Criminal Justice Act 2003 (CJA 2003) creating the Rehabilitation Activity Requirement (RAR), for Community Orders and Suspended Sentence Orders. The RAR replaced previous activity and supervision requirements which were repealed. The RAR will be available in cases where the offence was committed on or after the commencement date of the relevant sections of the Act.
- 1.3. For the purposes of this Instruction the term 'Responsible Officer' is used. The Responsible Officer ('RO') must be (a) an officer of the Probation Service or (b) a person responsible for monitoring the Service User ('SU') in accordance with an electronic monitoring requirement imposed by the relevant order¹. In practice, for the purposes of ensuring delivery of the RAR the RO will be an officer of the Probation Service.
- 1.4 Subsection (3) of section 15 inserted a new section 200A into the CJA 2003, which sets out the details of the RAR. The actual requirement of the RAR is that the SU must comply with any instructions given by the RO to attend appointments or participate in activities (or both). Section 200A of the CJA 2003 was replaced by paragraph 5 of Schedule 9 to the Sentencing Act 2020 – which applies to all convictions made on or after 1 December 2020.
- 1.5 Any instructions given by the RO must be given with a view to promoting the SU's rehabilitation. However, this does not prevent the RO giving instructions with a view to other purposes in addition or linked to rehabilitation (including activities with a reparative purpose, such as restorative justice activities²). Activities forming part of an Accredited Programme such as pre group preparation or post group consolidation work that the PP may deliver may also form part of the activities³.
- 1.6 For activities, a relevant order imposing a RAR must specify the maximum number of days for which the SU may be instructed to participate in activities. The RO when instructing the SU to participate in activities may require them to:
- (i) participate in specified activities and while doing so, comply with instructions given by the person in charge of the activities or
 - (ii) go to a specified place and while there comply with any instructions given by the person in charge of the activities. Instructions "given by a person" include those given by anyone acting under that person's authority.
- 1.7 For appointments, in contrast to activities, there is no limit set by the Court on the maximum number of days on which the SU may be instructed to attend appointments. The

¹ As defined by sections 213 and 299 of the Sentencing Act 2020

² For an activity to be regarded as a restorative justice activity, it must comply with paragraph 5(7) of Schedule 9 to the Sentencing Act 2020.

³ Paragraph 6(2) of Schedule 9 to the Sentencing Act 2020 provides that an "accredited programme" means a programme that is for the time being accredited by the Secretary of State. A "programme" means a systematic set of activities.

Responsible Officer may instruct the SU to attend appointments with the RO or with someone else.

Desired outcomes

1.8 This Instruction has been issued to ensure that Probation Service staff:

- are aware that the RAR is available in relevant cases to paragraph 4 of Schedule 9 to the Sentencing Act 2020.
- understand how the RAR fits in with sentencing options available to the Court.
- understand that the RAR is aimed at allowing innovative rehabilitative interventions to be delivered by the Probation Service and its approved providers to meet identified SU needs.
- are able (in the case of Court staff report writers) to provide advice to Courts on the imposition of a RAR.

Application

1.9 This Instruction applies to all staff in the Probation Service who are required to read this instruction so that they are familiar with and follow the correct processes and mandatory actions relating to the management of SUs subject to a RAR.

Mandatory actions

- 1.10 *The Probation Service must pay proper regard to the identification of SU's rehabilitative/criminogenic needs identified through assessment as linked to offending behaviour and risk when considering a proposal for a RAR including confirmation of availability of activities. PI 05/2018 Liaison Arrangements between Sentencer and Providers of Probation services details arrangements for exchange of information re availability of activities.*
- 1.11 *Data requirements:* The Probation Service must ensure that all RAR Activities, have supporting data requirements, which allows for the delivery of an activity day, to be clearly evidenced, on the authority approved data base.

Resource Impact

1.11 This instruction has been revised to reflect the necessary amendments required to support both the imposition and delivery of RAR in the context of the transition to the unified delivery model of Probation Services. The resources identified are included in the Probation reform programme Business Case.

(Approved for publication)

