



**Policy name:** Probation Court Services Policy Framework

**Reference:** N/A

**Re-Issue Date:** 26 February 2026

**Implementation Date:** 6 January 2025

**Replaces the following documents which are hereby cancelled:**

- PI 04/2016 Determining Pre-Sentence Reports
- PI 05/2018 Liaison arrangements between sentencers and providers of probation services
- Practice Guidance “PSR Allocation”
- Pre-sentence reports: Interim Guidance on Report Format

**Introduces amendments to the following documents - n/a**

**Associated documents – See Annex 1**

**Action required by:**

- |                                     |   |                          |   |
|-------------------------------------|---|--------------------------|---|
| <input checked="" type="checkbox"/> | HMPPS HQ                                    | <input type="checkbox"/> | Governors   |
| <input type="checkbox"/>            | Public Sector Prisons                       | <input type="checkbox"/> | Heads of Group                                      |
| <input type="checkbox"/>            | Contracted Prisons                          | <input type="checkbox"/> | Under 18 Young Offender Institutions                |
| <input checked="" type="checkbox"/> | Probation Service (PS)                      | <input type="checkbox"/> | HMPPS-run Immigration Removal Centres (IRCs)        |
| <input type="checkbox"/>            | HMPPS Rehabilitation Contract Services Team | <input type="checkbox"/> | Other providers of Probation and Community Services |

**How will this Policy Framework be audited or monitored:**

- Probation Service compliance is monitored by Regional Probation Directors (RPDs) in their region.
- The HMPPS Probation Court Strategy and Change Team provides performance reports to Regional Court Leads no less than bi-monthly.
- Quality assurance is provided by the Performance Assurance and Risk Group.

**Resource Impact:**

This Policy Framework is resource neutral and:

- seeks to clarify the expectations set out by disparate policy and guidance documents by consolidating and summarising, and where required, clarifying existing information into one document. It does not seek to remove regional or local discretion to process design and resource deployment where this currently applies.
- incorporates existing practice where no policy guidance currently exists.
- Introduces these changes for which no resource impact is expected:
  - A pre-sentence report recommending an immediate custodial sentence where a community order appears to be clearly outside of the sentencing range for the offence at step 1 of the guidelines unless there is substantial mitigation

known to the report. This ensures that the recommendation is in line with the Sentencing guidelines.

- A pre-sentence report recommending the area (closest city/ large town) and, where the defendant has no fixed address, this should be the area where the defendant has the most recent substantial links. This ensures that the home local justice area is the area where the defendant can best be supervised if the court makes a community-based order.

The framework also references and reflects, where relevant, the Bail Information Service.

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**Approved by OPS for publication:** Helen Judge, Joint Chair, Operational Policy Sub-board, November 2024.

#### Revisions

Date	Change
14 January 2025	Update to contact email address
26 February 2026	Section 4 – removal of references to case prioritisation criteria, and instead focusing on the screening process to be applied to all cases. Section 6 – Clarification provided that case complexity must be considered for each individual, with appropriate comment provided where this is relevant to the assessment of attitudes and behaviours Amendments due to the Sentencing Act 2026, changes to operational terminology and updates to reflect current business as usual practice.

#### [Quick access to the framework pages and Equip documents.](#)

To navigate the contents page, hover over a particular page number, then press control and click to be taken to that page. To access referenced Equip documents press the highlighted link and when on the EQuIP page press the highlighted link next to title.

## Contents

Contents	3
Part 1 - Overview	8
Purpose	8
Evidence	8
Outcomes	9
Summary of Mandatory Requirements	9
Overview	9
Judicial liaison	9
Court bail information officers	9
PSR authors - producing pre-sentence reports	10
PSR authors - formulating a PSR recommendation	12
Oral reports	13
Nil reports	14
Out of Area Cases	14
Defendant residing in Scotland or Northern Ireland	14
Addendum reports	14
Senior Probation Officer actions	14
Constraints	15
Guidance	15
Summary	15
Part 2 - Organisation of Probation Court Services	17
Overview	17
Probation Delivery Units (PDUs)	17
Court Administrator & Senior Court Administrators	17
Probation Service Officer	17
Probation Officer	17
Senior Probation Officer	17
Heads of Probation Delivery Units	17
Regional roles	17
Regional Senior Administration Officers	17
Regional Court Leads	17
Regional Probation Directors	18
National Headquarters teams	18

Probation Court Strategy and Change Team	18
Probation in Court Team	18
Effective Targeting and Enforcement	18
Probation Senior Leadership Team	18
National Committees	19
Probation Operational Management Committee	19
National Court Strategy Group	19
Probation Court Strategy and Change Team and Trade Union Liaison	19
Part 3 - Stakeholders	20
Overview	20
Liaison with HMCTS	20
Liaison with the judiciary	21
Part 4 – Bail information Service	22
Overview	22
Case identification	22
Expedition	23
Public Protection	23
Interviewing the defendant	23
Maintaining Quality Standards	23
Part 5 - Pre-Court Preparation for sentencing advice	25
Early Case Identification	25
Accessing digital systems	25
Part 6 – Pre-sentence reports	27
Overview	27
When pre-sentence reports are requested	27
The purpose of a pre-sentence report	27
The role of the Probation Service in providing a pre-sentence report	28
Key principles of Pre-sentence report delivery	28
Pre-sentence report Requirements	28
Verification reports	29
Addendum Reports	30
Determining the type of report	30
Overview	30
Complexity	31

Safe Sentencing	31
Requesting adjournments	31
Reports delivered on the day	32
Oral report	32
Written format report	33
Dangerousness Assessments	34
Previously completed pre-sentence reports	34
Domestic Abuse & Safeguarding enquiries	34
Searching for domestic abuse indicators	34
Identifying the need for child safeguarding enquiries	35
Initiating child safeguarding enquiries	35
Contents of the safeguarding enquiry	36
Child safeguarding referrals	36
Recording domestic abuse and safeguarding enquiries	36
Where the outcome of domestic abuse or safeguarding enquiries is not known	36
Pre-sentence report Interviews	37
Arranging Interviews	37
Out of Area cases	37
CSRP and ARP completion	39
Important interview considerations	39
Completion of Diversity and Inclusion form (DIF)	39
Producing a pre-sentence report	39
Risk Assessment	39
Information to be taken into account for a pre-sentence report	40
Contents of a pre-sentence report	40
Information to be provided to the court in an oral report	41
Specialist assessment tools	41
Sensitive Information	42
Nil pre-sentence reports	43
Pre-sentence report recommendations – General considerations	44
Overview	44
Formulating the proposal	44
Totality of sentencing	45
Multiple Orders	45
Effective Proposal Framework & Practice Guidance	45

Addressing a court indication in the proposal	46
Professional Judgement	46
Cohorts with specific considerations	46
Overview	46
Referencing diversity factors	46
Ethnic Minorities	47
18–25-year-old defendants	47
Organised Crime Group Involvement	48
Integrated Offender Management (IOM)	48
Women	48
Transgender	48
Sexual offending	48
Domestic Abuse defendants	49
Defendants with child contact	49
Foreign National Offenders	50
Defendants with mental health conditions	50
Terrorism and Counter Terrorism	50
Overview of community orders	50
Recommending a community order	50
Required information in a community order	51
Defendant obligations	51
Cross-Jurisdiction Cases	52
Community order requirements	52
Unpaid work requirement (Part 1)	52
Rehabilitation activity (Part 2)	52
Programme Requirement (Part 3)	53
Prohibited activity requirement (Part 4)	53
Curfew requirement (Part 5)	54
Exclusion requirement (Part 6)	54
Residence requirement (Part 7)	55
Foreign Travel prohibition requirement (Part 8)	55
Mental Health treatment requirement (Part 9)	56
Drug rehabilitation requirement (Part 10)	56
Drug testing requirement (Part 10A)	57
Alcohol treatment requirement (Part 11)	57

Alcohol abstinence and monitoring requirement (Part 12)	57
Electronic compliance/whereabouts monitoring requirement (Part 14)	58
Recommending a discharge, fine or deferred sentence	58
Absolute Discharge & Conditional Discharge	58
Fines	59
Deferred Sentence	59
Recommending a custodial sentence	60
Immediate custodial sentence	60
Suspended Sentence Orders	61
Crown Court Supervision Orders	62
Completing and delivering the pre-sentence report	63
Submitting the pre-sentence report	63
The manner of delivering an oral pre-sentence report	63
Recording an orally delivered report	63
Part 7 - Post Sentence	64
Case Allocation (See Case Allocation PI 05/2014)	64
Post Sentence Reports	64
Review reports	64
Deferred sentence reports	64
Court of Appeal Reports	65
Part 8 – Staff Support, Guidance & Training	67
Race Equality in the Probation Service	67
Practice Guidance	67
Accessing Learning & Development	67
Legal Awareness	67
Annex 1 - References and links to Operational guidance	69
Annex 2 - HMPPS Judicial Engagement Charter Text (March 2024)	73
Annex 3 - Regional and local judicial engagement and liaison	76
Annex 4 - Liaison between the judiciary and Probation Service	83
Annex 6 - Complexity	87

## **Part 1 - Overview**

### **Purpose**

- 1.1. This Policy Framework enables Probation Service court staff to better understand the key principles that underpin the foundation of court service delivery, outlines the roles and responsibilities associated with such delivery and provides easy access to supporting operational guidance. It recognises the changing expectations associated with the delivery of court services and acknowledges the impact of case management initiatives such as the relaunch of 'Better Case Management' for Crown Courts, as well as the relaunch of 'Transforming Summary Justice' in the magistrates' court. It outlines key principles that all Probation staff in court should be mindful of, as applying these to all cases will assist in promoting consistent decision-making and practice on a national basis. It does not provide the full operational detail of the many processes which need to be applied by Probation Service staff in court. Annex 1 provides links to additional operational and practitioner guidance that should be consulted where specific instruction is required.

### **Evidence**

- 1.2. By contrast with Sentence Management which has a policy framework, no single document brings together in one easily accessible place the key principles that underpin the foundation of court service delivery, outlines the roles and responsibilities associated with such delivery and provides easy access to supporting operational guidance. PI 04/2016 Determining Pre-Sentence Reports, PI 05/2018 Liaison arrangements between sentencers and providers of probation services and Practice Guidance "PSR Allocation" require updating. The "Interim" Guidance on PSRs has been in place since 2019 and needs incorporating into a framework.
- 1.3. Probation Service court teams are fundamental to supporting the court to meet the overriding objective of the Criminal Procedure Rules to ensure that criminal cases are dealt with justly. Probation Service court teams work directly in courts providing expert advice to enable sentencers to make informed decisions, contributing to efficient court processes and enabling successful case progression and sentence commencement. They are effectively the start of an individual's journey through the probation system.
- 1.4. The Probation Service has a critical role to play in effectively identifying and preparing cases prior to the first scheduled court hearing, and liaising with other key stakeholders such as HMCTS, CPS and the defence community, to promote effective and timely case progression. The Probation Service also provides expert advice to enable the court to make effective informed bail decisions.
- 1.5. The Probation Service is responsible for providing advice to court such as producing pre-sentence reports (PSRs) and verification reports (VRs) when requested. A pre-sentence report includes a sentencing recommendation based on an individual's circumstances and consideration of public protection concerns, alongside suitable rehabilitative and punitive requirements. A verification report, on the other hand, verifies information to assess the suitability of punitive requirements only in low risk, low complex cases. Whilst sentencing is the responsibility of the judiciary, the Probation Service plays a crucial statutory role in

assisting the court in the sentencing process where it is considering imposing a custodial or community sentence. Probation Practitioners in court ensure that risk assessment and pre-sentence advice is based upon principles of public protection and rehabilitation and provides safe sentencing decisions that prioritise victim and public safety and target rehabilitative interventions where they are required. This enables the court to set the best possible conditions to drive a successful rehabilitative journey and ensure the appropriate supervision after release from a custodial sentence. Helping to ensure that the best possible sentencing decisions are reached at the outset is a fundamental step in improving longer-term sentence management outcomes.