Sonia Flynn
Chief Probation Officer, Probation Service, HMPPS

2. Operational guidance

- 2.1 Since December 2013, when imposing a Community Order, the Court has been required to include at least one requirement that serves as a punishment (or alternatively a fine). There is no equivalent statutory requirement in the Crime and Courts Act 2013 or the ORA 2014 that requires a rehabilitative element as part of every Community Order. There is therefore no duty on Courts to include a RAR as part of every Community Order: the decision to include a RAR within a Community Order or Suspended Sentence Order is at the discretion of the Court.
- 2.2 The RAR is designed to allow the Probation Service flexibility to deliver innovative rehabilitative interventions and thus advice to the Court should not be overly prescriptive. A RAR activity must be planned prior to actual delivery and be structured in addressing someone's identified need to support their rehabilitation. Any advice to the Court should be based on the evidence of criminogenic need arrived at through an appropriate assessment of the SU.
- 2.3 Court staff will need to have a good understanding of rehabilitative interventions provided in their regions to be able to respond to queries from the Court. There therefore needs to be good lines of communication between Court staff and intervention teams along with Commissioned Rehabilitation Service ('CRS') providers, in regard to informing them on which interventions are available. Additionally, Court staff will need a good knowledge of the suite of Toolkit materials for 1:1 delivery by Probation Practitioners and where Toolkits might appropriately support RAR delivery. Further information on the types of interventions available can be provided to the Court at Probation liaison meetings. Further guidance on providing information to Courts is contained in PI 05/2018 Liaison arrangements between Sentencers and Providers of Probation Services
- 2.4 The Probation Service should provide guidance to the Court as to an appropriate maximum number of days which might be required to address the needs identified in the assessment. For example: "My proposal is that x is made subject to a RAR with up to 40 days activity which will provide an opportunity to address x's anger management issues and lack of accommodation." Where it is known that there is a specific intervention that can address SU need, this can be included in the advice provided to the Court to illustrate why a RAR could benefit the SU, although it should be noted that the Court's order in this regard will not be prescriptive.
- 2.5 Whilst there is no maximum number of RAR days, longer RARs should be reserved for those who have higher levels of need and who often as a result present a higher associated risk of re-offending. Further guidance in relation to utilising risk assessment to inform the number of RAR days recommended can be found via [RAR guidance - GOV.UK](#)
- 2.6 Once allocated, the RO is required to meet the SU within 5 working days after allocation to begin preparing a plan and then complete a plan within 15 working days of that meeting. The plan should contain an assessment of risks and rehabilitative needs, and where required a risk management plan, drawing on assessments completed as part of the PSR process and how those risks and needs will be addressed as part of the RAR. It should additionally include what is expected of the SU, what activities are needed to achieve the intended outcomes and an indication of timescales. The plan should be developed with input from the SU and intervention/service providers facilitated by the RO.

RARs enable delivery of change work via interventions that support rehabilitation. RO's can utilise a range of activities both in isolation or combination to meet the needs of the SU via Structured Interventions, Commissioned Rehabilitative Services and the Probation Practitioner Suite of Toolkits. Accredited Programmes can also be delivered via RAR where

enough days are available and where there is not an Accredited Programme Requirement attached to the Order. ROs will assess, prioritise, sequence and refer accordingly to ensure activities are provided/delivered to address identified rehabilitative need areas, against the Sentence Plan.

RAR activity **should not** be delivered via Regional Outcomes and Innovation Fund (ROIF) projects on account that ROIF funding must not directly invest in enforceable sentence delivery content. ROIF services also must not cross subsidise activity already funded or enforceable sentence requirement contracts and therefore the interventions aforementioned above should be used instead to deliver RARs.

- 2.7 Although the maximum period of the activities is expressed in days, the instructions in respect of the activities will be expressed in terms of a specific activity and the duration of that activity. A day is not defined in legislation but this does not mean 24 hours of activity. This means that an activity which only lasts for 2 hours would count as one day for the purposes of calculating the number of days on which a SU has participated in an activity, to ensure that the maximum number is not exceeded. Equally if a SU is required to undertake two separate activities on the same day, this would also only count as one day for the purposes of calculating the number of days on which the SU has participated in an activity.
- 2.8 The Court will set a 'maximum' number of activity days and an SU cannot be compelled to complete more than the period set by the Court. The RO should be responsive to the SU's circumstances and progress throughout the order in determining the exact number of RAR days, out of the maximum set, that are used. This approach is also important in considering the type of activities delivered to meet the individual's rehabilitative needs. The number of RAR activity days delivered must not exceed the number ordered by the Court. However no minimum number of days is set and it is open to use a shorter period of activity in which to deliver the intervention.
- 2.9 It should also be noted that the maximum day requirement applies only to activities, not to appointments, and an SU can therefore be instructed to attend appointments throughout the duration of the Community Order or Suspended Sentence Order. Such appointments are required in addition to RAR appointments to effectively supervise the individual and support the overall Order and are likely to include (but not limited to) tasks around ; assessment and planning, enforcement, reviewing progress against the sentence plan, attending to risk concerns, safeguarding, supporting compliance, sustaining and increasing motivation and engagement, providing information /signposting. These appointments do not count as RAR days in terms of meeting the specified definition as content does not have a specific rehabilitative purpose.
- 2.10 A RAR lasts the whole length of a Community Order and until the end of the supervision period for a Suspended Sentence Order. The Court will set an end date for the Community Order and since the RAR does not require the Court to indicate when the RAR activities will end, the end date of the Community Order will be the date by which the activities must be completed. In respect of a Suspended Sentence Order, the activities must be completed by the end of the supervision period.
- 2.11 A RAR does not provide for any intervention requiring the delivery of treatment services to the SU nor does it allow for the imposition of an EM requirement as part of the RAR as these are available as a distinct requirement.
- 2.12 The Probation Service are able to deliver an accredited programme under the RAR if they wish to do so provided it can be completed in the maximum number of days specified by the Court.
- 2.13 Where it is required the RAR can be sequenced with any other requirements that form part of the Community Order and Suspended Sentence Order.

- 2.14 Recording of RAR activity must be undertaken in Delius as mandated within current CR1014 National Delius Case Recording Instruction: Rehabilitation Activity Requirements.

3. Enforcement

- 3.1 The enforcement of a Community Order or Suspended Sentence Order, which includes a RAR, should be undertaken in line with the procedures and guidance as set out in the new Enforcement Policy Framework.

4. Policy and strategic context

- 4.1 The Rehabilitation Activity Requirement (RAR) was introduced by the Offender Rehabilitation Act in 2014, replacing the Supervision and Activity Requirements with a single Requirement. RAR continues to support the use of effective innovative interventions, enabling the Probation Service to determine the rehabilitative interventions delivered to SUs both internally and by providers.