- 1.6. The involvement of the Probation Service, either by attending court in person or remotely, or by the provision of written information in court, aims to build the confidence of the judiciary and stakeholders and develop credibility in the Probation Service.

### **Outcomes**

- 1.7. The Policy Framework is intended to enable Probation Service court staff exercising court related functions to:
  - envision the end-to-end process of court related functions within criminal proceedings.
  - understand the organisation of Probation court services at national and local level and how the Probation Service can effectively liaise with criminal justice partners particularly HMCTS and the judiciary.
  - recognise and apply important principles of court related functions to enable consistent decision making, expert risk and needs assessment to reflect the complexity of individual circumstances including the consideration of protected characteristics, safeguarding of victims and the provision of high-quality information to court increasing Probation Service influence and the confidence of the judiciary.
  - provide a single reference point to enable access to further operational guidance.

### **Summary of Mandatory Requirements**

#### **Overview**

- 1.8. All Probation Service staff working in a court setting must familiarise themselves with this framework to understand roles and responsibilities to deliver court related functions and to identify additional practice guidance to be followed in respect of particular elements of service delivery. All staff should also be aware of the delivery model for services to court, as this sets out what should be expected from court services teams and how these interact with the wider delivery of sentence management.

#### **Judicial liaison**

- 1.9. Staff liaising with the judiciary must comply with the arrangements in Annex 3 in furtherance of the Judicial Engagement Charter (Annex 2) and the Guidance issued by the Senior Presiding Judge (Annex 4).

#### **Court bail information officers**

- 1.10. Court bail information officers must:

- where a court sets out its specific reasons for why bail has not been granted and these reasons can be addressed, ensure that that information is effectively passed on to prison-based colleagues.
- be familiar with, and comply with, all relevant policies and practice guidance related to public protection including safeguarding children or vulnerable adults.
- communicate any issues relating risk or public protection promptly and accurately to the appropriate agencies and this is recorded in the relevant systems. If a case is known and current to a probation practitioner all reasonable attempts must be made to contact that person or a member of their team, prior to any bail information being presented to the court.
- record all bail work undertaken using the applicable digital system and uploading a written report where the report is given verbally.

### **PSR authors - producing pre-sentence reports**

#### 1.11. Pre-sentence report authors must:

- in preparing a report, consider the Initial Details of Prosecution and case relevant information held by the Probation Service including, recent pre-sentence reports, OASys records and N-Delius registers (including entries and registers entered while the case was closed)
- Where applicable, liaise with the current Probation Service or Youth Justice sentence manager to obtain updates on existing court orders/licences and to notify the sentence manager of the current offence/s.
- interview the defendant in private and, if by video, comply with both approved procedures and communication platforms.
- complete a Combined Serious Reoffending Predictor calculation and an All Reoffending Predictor for all pre-sentence report formats.
- complete a RoSHA screening in OASys for all report types, with a full risk assessment also completed as needed.
- complete pre-sentence reports on relevant court national pre-sentence report templates.
- complete pre-sentence reports requiring dangerousness assessments as a written report format only.
- complete specialist screening tools, eligibility and suitability assessments where these directly inform sentencing.
- where sensitive information is received during the preparation of a pre-sentence report, consider the purpose and nature of the information and any risk to others involved and the likely impact on previous or potential victims through the disclosure of information.
- use the Effective Proposal Framework (EPF1) to support the formulation of a relevant, proportionate and available proposal.
- provide where the court provides an indication of a specific sentence:
  - an assessment of the specific requirement requested.
  - any information which impacts upon the suitability of the requested sentence. and where the requirement requested is assessed as not suitable or available, an alternative proposal and the reasons for this.
  - ensure that a Diversity and Inclusion Form (DIF) is completed.
  - consider maturity for 18–25-year-old defendants.
- be familiar with [The Care and Management of individuals who are Transgender Policy Framework \(Master\)](#).
- where the defendant is being sentenced for a sexual offence:

- complete section 1 in OASys and use the Sexual Reoffending Predictor scores to inform both the overall level of risk of serious harm as well as the sentence recommendation.
- undertake all necessary safeguarding and domestic abuse enquiries.
- liaise with the police who are responsible for managing the individual's sexual offending notification requirements.
- where the defendant also has prior sexual convictions, ensure the assessments takes into account the pattern of offending.
- undertake a domestic abuse risk assessment (SARA) if domestic abuse related.
- where a defendant is being sentenced for a non-sexual offence but has a previous conviction for a sexual offence:
  - assess the risk of further sexual harm, including calculation of the Sexual Reoffending Predictor scores.
  - check if the defendant is subject to sexual offending notification requirements and, if so, contact the police offender manager to gather information about compliance, whether there are any current risk issues and whether the individual is subject to any civil orders such as a Sexual Harm Prevention Order (SHPO).
- ensure domestic abuse enquiries are carried out where there are any concerns of domestic abuse.
- ensure safeguarding enquiries are carried out for defendants who live with, have caring responsibilities for, are in or seeking contact with any children or who present a potential risk of harm to children.
- where a defendant has a mental health condition obtain any Liaison and Diversion Service/ Mental Health Service screening report and, where the defendant has serious mental health issues, liaise with the community mental health/secure unit/ hospital team to obtain any medical report and information about suitability for a mental health treatment requirement.
- if they become aware of any concerns relating to self-harming behaviours or suicidal ideation, take steps to ensure that all relevant parties, including HMCTS, and prisons where applicable, are informed of this immediately.
- where the offence involves Terrorism offences contact the Divisional Probation Counter Terrorism (PCT) Team for support in gathering all the relevant information including police and prison security information.
- address within the report the impact of a custodial sentence upon the defendant including the impact on any caring responsibilities.
- apply reasonable judgement to the decision-making process, based on principles of respect for diversity and the uniqueness of each case.

**PSR authors - domestic abuse & safeguarding enquiries**

1.12. Pre-sentence report authors must:

- search for any available indicators of domestic abuse in all cases, checking details from previous convictions, victim statements, witness statements, previous OASys or other assessments, reports, records, risk registrations and interviews.
- initiate domestic abuse enquiries where domestic abuse is evidently a feature, currently or historically, or a curfew requirement is being considered.
- ask all defendants in the PSR interview:

- whether they live with, have caring responsibilities for, are in contact with, or are seeking contact with any children.
- whether they have a partner who is pregnant
- who are women and transgender men, whether they are pregnant, and whether there is any likelihood that they could be pregnant.
- where the defendant is pregnant or has a partner who is pregnant, establish the due date for the child's birth and record the details on the case management system.
- initiate child safeguarding enquiries with Children's Services in all cases, and at the earliest opportunity, where:
  - the defendant lives with, has caring responsibilities for, is in contact with, or is seeking contact with any children or who present a potential risk of harm to children. The exception is where there is sufficient, up-to-date information available from other sources to enable safe sentencing.
  - the defendant has refused to answer the questions about their contact with children.
  - there are concerns that the defendant may have provided inaccurate disclosure about their contact with children.
  - a curfew requirement is being considered whether or not children are known to be at the address. PSR authors must ask Children' Services, when considering a curfew requirement, if Children's Services have any information that would indicate that a child would be impacted by the defendant being curfewed to a specific address.
- make a referral to children's services if there is concern for a child's safety and wellbeing.
- where a domestic abuse or safeguarding enquiry has been made, clearly record on NDelius the information requested and any responses received, marking contacts as sensitive where necessary.
- where the outcome of domestic abuse or safeguarding enquiries is not available on the day of request:
  - inform the court that an enquiry request has been submitted but the response to this remains outstanding.
  - use professional judgement to decide whether the sentence recommendation can be safely made without the outcome of those enquiries, considering the risks and whether the outcome could significantly alter the likely sentence. If the recommendation cannot be safely made the PSR author should request an adjournment to enable the enquiries to be concluded.
  - NOT include a curfew requirement as part of the sentencing proposal.

### **PSR authors - formulating a PSR recommendation**

1.13. PSR authors must consider when formulating the sentence recommendation:

- the date of offence.
- each of the purposes of sentence.
- the seriousness of the offence, ensuring that the recommendation is commensurate with the seriousness of the offence and where there is any deviation from the court's determination, a strong rationale must be provided.
- any sentencing guidelines for the applicable offence. Where there is any deviation from the guideline, the report **must** provide a strong rationale.
- that where the offence is aggravated by reason of race, religion, disability, sexual orientation or transgender identity, that that must be treated by the court as an aggravating factor.

- where a defendant pleads guilty, the timing and circumstances of the plea.
- any sentencing indications of the court.
- the defendant's assessed risk and needs to facilitate safe sentencing.
- issues of diversity, being aware of the potential for unconscious or implicit bias.
- eligibility and suitability assessments to inform relevant proposals for Accredited Programmes, Unpaid Work, Electronic Monitoring, and Community Sentence Treatment Requirements and other requirements.
- the Effective Proposal Framework, and additional practice guidance as applicable (See [EPF Operational Policy Guidance \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk/effective-proposal-framework)).
- the need to clearly explain the proposal for a specific sentence and why it is more suitable than alternative sentencing options.
- recommend a community order where the particular requirements forming part of the community order are the most suitable for the defendant, the restrictions on liberty imposed by the order are commensurate with the seriousness of the offence or combination of offences; and the requirements do not clash with religious, employment or educational commitments.
- where recommending a curfew requirement, whether electronically monitored or not, must be informed by an assessment of address suitability, which includes the outcome of Police and social services enquiries and contact with the main occupier of the address to seek informed consent for the person's enforced presence there. Where there are identified risks and where an electronically monitored curfew requirement cannot be managed safely, PSR authors cannot make this recommendation to the court and must use the Effective Proposal Framework (EPF) to consider alternative sentencing options.
- not propose a Suspended Sentence Order.

### **Oral reports**

1.14. PSR authors must ensure that the report:

- provides the court with:
  - an appropriate and relevant level of detail to meet the needs of the court.
  - a clear evidence-based proposal which includes the type of sentence recommended and any requirements.
  - where relevant, information regarding any previous supervision the individual has received and assessment of the person's motivation and ability to comply with community supervision.
  - where relevant, information about specific needs, protected characteristics or other factors which impact on the defendant's circumstances, the proposal (whether or recommend or not recommend a particular sentence) or the defendant's ability to comply.
- record the report and use the oral report template in NDelius. Where contact with children is known the report write up must refer to safeguarding and OASys and state where there are no safeguarding concerns.

### **PSR authors - sensitive information**

1.15. Where sensitive information is received during the preparation of a pre-sentence report the PSR author must:

- comply with the Practitioner Guidance - Handling Sensitive Information.

- consider:
  - the views of the source of information to inform a decision about whether it can be disclosed to the court or other parties
  - the purpose and nature of the information.
  - any risks if the information is disclosed to others.
  - that any information given to the court, provided orally or in writing, will be available to the defendant and any legal representative; information provided to the court cannot be withheld from adult defendants or their legal representatives.
- decide whether it remains necessary for the information to be disclosed to the court to enable the court to reach a sentencing decision, and if so whether this should it is safe for this to be presented verbally open court and if not, provide such information in writing (e.g. via a written PSR, or in writing when presenting an oral report).
- consider the likely impact on previous or potential victims through the disclosure of information.

### **Nil reports**

- 1.16. Where a defendant fails to attend the pre-sentence report interview following an adjournment, the pre-sentence report author must:
- take reasonable attempts to prepare a report for the date of the hearing
  - inform the court of any difficulties in preparing the report.

### **Recording the sentence**

- 1.17. The PSR author must:
- record the sentencing proposal and any proposed requirements promptly in NDelius in accordance with case recording instructions.
  - promptly provide information relating to sentence to Community Offender Management and Prison Offender Management as relevant and case allocation is recorded in N-Delius.
- 1.18. Court staff, as agreed locally, must:
- Within 3 days of sentencing identify and record all applicable cases as MAPPA nominals on the approved case management system.

### **Out of Area Cases**

- 1.19. Where a court team requests that a pre-sentence report is produced by a court team in another area, both the requesting team and receiving team must comply with the requirements outlined.

### **Defendant residing in Scotland or Northern Ireland**

- 1.20. Where the defendant resides or would reside in Scotland or Northern Ireland and a court in England or Wales requests a pre-sentence report, court staff must contact the relevant Scottish Criminal Justice Social Work Service (CJSW) or Probation Board for Northern Ireland (PBNI) team, as applicable.

### **Addendum reports**

- 1.21. Where new information is provided or disclosed by partnership agencies, court staff must make an assessment of the impact it has upon the original assessment and proposal of the pre-sentence report. Should the impact be assessed as being more significant, then consideration must be given to preparing a written addendum report.

### **Senior Probation Officer actions**

1.22. Senior Probation Officers must ensure:

- pre-sentence reports are only undertaken by staff with suitable qualifications and/or levels of competence in line with the Probation Professional Register and with appropriate training, in particular for offences where additional assessments are required such as for cases of domestic violence or sexual offending.
- there are appropriate measures (e.g., report audits) in place to guard against the potential for unconscious or implicit bias in the writing of pre-sentence reports.

### **Constraints**

1.23. This Policy Framework only concerns Probation court related functions before responsibility for a supervision of a defendant passes to Sentence Management. It does not therefore cover sentence management or enforcement which have their own Policy Frameworks, [Sentence Management in the Community Policy Framework \(sharepoint.com\)](#) and [Enforcement of community orders, suspended sentence orders and post-sentence supervision policy framework \(sharepoint.com\)](#) respectively.

1.24. Exceptional Delivery Models may be implemented from time to time for operational reasons. Where a different approach to this framework is outlined in those models, the requirements outlined by those models are to be followed for the duration of their implementation.

### **Guidance**

1.25. Annex 1 of this Policy Framework includes a list of probation instructions, practice guidance and operational guides which are mentioned within each part of this framework. Annex 2-4 concerns regional and local judicial engagement and liaison. Annex 5 includes guidance in a flow chart on determining the format of a pre-sentence report. Annex 6 provides a non-exhaustive list of factors which may increase case complexity. Whilst it will not be mandatory to follow what is set out in guidance, failure to do so could be challenged and so clear reasons to depart from guidance should be documented as agreed locally.

### **Summary**

1.26. This Policy Framework is divided into parts:

- Part 2 outlines the organisation of Probation Service court related functions at local, regional, and national levels.
- Part 3 provides background awareness about the different stakeholders with which the Probation Service interacts in performing court related functions, with particular reference to Liaison and Diversion organisations, HMCTS and the judiciary.
- Part 4 considers the provision of bail information to the court.
- Part 5 considers the importance of pre-court preparation for sentencing advice.
- Part 6 outlines the key principles for the allocation, creation, and delivery of pre-sentence reports.
- Part 7 considers Probation Service court staff responsibilities post sentence.
- Part 8 outlines support, training, awareness, and development materials for staff performing court related functions.



## **Part 2 - Organisation of Probation Court Services**

### **Overview**

2.1. The Probation Service is divided into twelve probation regions for England and Wales with a central headquarters. Each region is divided into Probation Delivery Units. Each Probation Delivery Unit includes court administrators, senior administrators, Probation Service Officers, Probation Officers, and Senior Probation Offices. There are National Committees, in place both internally and externally, to ensure Stakeholder engagement and a consistent approach across England and Wales. The National Security Division also provides an enhanced level of management intervention for the most high risk, complex and high-profile offenders in the community.

### **Probation Delivery Units (PDUs)**

#### **Court Administrator & Senior Court Administrators**

2.2. Court administrators provide administrative support within the Probation Service ensuring that staff and defendants are supported through efficient processes, maintaining administration systems to promote the achievement of team and divisional objectives.

#### **Probation Service Officer**

2.3. Probation Service Officers undertake a range of roles in supporting the sentencing function of the court. PSOs provide updates on current cases, assist with information for the purposes of bail decisions, make assessments and undertake checks on defendants, produce reports on low and medium risk of serious harm cases, both those assessed and presented 'on the day' and those that are adjourned.

#### **Probation Officer**

2.4. Probation Officers in court teams are responsible for the assessment of the more complex cases involving those defendants who are at higher risk of serious offending. They produce pre-sentence reports that require a greater degree of analysis and liaise with other partners to provide thorough risk assessments and contextual information that leads to sentencing proposals.

#### **Senior Probation Officer**

2.5. The Senior Probation Officer supports both the Head of the Probation Delivery Unit and the Regional Court Lead to provide management and a leading role within the Probation Delivery Unit.

#### **Heads of Probation Delivery Units**

2.6. Heads of Probation Delivery Units are responsible for the delivery of local court services.

### **Regional roles**

#### **Regional Senior Administration Officers**

2.7. The Senior Administrative Officer role supports the regional court lead e.g., in providing oversight of regional productivity, mapping regional Guilty Anticipated Plea performance producing rotas as well as supporting PSR allocation.

### **Regional Court Leads**

2.8. Regional court leads perform both an operational and a strategic function at the wider regional level: reporting to Regional Probation Directors on regional court performance and offering operational support as needed; providing support on regional and national strategic development opportunities; and leading the operational implementation of change initiatives.

### **Regional Probation Directors**

2.9. Regional Probation Directors (RPDs) remain responsible for the delivery and performance of probation services to courts within their region.

### **Area Executive Directors**

2.10. Area Executive Directors have overall responsibility for both prison and probation delivery across a regional area (in support of the One HMPPS model). They line manage both the Regional Probation Directors and the Prison Group Directors

### **National Headquarters teams**

#### **Probation Court Strategy and Change Team**

2.11. This team supports the regional management of 'Business as Usual' court delivery functions, as well as wider strategic development activity relating to courts across HMPPS, MoJ and the criminal justice service. It provides specialist functions including:

- operational policy advice and practitioner guidance materials.
- legal advice, working with Government Legal Department, on court procedural queries and legal updates on developments concerning procedural rules, Sentencing Guidelines, Criminal Practice Directions, and case law.
- ministerial and cross-agency representation, briefings & correspondence.
- diversity & inclusion support.
- performance and quality reporting.
- learning & development packages.
- judicial liaison and engagement.
- project development and evaluation.

2.12. Whilst it can provide additional guidance on issues falling within the parameters of existing policy, it cannot make operational policy change decisions. All policy change requests remain subject to consideration and endorsement by national governance bodies.

#### **Probation in Court Team**

2.13. The Probation in Court team, part of Probation Digital, is responsible and accountable for the research, design, development and roll-out of digital products to support probation staff working in court. That includes case administrators, POs, PSOs and SPOs. The team is also responsible for reporting the performance of the systems under their supervision.

#### **Effective Targeting and Enforcement**

2.14. This team delivers work that directly straddles both the court delivery function, as well as the sentence management function supporting the:

- enforcement of orders
- development and deployment of the 'Effective Proposal Framework' tool.

#### **Probation Senior Leadership Team**

2.15. This team is made up by the Chief Probation Officer, the Regional Probation Directors, and the Regional Heads of Operations. Team meetings may be used to

explore proposals or seek sign-off for the implementation of change initiatives. All change initiatives must be added to the Business Strategy & Change tracker tool, which is presented to this group on a monthly basis.

## **National Committees**

### **Probation Operational Management Committee**

2.16. This committee comprises of representatives from across the HMPPS executive leadership team. It considers significant changes including those where reputational risks and financial costs require evaluation. Clearance of initiatives here often paves the way for ministerial submissions and decision-making.

### **National Court Strategy Group**

2.17. This meeting chaired by the Head of Probation Court Services brings together regional court leads and representatives from across HMPPS and MoJ, providing a focus on both court reform activities and court delivery work. The group focusses on identifying operational problems and change implementation requirements relating to court delivery work and reviewing and providing feedback on reform proposals. The membership plays a pivotal role in determining the feasibility for change proposals and deciding which policy amendments are to be taken forward. Where consistency of practice can be achieved within the parameters of existing operational policy and/or legislation, the NCSG may provide advice and guidance to promote this. This authority does not extend to altering existing operational policy, with all such activity requiring consideration and endorsement at the appropriate governance board. The NCSG will provide assurance and escalate operational risks as required to the National Court Board (chaired by the Chief Probation Officer).

### **Probation Court Strategy and Change Team and Trade Union Liaison**

2.18. This meeting is led by the Head of Probation Court Services and attended by members of the Probation Court Strategy and Change team, as required other Probation Service team and representatives from the trade unions. It provides a forum for Probation Service to share, and where appropriate, consult on operational change, for trade unions to escalate concerns and for problem solving appropriate issues related to court work.

## Part 3 - Stakeholders

### Overview

- 3.1. The Probation Service works with the judiciary and a variety of criminal justice partners such as HMCTS, Police, Crown Prosecution Service, Electronic Monitoring Service, defence legal representatives, Liaison and Diversion, Alcohol and Drugs Services, local authorities and prisons. The Probation Service is represented at the:
- Crown Court Improvement Group – This is chaired by the Senior Presiding Judge and attended by senior representatives from across the court stakeholder group (including the Chief Probation Officer and the Head of the Probation Court Strategy and Change team). This group monitors the progress made by criminal justice agencies in supporting court recovery work through the implementation of new agency case management initiatives. Progress reports from this group are shared regularly with the Lady/Lord Chief Justice.
  - Transforming Summary Justice Group – This is chaired by a senior member of the Crown Prosecution Service and attended by senior representatives from across the magistrates' court stakeholder group. It seeks to monitor service delivery across magistrates' courts through a focus on the principles of Transforming Summary Justice.
- 3.2. It is important that effective liaison arrangements are in place with the judiciary and wider stakeholders to ensure that:
- there is effective and timely listing of cases.
  - information can be exchanged in a timely manner to support sentencing e.g., domestic abuse and child safeguarding checks, the progress of a defendant subject to electronically monitored requirements and the availability of such requirements.
  - case management initiatives are known, and steps taken to implement them, particularly those which impact on the demand for, and delivery of, different report formats e.g., PSR before Plea.
  - effective mechanisms are in place to resolve issues which may occur at a local level and there is a means to escalate these where necessary to a regional or national level.

### Liaison with HMCTS

- 3.3. It is important that effective liaison arrangements are in place between the Probation Service and HMCTS to increase understanding and confidence in probation delivery and that information regarding locally available interventions and services is up-to-date and easily accessible. In the magistrates' court it is also important that HMCTS Heads of Legal Operations are aware of any information shared with the judiciary. Whilst HMCTS provides operational support to the judiciary, Heads of Legal Operations and their legal teams provide legal advice to the judiciary and can be authorised to act as the court. The Heads of Legal Operations (magistrates' courts) and Heads of Crime (Crown Court) work with the judiciary to determine listing patterns; listing is a judicial function.

## **Liaison with the judiciary**

- 3.4. The HMPPS Judicial Engagement Charter (March 2024) in Annex 2 sets out what the judiciary can expect from HMPPS and must be complied with. Guidance issued by the Senior Presiding Judge on the requirements of the agreed liaison arrangements must also be implemented; Annex 4 sets out the current guidance. Guidance at Annex 3 sets out further information on meeting arrangements, means of engagement and the provision of information to the judiciary; these include CJS wide meetings to continue to monitor performance and initiatives such as Better Case Management, Transforming Summary Justice and digitalisation of the courts. Effective liaison arrangements must be in place to:
- enable issues impacting upon provision of probation services and the management of the sentence of the court to be communicated at an early stage.
  - ensure arrangements are in place to discuss and resolve issues at a local level.
  - provide a process for escalating issues arising within one or more regions or a number of courts for resolution at a national level.
  - support and maintain sentencers confidence in probation delivery of court orders.
  - provide a forum for all providers of probation services to provide information on provision of local and national services available to defendants following sentence.
- 3.5. It is fundamental that there are strong relationships with the judiciary at national, regional, and local levels and that the judiciary:
- understand the purpose of the Probation Service and have confidence in probation delivery of court orders.
  - are aware early of service demand and supply, developments in practice and policy, local perspectives, practical issues which may impact upon delivery of Probation court services and sentence management.
  - know how well the service is delivered and can provide feedback on service delivery.
  - value the service and request it in court.
  - have access to training and shadowing opportunities in both community and custody settings.
- 3.6. The Judicial Brochure provides the judiciary with information about community sentencing options, such as structured interventions, commissioned rehabilitation services and the probation practitioner toolkits available in each probation region.

## **Part 4 – Bail information Service**

### **Overview**

- 4.1. The national Bail Information Service (BIS) is a pro-active service providing relevant factual information to courts, enabling courts to make more informed decisions regarding the suitability of a defendant for bail. Bail Information Reports are not an assessment of risk, nor a recommendation for or against bail, as this decision remains solely the remit of the judiciary. The service is delivered by Probation staff within all courts across England and Wales and by HMP BIS officers within reception prisons across both the public sector and privately managed prison estate, including the Female Estate.
- 4.2. It is important that:
- BIS resource is directed towards those who are at a high risk of remand into custody.
  - bail information requests are dealt with promptly, taking into account the enquiries which need to be made in each case.
  - public protection procedures outlined by wider operational policy are followed throughout the delivery of bail services to support a bail decision only being given to appropriate cases.
  - defendants understand the bail conditions or bail support services they will have to comply with if the court decides to impose those bail conditions.
  - Quality standards are maintained in the information provided to the court to promote judicial confidence.
  - the bail information officer must contact the probation practitioner for all known cases, and that the probation practitioner's assessment of bail suitability is included within the report.

### **Case identification**

- 4.3. Probation staff providing bail services at court will need to identify those defendants who are being produced from custody following charge where there is a clear opposition to bail; this may be on charge for a new offence or upon arrest following the execution of a warrant. Cases should be screened for defendants who may be at a higher risk of being remanded into custody either due to the offence or personal circumstances, or where complex needs are identified that indicate additional support for the bail process might be beneficial.
- 4.4. Engagement in the magistrates' court pre-court meeting will be important to ascertain in which cases the Crown Prosecution Service are likely to object to bail and the defence likely to make a bail application. Probation court teams should also ensure that they liaise with one another to avoid any duplication of effort on a case, especially as pro-active case preparation work is embedded as standard practice. For example, if it appears that a guilty plea is likely to be entered by the defendant and an on the day PSR request is likely to be made, completion of bail information checks is unlikely to be necessary.
- 4.5. Moreover, where a court sets out its specific reasons for why bail has not been granted and these reasons can be addressed, court bail information officers must ensure that

this information is effectively passed on to prison-based colleagues, so that they can action it in support of a second or subsequent bail application. Court teams can also expect to receive notification from prison-based colleagues in relation to cases on remand on whom bail information reports are to be prepared.

### **Expedition**

- 4.6. Where a court requests a bail information assessment, that case will be stood down until later in that court session or later that day. Once the bail information is available, the court will then need to find unscheduled time within the court session time to finalise the bail decision and case management of that case.
- 4.7. Where a bail information report is completed, it is therefore important that:
- referrals to CAS2 and other community support services, where appropriate, are made without delay.
  - reasonable steps are taken to check on the progress of any referrals.
  - the court is provided with the bail information without unnecessary delay.
  - where there will be necessary delay e.g., to await the outcome of a CAS2 referral that the court is updated on the likely timescales to provide that information. This will enable the court to better manage the other cases in the court list.

### **Public Protection**

- 4.8. Staff must ensure that they are familiar with, and comply with, all relevant policies and practice guidance related to public protection including safeguarding children or vulnerable adults. Some defendants may also be subject to MAPPA (Multi Agency Public Protection Arrangements) due to their previous convictions. Staff need to make certain that any issues relating risk or public protection are communicated promptly and accurately to the appropriate practitioners and/or agencies to enable any action or escalation required to be completed, and this is recorded in the relevant systems. If a case is known and current to a probation practitioner all reasonable attempts must be made to contact that person or a member of their team, prior to any bail information being provided to assist the CPS in determining bail suitability.

### **Interviewing the defendant**

- 4.9. Before the information contained in the Bail Information Report is provided to support the CPS' consideration of advice to be given to the court in respect of bail requests made, it is important that:
- information obtained from the defendant in interview about their ability to comply with bail is verified where possible, and the principles of professional curiosity applied to the verification of the information obtained during interview.
  - defendants understand the bail conditions or bail support services they will have to comply with if the court determines it necessary to impose those bail conditions.

### **Maintaining Quality Standards**

- 4.10. When providing bail services staff should ensure that:
- referrals to relevant support services, including CAS2, are completed.
  - Information relating to potential bail conditions should be limited to suitability and availability but stop short of actively recommending their use.
  - bail conditions address specific concerns given in opposition to bail or act in support of an effective bail package which helps to address identified needs and/or vulnerabilities.

- they are familiar with the services or resources in their area or the area to which the defendant intends to return. Advice from colleagues local to the area should be sought as necessary.
- all relevant policy has been adhered to, especially in respect of the completion of domestic abuse and safeguarding enquiries, and that any bail conditions being put forward are also in compliance of these policies.
- packages of bail support, consider wide ranging conditions including detailing electronic monitoring in appropriate cases, to enhance the judiciary's confidence in granting bail and reducing unnecessary remands into custody.

4.11. Staff should provide the bail information report on the approved template by uploading it to the applicable HMCTS case management system. The bail information report may be provided orally following a specific request from the court. Where a report is given verbally a written report must also be uploaded to the applicable digital system to ensure that a record is kept of all advice presented to the court.

## Part 5 - Pre-Court Preparation for sentencing advice

### Early Case Identification

5.1. The Probation Service has a central role to play in supporting efficient case progression through the court process. The Probation Service must do all it can to promptly identify those cases where it may be able to offer assistance to the court at the earliest possible opportunity to avoid unnecessary delays. This enables targeted work to take place prior to the hearing and assist relevant information gathering and resource planning.

### Accessing digital systems

5.2. Court administrators should use Probation systems such as Prepare A Case For Sentence (PACFS), NDelius and OASys to:

- collate cases for that court session
- chase outstanding pre-sentence reports
- note down NDelius registers for **current** People on Probation; this does not apply if the defendant only has historic Probation involvement
- request sentence manager updates where the defendant is already current to the Probation Service or Youth Justice Service on a court order, supervision or licence to provide the court with advice on progress on existing court orders/licences. Liaison needs to take place sufficiently far in advance of the hearing to enable time for a response to be completed and returned (or uploaded to NDelius e.g., under the assistance to court contact) as agreed by NCSG. Where possible at least 2 working days should be given for the current sentence manager to provide a response. Where a /current sentence manager does not provide a response, this should be escalated, where practicable, before the hearing.

5.3. Court duty officers allocated to support a particular court session, including remand and Guilty Anticipated Plea (GAP) hearings in the magistrates' court, should make reasonable enquiries in advance of every case in that court session to enable sentencing to proceed without unnecessary delay where a defendant pleads guilty. The extent of those enquiries will depend on the time available before the hearing which will be limited where the defendant appears in custody following charge or arrest on warrant. Pre-court preparation ensures that the court duty officer:

- can provide the legal adviser in the pre-court briefing/ before court, and therefore the judiciary, an update on the defendant's compliance with current court orders from sentence manager updates.
- recognises whether a case is complex and therefore will require an adjournment if a PSR is requested and if so for how long it should be requested;
- identifies low risk and low complex cases that would be suitable for a verification report if the eligibility criteria are met;
- has a good understanding of the cases in the list in case asked if a pre-sentence report or a verification report can be produced on the day.

5.4. Case preparation should include use of Prepare a Case For Sentence and other magistrates' court and Crown Court digital systems such as Common Platform. These systems provide access to scheduled court lists including case markers such as domestic abuse, hate crime and sexual offences. They also provide access to more detailed case information which has been uploaded by partnership agencies. For example, the 'Initial Details of Prosecution Case' (IDPC) provides a

case summary, indictments and charge sheets, the defendant's list of previous convictions (PNC record) and sometimes witness statements and other evidence.

- 5.5. Court duty officers should, as a minimum:
- check their court list the day before, and also the day of, the hearing to ensure they have the most recent court list and information.
  - check NDelius registers to identify the current case status, import any current order information, consider case records or professional reports (such as historical pre-sentence, psychology psychiatric or other medical reports) and record sentence manager details.
  - Identify previous assessments completed on OASys (including sensitive information) to identify and/or flag any pertinent risk issues or criminogenic needs
  - chase up any sentence manager updates
  - chase outstanding pre-sentence reports.
  - ensure that cases are screened and noted on a tracker, whether the case would require a Probation Officer or Probation Service Officer level to produce the pre-sentence report, if the court orders a report
- 5.6. Further Reading: Pre-court briefing guide and JCS pre-court briefing introduction – found on the [Probation Court Strategy and Change Team Teams page](#) under Criminal Policy and Procedure/ JCS General.

## Part 6 – Pre-sentence reports

### Overview

#### When pre-sentence reports are requested

- 6.1. Pre-sentence reports are generally ordered by the magistrates' court or Crown Court for sentence in that court. The court must obtain a pre-sentence report if the court is considering imposing a community order or custodial sentence unless it decides in the circumstances of the case that a pre-sentence report is unnecessary (s.30 Sentencing Act 2020 ([legislation.gov.uk](https://legislation.gov.uk))). Please note that a pre-sentence report differs from a verification report, which verifies information to assess the suitability of punitive requirements only. See sub-section 6.12.
- 6.2. The magistrates' court must consider ordering a pre-sentence report for all cases committed for sentence to the Crown Court. There should be liaison between Crown Courts, magistrates' courts, and the Probation Service about the resources available, enabling prioritisation decisions to be agreed where resourcing constraints prevent the preparation of reports on all committal cases. See [Better Case Management Revival Handbook – January 2023 - Courts and Tribunals Judiciary](#) issued by the Senior Presiding Judge. The BCM form encourages the magistrates' court to direct the preparation of a pre-sentence report where a defendant indicates a guilty plea to an indictable only offence which is sent to the Crown Court.
- 6.3. The PSR Before Plea protocol (see Annex 2 [Better Case Management Revival Handbook – January 2023 - Courts and Tribunals Judiciary](#) ) also provides a model for a defence legal representative to request the preparation of a pre-sentence report where it is anticipated the defendant will plead guilty to all offences charged on the full prosecution basis and be sentenced in the magistrates' court. Probation staff in the magistrates' court should seek to promote the appropriate use of this protocol through their engagement with the defence community and HMCTS Listings Officers.

#### The purpose of a pre-sentence report

- 6.4. The purpose of a pre-sentence report, as defined by s.31 [Sentencing Act 2020 \(legislation.gov.uk\)](#), is a report which is completed:
  - a. with a view to assisting the court in determining the most suitable method of dealing with an offender, is made or submitted by an appropriate officer, and
  - b. contains information as to such matters, presented in such manner, as may be prescribed by rules made by the Secretary of State.
- 6.5. A pre-sentence report is often referred to as a "PSR". The pre-sentence report facilitates the administration of justice and seeks to reduce a defendant's likelihood of re-offending and to protect the public and/or victim(s) from further harm ([A Smarter Approach to Sentencing \(publishing.service.gov.uk\)](#)). To achieve this, the Probation Service provides an expert assessment of the nature and causes of the defendant's behaviour, the risk the defendant poses and to whom, as well as an independent recommendation of the option(s) available to the court when making a sentencing determination for the defendant. The legislation does not prescribe the format, or the length of time required to provide information to the court. The main purpose of the report is to provide advice to the court to inform the sentencing process; it may also be considered by an appellate court upon appeal or review of the sentencing decision of the original court. It can also form a critical part of the

sentence management process by providing insight into an individual's offending behaviour and risk at point of sentence for use by that person's supervisor in the community, or in custody, or the parole board when determining whether they can safely be released into the community.

### **The role of the Probation Service in providing a pre-sentence report**

6.6. The role of the Probation Service in providing a pre-sentence report to court is to provide a considered, concise, and focused report. The Probation Service provides an expert assessment of the nature and causes of the defendant's behaviour, the risk the defendant poses and to whom, as well as an independent recommendation of the option(s) available to the court when making a sentencing determination for the defendant (paragraph 151 [A Smarter Approach to Sentencing \(publishing.service.gov.uk\)](#)). This provides courts with the information needed to make an informed sentencing decision at the earliest appropriate point in the court proceedings.

### **Key principles of Pre-sentence report delivery**

6.7. It is fundamental to pre-sentence report delivery that:

- pre-sentence work at court is focused on cases listed for sentence or following a referral under the PSR Before Plea protocol;
- sufficient information is provided to the court to enable sentencing at the earliest appropriate stage of the proceedings; where practicable a pre-sentence report is delivered on the date of sentence.
- there are national templates used for recording all pre-sentence report types.
- there is a national process for determining the format and timescale for the completion of pre-sentence reports.
- the production of reports is maximised where appropriate, whilst maintaining a quality assessment.
- unnecessarily lengthy adjournments are avoided by providing sufficient information to inform sentencing decisions, including presenting pre-sentence reports orally, both in the Crown Court and magistrates' court.
- the Probation Service advise the court of the timescale required to provide the most efficient report format for aiding sentence decisions based on the information available at point of request and the enquiries and assessment that need to be made. Ultimately, it is a matter for the court to decide the length of any adjournment though for the Probation Service to decide the report format.

### **Pre-sentence report Requirements**

6.8. Not all reports provided by the Probation Service are counted as pre-sentence reports. To count as a pre-sentence report, a report must be informed by an interview with the defendant, include a proposal for sentence and be completed on a nationally recognised PSR template (for both Oral reports and written Reports). A PSR must also be requested by either the court or defence solicitor (pre-Plea protocol) (See [PSR Recording Guidance \(Master\) \(justice.gov.uk\)](#)). Advice to court would therefore not count as a pre-sentence report where:

- a report is provided about the progress of a Person on Probation which does not comply with the PSR requirements above.
- other general assistance is provided to the court following a specific enquiry that does not involve a proposal for sentence.

- 6.9. Pre-sentence report authors must, to prepare a pre-sentence report:
- consider the Initial Details of Prosecution and case relevant information held by the Probation Service including, recent pre-sentence reports, OASys records (including sensitive information) and N-Delius registers (including entries and registers entered while the case was closed).
  - Where applicable, liaise with the current Probation Service or Youth Justice sentence manager to obtain updates on existing court orders/licences and to notify the sentence manager of the current offence/s.
  - interview the defendant.
  - complete pre-sentence reports on the applicable national pre-sentence report template as approved by the Probation Court Strategy and Change team (or relevant governing body). For Oral Reports and written Short Format Reports, these are located within NDelius. For Standard Delivery Reports, these are located within OASys.
  - undertake a Risk of Serious Harm (RoSH) screening and Risk of Reoffending (RoR) assessment (as appropriate).
  - ensure that the Effective Proposal Framework (EPF) tool has been applied prior to making a sentencing proposal; and
  - provide an independent sentencing proposal which is informed by the required enquiries, and which can be delivered safely.

6.10. Senior Probation Officers must ensure:

- that pre-sentence reports are only undertaken by staff with suitable qualifications and/or levels of competence in line with the Probation Professional Register and with appropriate training, in particular for offences where additional assessments are required such as for cases of domestic abuse or sexual offending.
- there are appropriate measures (e.g., report audits) in place to guard the potential for unconscious or implicit bias in the writing of pre-sentence reports.

6.11. The pre-sentence report allocation guidance and domestic abuse learning materials set out clear expectations on whether POs/PSOs should prepare pre-sentence reports, including for Domestic Abuse (DA) cases. PSR Allocation decisions must be led by risk and case complexity with clear escalation routes. Staff must only undertake PSRs which they are trained and competent to complete. All PSR authors must be supported through appropriate supervision, mentoring, and management oversight. If staff are unsure about allocation, or if risk or complexity changes at any stage, early discussion with their SPO is essential. The full guidance is available via [PSO PO PSR Allocation Guidance \(Master\)](#) and [Domestic Abuse PSRs: Required learning for PSR authors \(Master\)](#)

### **Verification reports**

6.12. Verification Reports (VRs) provide a short, proportionate report for low-risk, low-complexity cases where a full Pre-Sentence Report would be disproportionate and no significant rehabilitative needs have been identified. A VR verifies information to assess the suitability of certain punitive requirements only (i.e. unpaid work, electronically monitored curfew, electronically monitored exclusion zone, alcohol abstinence monitoring requirement, a fine or a combination of these).

The operational guidance on VRs is available on EQuIP and sets out a national framework for the consistent and safe use of VRs, including clear eligibility criteria supported by actuarial tools and professional judgement, explicit exclusions for

domestic abuse and sexual offending, and the delivery model to support timely sentencing and reduce unnecessary adjournments. It establishes expectations for court preparation, case triage, mandatory screening interviews, safeguarding and domestic abuse checks, diversity and inclusion considerations, and verification of information, alongside standards for report quality and safer sentencing. The guidance also clarifies recording requirements in NDelius to ensure transparency, auditability and national consistency, positioning the VR as a distinct advice-to-court product that supports first-hearing sentencing while protecting probation capacity for higher-risk and more complex cases.

### **Addendum Reports**

- 6.13. Where a pre-sentence report is prepared several weeks or more before the scheduled listing date, the original pre-sentence report should be uploaded and submitted to the court as soon as it is complete, making it clear to the court that the report is based upon the information available at the point of submission. Partnership agencies should be encouraged to pass on any new or developing information in a proactive manner.
- 6.14. Where information is shared by the defendant, CJS partner or a third party that suggests that there has been a material change of circumstances which impacts on the original assessment, the original PSR author should assess the impact it has upon the original assessment and the pre-sentence report proposal to determine whether an addendum report is required and whether an adjournment should be sought. Where the original PSR author determines that the impact is minor, a verbal update to the court may suffice to supplement the original pre-sentence report. Should the original PSR author assess the as being more significant, then consideration should be given to preparing a written addendum report. Requests for an adjournment to prepare an addendum report should, where practicable, be made in correspondence to enable the case to be relisted.
- 6.15. Where an EPF1 has been completed for a pre-sentence report in those proceedings, but sentencing is further adjourned for the preparation of an addendum report, the same EPF record should be used if it is necessary to review the proposal; the practitioner should ensure that the OASys risk assessment is updated where it impacts the risk level and profile, with any change to the sentencing proposal being made fully supported through an updated EPF.
- 6.16. Where the court makes a specific request for an addendum report, court staff may determine whether a verbal update or written addendum report is required. Where an adjournment is needed due to complexity, this should be requested for the shortest time necessary. It remains a matter for the court to decide the period of any adjournment.

### **Determining the type of report**

#### **Overview**

- 6.17. Pre-sentence reports may be delivered in two formats: oral delivery report and written report (sometimes referred to as a Fast Delivery report, although complex and dangerousness assessments should also be completed via this template). All report types are suitable for use across the sentencing thresholds. Identifying the purpose of report and the information needed by the court will allow the pre-sentence report author to decide on the most appropriate report format. This may

depend on whether the court has given a preliminary indication of seriousness, sentence purpose or requested the investigation of a specific need e.g., substance misuse.

- 6.18. The differences between the formats (see Annex 5) are marked by:
- whether the pre-sentence report can be prepared on the day or, where an adjournment is required, the timescale needed.
  - whether they are presented to the court in writing or orally; and
  - the complexity of assessment required, depending on the offence type and risks. Less complex cases are likely to be more suitable for oral on the day reports, whereas more complex reports are likely to require an adjourned written report. The key consideration should be the availability of sufficient information to inform an accurate assessment of risk and suitability for sentencing options to facilitate safe sentencing.

### **Complexity**

- 6.19. Complexity means the presence of factors that require additional assessment, professional discussion, and / or multiple enquiries to aid risk assessment. Cases involving complexity can range from the presence of several risk-related issues to the involvement of multiple agencies or concerns over immediate safeguarding. Issues contributing to complexity can arise from information available from court documents, information gained from other agencies to the interviews report authors hold with defendants; see Annex 6 for a non-exhaustive list of potential factors that might give rise to heightened case complexity.

### **Safe Sentencing**

- 6.20. Safe sentencing involves using the most appropriate information on which to base risk assessments and defensible sentencing proposals. Where relevant to offending and risk, it is good practice for PSR authors to view and consider information from a range of appropriate agencies before delivering a pre-sentence report, regardless of report format. Having knowledge of and access to information regarding risk from other agencies, does inform the risk assessment and so can affect sentencing proposals. Annex 6 provides PSR authors with a guide on the types of information and assessments that should be used to enable the preparation of pre-sentence reports

### **Requesting adjournments**

- 6.21. It is for the court to decide whether to adjourn and the length of any adjournment. It is however for the Probation Service court officer responsible for producing the report to determine the format of the pre-sentence report and to advise the court when an adjournment is needed for a more detailed assessment, or further enquiries where a court decides to adjourn for a report. Adjournments should be requested by court staff if:
- there is insufficient time on the day to prepare a pre-sentence report.
  - there is complexity. However, an adjournment may not always be required if it is clearly evidenced that a potential area of complexity is currently well managed e.g., a defendant with mental health issues has been medically assessed, is currently supported and engaging in treatment.
  - it is necessary to await the outcome of additional enquiries (e.g. domestic abuse and safeguarding enquiries – see 6.43 or sentence manager updates- see 6.20)) which are likely to significantly impact the final proposal, risk assessment and suitability for sentencing options, considering the value the information would add were the case adjourned for that information. Consideration should be given whether information can

be safely obtained post-sentence. It is usually unnecessary to await enquiries which would not significantly alter the sentence of the court e.g., where custody is inevitable or where a low community sentence, other than an electronically monitored curfew, will be imposed.

- individuals identifying (or individuals who identify) as transgender unless there is no real prospect of the defendant receiving a custodial sentence, taking into account sentencing guidelines and any sentence indication given by the court. This is due to the need to consider all available evidence and intelligence in order to achieve an outcome that balances risks and promotes safety. This need is referenced in [The care and management of individuals who are transgender publishing.service.gov.uk](#)). See also for further information [The Care and Management of Individuals who are Transgender -Operational Guidance \(Master\) \(justice.gov.uk\)](#).

6.22. For guidance on making adjournment requests for women please refer to [Preparing and Writing Court Reports on Women - An Aide Memoire Pack \(Master\) \(justice.gov.uk\)](#).

6.23. The length of the requested adjournment should be determined by the time required to obtain sufficient information to assess risk and to enable an assessment to be completed in complex cases requiring a greater degree of analytical and investigative time. Where the appropriate pre-sentence report cannot be completed either without an adjournment or within the timescale requested by the court, an explanation should be given to the court that the report cannot be completed without an adjournment/ longer adjournment and the reasons given for this. Where an immediate custodial sentence is inevitable and a pre-sentence report is requested, Probation court staff should determine if an oral or written on the day report is appropriate.

#### **Reports delivered on the day**

6.24. On the day reports are presented orally or in a written short format; either is suitable across sentence thresholds regardless of whether the seriousness of the offence is low, medium, or high and in the magistrates' court or Crown Court. A written short format report or oral report will require an OASys RoSH screening and full RoSH assessment where the screening indicates this is required.

#### **Oral report**

6.25. An oral report is only suitable where the pre-sentence report author is satisfied that there is sufficient information available to facilitate safe sentencing and that there is no need for a more complex risk assessment. An oral report might focus on specific queries from the court and provide the court with a proposal either in line with the court indication or with advice to explain why the indication cannot be followed. All reports delivered orally must be recorded by the PSR author.

6.26. Where sensitive Information about a defendant would assist the assessment for court, an oral report may still be used if supported by a written OFFICIAL SENSITIVE document which will be seen by parties and considered by the court. Sensitive information should not be presented orally in 'open court' (see Sensitive information below) e.g.:

- a defendant has been a victim of sexual abuse.
- a defendant has been a victim of domestic abuse or subject to coercion (where not referenced in CPS material).

- there is police intelligence e.g. defendant bailed to an address for sensitive reasons.
- medical information, if consent not provided.
- sensitive information around children.

6.27. Where the defendant is currently under supervision and a pre-sentence report is required in relation to a new offence, the presumption should be for an orally delivered pre-sentence report on the day, which includes information provided by the responsible officer supervising the defendant after they are provided with details of the new offence. The ability to deliver the PSR on the day will be dependent upon the availability of the offender manager to provide an update and information from any required additional safeguarding enquiries being available.

6.28. For further information See [Oral Delivery Reports Practice Guidance \(Master\) \(justice.gov.uk\)](#) and [Advice Note 05022021 Pre Sentence Oral Report Recording \(Master\) \(justice.gov.uk\)](#).

### **Written format report**

6.29. An adjournment for a written format report should be sought where there is insufficient available information to facilitate safe sentencing, and/or where case complexity applies. A written report can be used to deliver an 'on the day' report if:

- There is sufficient information available on the day to facilitate 'safe sentencing'.
- Where complexity applies but not to the level requiring an adjournment period.
- Where there is sufficient time to assess complexity

And / or

- Where it is not possible to deliver the report orally

6.30. Written reports for more complex cases, or those where a dangerousness assessment is needed, are likely to require an adjournment period to facilitate completion before the scheduled court hearing. Cases which are more likely to require an adjournment period may include those:

- which are complex. There may be a need for additional assessments, lengthy professional discussion with colleagues or managers and/ or multiple enquiries to be made to complete a risk analysis.
- where there is a serious diagnosed mental health condition and/or vulnerability. They may require a longer interview period or detailed liaison with other agencies where information from a mental health practitioner or a psychiatric report is not available on the day.
- with complex and serious child safeguarding and domestic abuse issues.
- concerning sexual or violent offending due to the severity of the offence or pattern of offending where the outcome of further enquiries could significantly change the accurate assessment of risk and suitability for sentencing options e.g. where information on the extent of previous incidents needs to be obtained from the police.
- where the offending relates to Terrorism and Counter Terrorism (TACT).

- with a specified violent, specified sexual or specified terrorism offences (s. 308 [Sentencing Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk) where a dangerousness assessment and detailed risk analysis is required.
- for transgender defendants where custody is likely.

NB: No PSR requires the completion of either a Risk Management Plan or a Sentence Plan, as both of these are to be completed post-sentence by community Sentence Management teams.

### **Dangerousness Assessments**

6.31. Dangerousness assessments are more likely to be requested by the Crown Court. When a defendant is convicted of a specified offence contained within Schedule 18 [Sentencing Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk), the court will consider whether the defendant needs to be assessed under the “dangerousness” provisions contained in section 308 [Sentencing Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk). Dangerousness is a matter for courts to consider in terms of significant risk to members of the public of serious harm and is a legal finding that only a court can make for the purpose of deciding whether a public protection sentence (Life Imprisonment or an Extended Determinate Sentence) is required in the case. The role of the Probation Service is to assist the court’s consideration of dangerousness, by providing any information that may assist in its assessment and decision on the risk of serious harm presented. The Probation Service may not give a view on whether the statutory dangerousness threshold has been met or what sentence the court should impose. See [Dangerousness Assessments: Guidance for NPS Staff \(Master\) \(justice.gov.uk\)](https://justice.gov.uk).

### **Previously completed pre-sentence reports**

6.32. Where an individual appears before the court charged with new matters, there may be available a pre-sentence report prepared within the last 12 months created for the previous case. The court should be informed of such previous reports though these may only be provided to the court when the court specifically requests access. If the court does request access, Probation Service court staff should provide the report though advise that:

- the information it contains will not provide an up-to-date accurate assessment of personal circumstances risks and/or needs.
- as applicable, if the new offence was committed after the previous report and the previous report recommendation has been followed, the commission of the new offence may indicate that the original sentence was ineffective in addressing underlying needs and that it is important to review and understand the root causes of the offending; and
- the court may wish to require an updated new pre-sentence report to be prepared.

### **Domestic Abuse & Safeguarding enquiries**

#### **Searching for domestic abuse indicators**

6.33. PSR authors must search for any available indicators of domestic abuse in all cases (not just those where the index offence is obviously one of domestic abuse), checking details from previous convictions, victim statements, witness statements, previous OASys or other assessments, reports, records and interviews. Where domestic abuse is evidently a feature, currently or historically, PSR authors must make domestic abuse enquiries at the earliest opportunity with the police to inform sentencing proposals and risk assessments. Domestic abuse enquiries must be completed in every case where a curfew requirement is being considered – See

[DA & CSG Enquiry Staff Guidance \(Master\) \(justice.gov.uk\)](#), initiating domestic abuse enquiries.

- 6.34. Where domestic abuse enquiries are required, the PSR author must ensure that information on the extent and details of previous incidents is sought from the police, Children's Services, and any other partnership agencies in contact with and relevant to the individual and victim, where the information is not already known. This will include information relating to police call outs, civil orders and from Independent Domestic Violence Advisers (IDVAs), MARAC and MAPPA as applicable. PSR authors should use the agreed template to make the request unless a bespoke request template has been established with local police forces— See Annex A [DA & CSG Enquiry Staff Guidance \(Master\) \(justice.gov.uk\)](#)

### **Identifying the need for child safeguarding enquiries**

- 6.35. A child safeguarding enquiry is a request, sent to local authority's children's services, to provide information on an individual, child, or family to ascertain whether the child or family are known to Children's Services, and if they are known, the nature of any Children's Services' involvement. PSR authors must ask all defendants in the PSR interview:

- whether they live with, have caring responsibilities for, are in contact with, or are seeking contact with any children. PSR authors should record this response in the pre-sentence report.
- whether they have a partner who is pregnant
- who are women and transgender men whether they are pregnant, and whether there is any likelihood that they could be pregnant.

- 6.36. The PSR author should record details of any children that are disclosed by an individual children's details, or any refusal by the defendant to provide those details, in line with the case recording instructions [CRI023 Annex A - Safeguarding Children Delius List \(Master\) \(justice.gov.uk\)](#)

### **Initiating child safeguarding enquiries**

- 6.37. PSR authors must initiate child safeguarding enquiries with Children's Services in all cases, and at the earliest opportunity, where:
- the defendant lives with, has caring responsibilities for, is in contact with, or is seeking contact with any children or who present a potential risk of harm to children. The exception is where there is sufficient, up-to-date information available from other sources to enable safe sentencing. Where an individual is pregnant or has a partner who is pregnant, court officers are not required to undertake a pre-birth child safeguarding enquiry but are required to establish the due date for the child's birth and record the details on the case management system to prompt the allocated Prisoner Offender Manager/Community Offender Manager to undertake the child safeguarding enquiry at the earliest opportunity.
  - the defendant has refused to answer the questions about their contact with children.
  - there are concerns that the defendant may have provided inaccurate disclosure about their contact with children.
  - a curfew requirement is being considered, whether or not children are known to be at the address.

6.38. PSR authors should use this form to initiate child safeguarding enquiries: [HMPPS Child Safeguarding Enquiries Template \(protected form\) \(Master\) \(justice.gov.uk\)](#)

6.39. PSR authors are not required to undertake a pre-birth child safeguarding enquiry where an individual is pregnant or has a partner who is pregnant. PSR authors must however establish the due date for the child's birth and record the details on the case management system to prompt, as applicable, the allocated Prisoner Offender Manager/Community Offender Manager to undertake the child safeguarding enquiry at the earliest opportunity.

#### **Contents of the safeguarding enquiry**

- 6.40. PSR authors making a Child Safeguarding enquiry to Children's Services should:
- provide any information they have gathered on the individual to make the enquiry, for example, the individual's name, DOB, and address
  - explain that the request is being made to find out if Children's Services have information which needs to be considered in making the pre-sentence report recommendation to the court.
  - ask whether the adult or child are known to Children's Services, and if they are known, the reasons for this.
- 6.41. PSR authors must ask Children' Services, when considering a curfew requirement, if Children's Services have any information that would indicate that a child would be impacted by the defendant being curfewed to a specific address.

#### **Child safeguarding referrals**

6.42. PSR authors must make a referral to children's services if they are concerned about a child's safety and wellbeing. A child safeguarding referral is a formal report to Children's Services that a child is suffering significant harm or is likely to do so, and to request action that will protect the child from that harm. Referrals can also be made where there are pre-birth child safeguarding concerns [DA & CSG Enquiry Staff Guidance \(Master\) \(justice.gov.uk\)](#); PSR authors should not assume that health services are aware of the pregnancy or the concerns.

#### **Recording domestic abuse and safeguarding enquiries**

6.43. Where a domestic abuse or safeguarding enquiry has been made, the PSR author **must** clearly record on NDelius the information requested and any responses received, marking contacts as sensitive where necessary (see [DA & Child Safeguarding Information Storage Guidance \(Master\) \(justice.gov.uk\)](#)).

#### **Where the outcome of domestic abuse or safeguarding enquiries is not known**

6.44. Where the outcome of domestic abuse or safeguarding enquiries is not available on the day of request the PSR author:

- must record this within NDelius.
- must inform the court that an enquiry request has been submitted but the response to this remains outstanding.
- should note this in the pre-sentence report with an explanation as to how, or whether, this affects the ability to make a safe and appropriate proposal, or whether the case should be further adjourned to gather that information [Practice Guidance - Written Pre-sentence Reports \(Master\) \(justice.gov.uk\)](#). The pre-sentence report author must use professional judgement to decide whether the sentence recommendation can be safely made without the outcome of those enquiries, considering the risks and

whether the outcome could significantly alter the likely sentence. If the recommendation cannot be safely made the PSR author should request an adjournment to enable the enquiries to be concluded. By contrast, if the likely sentence will effectively manage the defendant's risk of harm, a further adjournment to include the outcome of enquiries may not be required; safeguarding work continues into the supervision of the sentence.

- must not recommend a curfew requirement as part of the sentencing proposal; see [Domestic Abuse and Child Safeguarding Enquiries – Practitioner Guidance](#).

## **Pre-sentence report Interviews**

### **Arranging Interviews**

6.45. The defendant must be interviewed in private for the purpose of preparing the pre-sentence report. Interviews should usually be face-to-face to allow for the safest and fullest assessment of the defendant. Where there are exceptional circumstances for the interview to be conducted remotely by video-link, this must be in line with both approved procedures and communication platforms. Where a remote interview is needed by telephone, endorsement for this must be sought in advance of the interview from a senior manager. See [Guidance for Remote Interviewing \(Master\) \(justice.gov.uk\)](#).

### **Out of Area cases**

6.46. A magistrates' court or Crown Court situated in one local justice area of England and Wales may order a pre-sentence report where the offences were committed in that locality, though the defendant:

- resides or will reside in another local justice area in England & Wales, or
- has no fixed address though has substantial recent links to another local justice area.

6.47. Where a court orders a pre-sentence report, the court team covering that court are responsible for producing the report, where:

- the case is stood down that day, either in the magistrates' court or Crown Court;
- the magistrates' court has simply adjourned or remanded the defendant on bail to a magistrates' court hearing; or
- the magistrates' court or Crown Court have remanded the defendant in custody.

6.48. Where the Crown Court adjourns for a pre-sentence report, the court team covering the court which ordered the report are responsible for producing the report, unless there are exceptional circumstances, and another Probation Delivery Unit has agreed to produce the pre-sentence report. The same applies where the magistrates' court orders a pre-sentence report on committal for sentence/sending for trial and remands the defendant on bail. Exceptional circumstances apply where:

- the likely location of the face-to face pre-sentence report interview would require the defendant to travel a significant distance and it would be wholly unreasonable to expect the defendant to travel to that interview, taking into account the defendant's circumstances, especially any need for reasonable adjustments due to a physical or mental health condition.

AND

- a remote interview would be unsuitable taking into account the defendant's circumstances, especially any need for reasonable adjustments due to a physical or mental health condition.

6.49. Where the court team covering the court which has ordered the pre-sentence report ("the requesting team") believes there are exceptional circumstances:

- the requesting team must, without delay, contact the Senior Probation Officer, or their delegate, covering the court area in which the requesting team believes the defendant resides or will reside, or, where the defendant has no fixed address, the with which the requesting team believes the defendant has the most recent substantial links ("the receiving team"). Recent substantial links means in order:
  - the court area where there is recent information to believe the defendant is staying.
  - the court area where the defendant is currently being supervised.
  - the court area where it is believed the defendant is principally offending.
- The requesting team must ask the receiving team to agree to take responsibility for producing the report and explain why there are exceptional circumstances, and if the defendant has no fixed address why that area has the most recent substantial links.
- the receiving team must without delay:
  - consider the request.
  - agree to the request if there are exceptional circumstances and if that team covers the area where the defendant resides or will reside, or where the defendant has no fixed address the Probation Delivery Unit for the area with which the defendant has the most recent substantial links.
  - notify the requesting team whether the receiving team has agreed to take responsibility for producing the pre-sentence report.
  - provide the requesting team with reasons why that team is not the relevant team or there are not exceptional circumstances, if refusing to take responsibility for producing the report.
- if the requesting team is notified that the receiving team has refused to accept responsibility for producing the report, the requesting team may escalate the decision to the Head of the Probation Delivery Unit for the team to which the request was made, whose decision is final.

6.50. Where, following a request by the requesting team, the receiving team has agreed to take responsibility for producing the pre-sentence report and the defendant has no fixed address, the requesting team must ensure, in order, that either:

- the defendant is given, without delay, the date, time, and location for the pre-sentence report interview with the receiving team.
- the defendant is asked to provide a reliable telephone number or a regularly checked email address. The requesting team **must** ensure that the receiving team has access to those contact details without delay; or
- the requesting team has given the defendant the contact details of the receiving team and reminded the defendant that it is the defendant's responsibility to make contact with the receiving team and that if they fail to do so there may not be a pre-sentence report prepared for the court.

### **CSRP and ARP completion**

6.51. The PSR author must complete the dynamic Combined Serious Reoffending Predictor (CSRP) calculation, a Sexual Reoffending Predictor (SRP) calculation for people who have a current or previous sexual offence, and an All Reoffending Predictor (ARP) for all pre-sentence report formats. It is advisable to complete ARP prior to the interview with the defendant as this informs suitability for accredited programmes.

### **Important interview considerations**

6.52. Where relevant, the interview should explore:

- risk related questions e.g. who the defendant lives with.
- the person's suitability for completing an accredited programme using specialist assessment tools where available.
- any specific needs, protected characteristics or other factors that might impact on the individual's ability to comply, the person's suitability for an intervention, additional measures that would be provided to support engagement, or an intervention that could be added to address any issues impacting on compliance. Groups to consider include, but are not limited to, women, LGBTQI+, ethnic minorities, Gypsy Roma and Traveller communities, disability, and young adults - levels of maturity.
- where relevant, any previous non-compliance by the defendant, including barriers that prevented previous compliance, how these might have changed, could be addressed or how the defendant might be supported to overcome these going forwards. Previous non-compliance may not automatically indicate an inability to comply with a future order.

### **Completion of Diversity and Inclusion form (DIF)**

6.53. PSR authors must ensure that a Diversity and Inclusion Form (DIF) is completed and the DIF should be uploaded to the correct location, the equality monitoring pane. The DIF should be completed during the pre-sentence report interview, alongside and with the active participation of the defendant ([DIF Guidance \(Master\) \(justice.gov.uk\)](#)) and in accordance with the [Meeting Diverse needs in PSRs \(Master\) \(justice.gov.uk\)](#).

## **Producing a pre-sentence report**

### **Risk Assessment**

6.54. Relevant risk assessments are completed to inform the risk of re-offending, recidivism, serious harm, and suitability for all sentencing options. A Risk of Serious Harm (RoSH) assessment should be completed in OASys for all pre-sentence report formats. There are four levels of RoSH: low, medium, high and very high. As this assessment requires information obtained from the interview, the assessment should be carried out after the interview, using information provided both by the individual as well as from existing case records. A Risk Management Plan is not required in the OASys. This should be completed post-sentence by Sentence Management.

6.55. The [Risk of Serious Harm \(RoSH\) Guidance \(Master\) \(justice.gov.uk\)](#) introduces the four-step process of risk assessment which applies to pre-sentence reports:

- Step 1: risk prediction scores as a starting point to assessment.
- Step 2: risk / protective factors including the longer-term influences (positive and negative) on the individual's behaviour, and the more recent influences based on professional assessment.

- Step 3: immediacy including the current situations regarding the individual, their potential victim/s, and circumstances.
- Step 4: assigning the risk level to make a decision about which Risk of Serious Harm level is appropriate.

6.56. A PSR author must complete a RoSHA screening in OASys for all report types (See [PI-05-2014-flow-chart.pdf \(publishing.service.gov.uk\)](#)). Risk registrations should be reviewed and recorded in the applicable digital system at pre-sentence stage to reflect the current risk assessment. Any risk issue that requires an NDelius risk registration should be entered at the pre-sentence stage (e.g., domestic abuse, risks to self); see [CRI019 Registrations \(Master\) \(justice.gov.uk\)](#) Annex A, N-Delius Registers. For further information on risk of serious harm assessment see: [Risk of Serious Harm \(RoSH\) Guidance \(Master\) \(justice.gov.uk\)](#), [4 Step Process Court Desk Aid \(Master\) \(justice.gov.uk\)](#), [Risk and OASys Practice Core Concepts and Key Principles \(Master\) \(justice.gov.uk\)](#) and [Risk and OASys Practice - Practitioner Desk Aid and Countersigning Checklist \(Master\) \(justice.gov.uk\)](#)

**Information to be taken into account for a pre-sentence report**

6.57. The PSR author must consider, in producing a pre-sentence report, whether in an oral or written format:

- the Initial Details of Prosecution case including: Case Summary, MG5, MG16, basis of plea where applicable, and victim impact statement where available.
- CSRP score.
- ARP score.
- Risk of serious harm screening, and full risk of harm analysis if triggered.
- any previous relevant information held by the Probation Service including previous case records, OASys, NDelius registers, recent PSRs etc.
- statement of adjournment by the court.
- a proposal for sentence and reason for sentence proposed, including the use of specialist risk assessment, eligibility, and suitability assessments for specific proposals, and the Effective Proposal Framework (EPF)
- diversity and/or protected characteristics within suitability of sentence
- individual and particular vulnerabilities, domestic arrangements and caring responsibilities as well as the impact of any sentence upon those children or vulnerable adults cared for by the service-user (including pregnancy).

**Contents of a pre-sentence report**

6.58. A pre-sentence report should as a minimum record, in the pre-sentence report if a written report, or in the record of oral pre-sentence report template if an oral report:

- offence analysis (based on the prosecution case or on any agreed basis of plea), incorporating any basis of plea where applicable, without merely restating the facts,
- and considering the impact on any victim.
- a concise summary of important information relating to the offender's circumstances that would assist the court in making a sentencing decision.
- analysis of the offender's pattern of offending, if any.
- a risk assessment highlighting the risk the defendant poses and to whom, including the risk of serious harm and likelihood of reoffending analysis based on actuarial predictors and professional assessment.

- a needs assessment about the individual circumstances of the defendant highlighting potential vulnerabilities (including consideration of maturity for all young adults and consideration of caring responsibilities) and/or underlying drivers of the defendant's offending behaviour, where these relate to an understanding of behaviours and attitudes, and the need to guard against disproportionate treatment, especially when considering the potential impact of a custodial sentence where the defendant has dependents.
- the outcome of pre-sentence enquiries with other agencies including if any checks are still outstanding, where applicable.
- analysis of the sentencing options, with an independent sentence proposal including a suitability assessment for specific sentences and addressing any indications provided by the court, and when appropriate recommending alternative sentencing options to the court in line with the sentencing guidelines and purposes of sentencing.
- the impact, where relevant, of any factors relating to diversity and/or protected characteristics (See referencing diversity factors below); and
- additional information, not readily available to the court, obtained by interviewing the offender or through the liaison with other criminal justice system, clinical and community-based agencies such as information about the offender and their view of the offence(s).

6.59. For further information on written pre-sentence reports see [Practice Guidance - Written Pre-sentence Reports \(Master\) \(justice.gov.uk\)](#)

#### **Information to be provided to the court in an oral report**

6.60. A PSR author delivering an oral report **must**, as a minimum, provide the court with:

- an appropriate and relevant level of detail to meet the needs of the court. The PSR author should be able to provide further detail if requested to explain their assessment.
- a clear evidence-based proposal which includes the type of sentence recommended and any requirements. See below pre-sentence report recommendations – general considerations and recommending a community order.
- where relevant, information regarding any previous supervision the individual has received and assessment of the person's motivation and ability to comply with community supervision.
- where relevant, information about specific needs, protected characteristics or other factors which impact on the defendant's circumstances, the proposal (whether or recommend or not recommend a particular sentence) or the defendant's ability to comply.

6.61. For further information see [Oral Delivery Reports Practice Guidance \(Master\) \(justice.gov.uk\)](#)

#### **Specialist assessment tools**

6.62. Specialist assessments are carried out to assist sentencing decision making, e.g., where there is: sexual offending, domestic abuse, mental health, and alcohol and/or substance misuse. Where specialist screening tools provide assessments / information which directly inform sentencing, the PSR author **must** complete these pre-sentence.

6.63. SARA should also be completed for all reports where there is any indication of intimate partner abuse, or domestic abuse within the context of an intimate relationship. As this assessment requires information obtained from the interview the assessment should be carried out after the interview, using information provided both by the individual as well as from existing case records. SARA should not be referenced within the PSR.

6.64. The substance misuse screening tool should be completed during the pre-sentence report interview where there are current or historic concerns around alcohol or substance misuse, or both, for defendants with an index offence that may indicate substance misuse (e.g. acquisitive crime, violence, possession/supply), and/or for defendants with previous offending that may indicate substance misuse (e.g. acquisitive crime, violence, possession/supply). The tool does not replace any existing treatment provider assessment processes which may continue to be used. See [Substance Misuse Screening Tool 'How to guide' \(Master\) \(justice.gov.uk\)](#)

### **Sensitive Information**

6.65. When information is withheld from a defendant and/or another party for one of the reasons set out in the Data Protection Act 2018, or when a defendant provides information and requests it is not shared with the court and/or other parties, practitioners must consult [Handling Sensitive Information - Practitioner Guidance \(Master\) \(justice.gov.uk\)](#) to inform the processing of such information.

6.66. When processing information during the preparation of a pre-sentence report the PSR author must:

- consider:
  - the views of the source of the information to inform a decision about whether it can be disclosed to the court or other parties.
  - the purpose and nature of the information.
  - any risks if the information is disclosed to others.
  - that any information given to the court, provided orally or in writing, will be available to the defendant and any legal representative as information provided to the court cannot be withheld from adult defendants or their legal representatives.
- decide whether it remains necessary for the information to be disclosed to the court to enable the court to reach a sentencing decision, and if so whether it is safe for this to be presented verbally in open court and if not, provide such information in writing (e.g. via a written PSR, or in writing when presenting an oral report).

6.67. Where a defendant provides information and indicates that they do not want the court or another party to receive that information, the PSR author may still provide that information to the court or another party if the PSR author decides it is necessary and proportionate to do so i.e., to assist the court to make an informed sentencing decision, or to prevent harm. In those scenarios, the PSR author may consider whether it is possible to achieve the purposes of providing the information through other means e.g., using an agreed form of words where disclosure of the full information is not necessary, or providing the information in written rather than verbal form in the case of oral reports.

- 6.68. A third party e.g. the police or local authority may provide confidential information that might place the defendant, victims, or any other person at risk. Such information must not be shared in open court, in a written pre-sentence report or otherwise in writing with the court, without express permission from the information source; the information source may however agree to a form of words which can be used. Where neither the information nor an agreed form of words can be disclosed to the court, but the PSR author concludes that the information affects the pre-sentence report recommendation, the PSR author should reference within the pre-sentence report that a particular requirement would be unsuitable due to “sensitive information received”; care should be taken to ensure the form of words does not reveal the source.
- 6.69. Victim safety, actual and potential, is paramount and the PSR author must consider the likely impact on previous or potential victims through the disclosure of information. When referring directly to a victim within a pre-sentence report, PSR authors should be mindful of how the individual(s) are referred to. PSR authors should refer to “the victim(s)” where the victim(s) identity is not known to the defendant and so disclosure of the information may increase the risk of future harm.
- 6.70. When information is provided to the court, the source and its nature should be made clear for example, where the information relates to an incident where no criminal proceedings resulted or where the defendant has not yet appeared in court, this should be clearly stated. Where information is received during the preparation of a PSR that cannot be shared with the defendant, it should be saved in NDelius and also (if relevant to the person’s assessment) in OASys, as outlined in Practitioner Guidance, Handling Sensitive Information.

#### **Nil pre-sentence reports**

- 6.71. Where an adjournment for a pre-sentence report is made and the defendant fails to attend the pre-sentence report interview, the PSR author must make reasonable attempts to prepare a report for the date of the hearing. Where possible, a further attempt should be made to interview the defendant. Where this has not been possible, the PSR author should make the courts aware that the nil report being provided will be based on the assessment of the facts available on the day including information from any domestic abuse or safeguarding checks and previous assessment material where the defendant is known to the Probation Service. The allocated report author must ensure that the court is properly informed of any difficulties in preparing the report.
- 6.72. On the basis that a nil report will not have included an interview with the defendant, it will be unable to provide a detailed analysis of the factors underpinning the offence(s) committed. A nil report should therefore refrain from making a specific sentencing proposal to the court and should not be counted as a completed pre-sentence report for performance monitoring purposes.
- 6.73. Where an interview with the defendant is able to take place despite a written nil report having already been prepared, consideration may be given to converting this to a pre-sentence report (including oral on the day delivery), where there is sufficient information available for safe sentencing.

## Pre-sentence report recommendations – General considerations

### Overview

6.74. A magistrates' court or Crown Court may generally impose an absolute discharge, conditional discharge or fine for any offence; where the offence is imprisonable the court may impose a community order, suspended sentence order or immediate custodial sentence instead. The court may also decide to defer sentence to another date and require the defendant to comply with conditions in the interim period. In the Crown Court certain offences require extended sentences of imprisonment and life imprisonment.

### Formulating the proposal

- 6.75. PSR authors must consider when formulating the sentence recommendation:
- the date of offence to ensure the sentence is under the correct legislation.
  - each of the purposes of sentence (s. 57 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). These are: punishment, reduction of crime (including by deterrence), reform & rehabilitation of offenders, protection of the public (including victims of crime) and reparation.
  - the seriousness of the offence. The sentence recommendation must be commensurate with the seriousness of the offence considering the principle of totality where there is more than once offence and the court's determination of the seriousness / categorisation of the offence. Where there is any deviation from the court's determination a strong rationale must be provided. The proposal must not be disproportionate to the seriousness of the offence, even when the defendant would benefit from further rehabilitative support; consideration should instead be given to signposting the defendant to voluntarily attend support services.
  - any sentencing guidelines for the applicable offence (ss 59-62 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). Where there is any deviation from the guideline, the report must provide a strong rationale. Most sentencing guidelines are applicable from a specific date regardless of the date when the offence was committed. There are guidelines for specific offences, overarching principles, and particular parts of sentencing e.g., the imposition of community order and custodial sentences. See [Sentencing guidelines for use in magistrates' courts – Sentencing \(sentencingcouncil.org.uk\)](#) and Crown Court guidelines [Sentencing \(sentencingcouncil.org.uk\)](#). In summary: Step 1 generally requires consideration of harm and culpability to determine an offence category. At step 2, the category is then used to determine the corresponding starting point and to reach sentence within a category range. A non-exhaustive list of aggravating and mitigating factors is then considered to determine if further adjustment to the sentence is required.
  - that where the offence is aggravated by reason of race, religion, disability, sexual orientation or transgender identity, that that must be treated by the court as an aggravating factor (s.66 [Sentencing Act 2020 \(legislation.gov.uk\)](#).)
  - where a defendant pleads guilty, the timing and circumstances of the plea (s. 73 [Sentencing Act 2020](#) and generally reflected in Step 4 of offence sentencing guidelines). The court can reduce the sentence up to a maximum of a third, impose a lesser sentence or decide not to commit offences which are triable either way to the Crown Court for sentence. See

### [Reduction in sentence for a guilty plea – first hearing on or after 1 June 2017 – Sentencing \(sentencingcouncil.org.uk\)](#)

- any sentencing indications of the court
- the defendant’s assessed risk and needs to facilitate safe sentencing.
- specific considerations of certain cohorts including issues of diversity, being aware of the potential for unconscious or implicit bias in their own thinking and understand how it might influence their judgements, especially when delivering at pace; Senior Probation Officers must ensure that appropriate measures are in place (such as an audit of a sample of reports) to safeguard against this.
- eligibility and suitability assessments to inform relevant proposals for Accredited Programmes, Unpaid Work, Electronic Monitoring, and Community Sentence Treatment Requirements and other requirements.
- the Effective Proposal Framework, and additional practice guidance as applicable (See [EPF Operational Policy Guidance \(Master\) \(justice.gov.uk\)](#));
- the need to clearly explain the proposal for a specific sentence and why it is more suitable than alternative sentencing options.

### **Totality of sentencing**

6.76. The principle of totality applies when sentencing a defendant for multiple offences or when sentencing a defendant who is already serving an existing sentence. See [Totality – Sentencing \(sentencingcouncil.org.uk\)](#). When sentencing for more than one offence, the overriding principle of totality is that the overall sentence should:

- reflect all of the offending behaviour with reference to overall harm and culpability, together with the aggravating and mitigating factors relating to the offences and those personal to the defendant; and
- be just and proportionate.

### **Multiple Orders**

6.77. PSR authors, where applicable, should consider reminding the court in the PSR proposal of its power “following conviction of a further offence” to revoke the order and resentence if in the interests of justice (Part 5 Schedule 10 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). The court may do this of its own motion and no formal application is made to the court; by contrast see paragraph 14 & 15, schedule 10 Sentencing Act 2020 for the power to apply to the court to revoke and resentence an existing community order due to a change of circumstances. Where a defendant commits a further offence whilst subject to an existing community order the magistrates’ court (if a magistrates’ court order) or the Crown Court (if a Crown Court or magistrates’ court order) may consider whether it is in the interests of justice to revoke, or revoke and resentence the order; a magistrates’ court may not revoke a Crown Court order but may commit the case to the Crown Court for this consideration. Revoking the order removes the complexity of managing multiple orders. There is no similar provision for suspended sentence orders. The PSR proposal should consider the compatibility with existing orders where the recommendation is to make a new order for the offence being sentenced.

### **Effective Proposal Framework & Practice Guidance**

6.78. The Effective Proposal Framework (EPF1) is a digital tool which **must** be used by PSR authors to support their formulation of a relevant and proportionate proposal. Based on the practitioner’s assessment of a person’s risk and need profile, the EPF tool will identify all the requirements and interventions for which they meet the eligibility criteria, and which are available in the area the person will be supervised.

However, it remains the professional judgement of the practitioner which they select as being the most suitable. The tool is configured in line with policy, legislation, sentencing guidelines and the evidence base for the effective targeting of services and interventions. Use of the EPF tool is mandatory unless immediate custody of 4 or more years is inevitable, the person will be living outside England and Wales, or where the conviction relates to an offence prior to the Offender Rehabilitation Act 2014. It is unnecessary to refer to the EPF directly in the pre-sentence report; see [Practice Guidance - Written Pre-sentence Reports \(Master\) \(justice.gov.uk\)](#)

6.79. For further information see [Effective Proposal Framework - Practitioners User Guide - General Users \(Master\) \(justice.gov.uk\)](#)

### **Addressing a court indication in the proposal**

6.80. Where the court gives a preliminary indication of seriousness and/or purpose of sentence the pre-sentence report should include a suitability assessment for the specified sentence/level of seriousness. Where the court provides an indication of a specific sentence the PSR author must ensure the report includes

- an assessment of the specific requirement requested.
- any information which impacts upon the suitability of the requested sentence; and
- where the requirement requested is assessed as not suitable or available, an alternative proposal and the reasons for this.

### **Professional Judgement**

6.81. PSR authors must apply reasonable judgement to the decision-making process, based on principles of respect for diversity and the uniqueness of each case. Professional judgement can be used to alter the report format in an individual case, where further consideration indicates clear reasons for using a different format, for example changing from an oral report on the day, to a written report within a longer adjournment.

### **Cohorts with specific considerations**

#### **Overview**

6.82. Individuals from particular cohorts **may** have a heightened likelihood of experiencing a range of complexities, specific needs, discrimination, trauma and/or vulnerabilities which may therefore require the use of additional assessment tools or benefit from a more detailed written pre-sentence report following a period of adjournment. Annex 6 sets out the detail of the assessment(s) required. This will not be the case for all defendants universally from a given cohort, and practitioners should give due consideration to each individual's case complexity before applying professional judgement to their decision-making.

#### **Referencing diversity factors**

6.83. Specific diversity factors should be mentioned within a pre-sentence report, where these are relevant to understanding attitudes and behaviours, rather than merely present for the defendant. See [Practice Guidance - Written Pre-sentence Reports \(Master\) \(justice.gov.uk\)](#) [Oral Delivery Reports Practice Guidance \(Master\) \(justice.gov.uk\)](#) [Meeting Diverse needs in PSRs \(Master\) \(justice.gov.uk\)](#). PSR authors should e.g., consider the impact of diversity on:

- the defendant's involvement in the offence, risk of harm or future risk of offending.
- the defendant's attitudes, strengths, or protective factors.

- how the defendant's identity or belonging to a group that experiences societal injustices such as racism and discrimination has affected their involvement in offending, wellbeing, social disadvantage, attitudes to offending or to authority.
- why a specific sentence has been proposed or why an intervention has not been considered suitable.
- the person's ability to comply with any recommended sentence and how any barriers might be overcome.

6.84. Where a diversity factor, protected characteristic, or neuro-diverse need is identified as relevant to sentencing recommendations, care should be taken to ensure that the proposal made is commensurate with the seriousness of the offence and relevant sentencing guidelines, while taking such needs into account. Where it would be disproportionate for a community sentence to be recommended, consideration should be given to signposting the defendant to voluntarily attend suitable support services.

6.85. It is important to ensure that when preparing the report, there are no references to diversity issues which could stereotype certain groups. For example: inappropriately linking people of a particular racial background to gang involvement, irrelevant reference to religion or belief, or referencing factors such as care leaving status or educational difficulties without providing relevant context and evidence.

### **Ethnic Minorities**

6.86. To better understand the defendant, their offence/offending, capacity to desist or ability to comply with a sentencing proposal, it is vital that the pre-sentence report assessment considers the defendant's background and culture and whether they have experiences of racism or discrimination. This needs to be assessed in each case as individuals' experiences will vary.

### **18–25-year-old defendants**

6.87. The report writer should ensure that the Young Adult clearly understands the role of Probation in sentencing and that their voice is heard in the assessment process. The PSR author **must** consider maturity within the PSR; see [Probation Service Management of Young Adults Policy Framework - GOV.UK \(www.gov.uk\)](http://www.gov.uk) and [PSR Maturity Aide Memoire](http://justice.gov.uk). For Young Adult women should also consider [Preparing and Writing Court Reports on Women - An Aide Memoire Pack \(Master\) \(justice.gov.uk\)](http://justice.gov.uk). Report writers should consider: the extent to which age and maturity has contributed to the Young Adult's susceptibility to peer influence and impulsivity; vulnerability and any safeguarding concerns, pro-social family and social ties, likely response to specific sentences; the extent to which a custodial sentence may impact on the defendant's development; strengthening the proposal for a specific intervention targeted at developing maturity and supporting engagement (NB the young adults policy framework does not require the completion of the maturity screening tool at PSR stage). Where low maturity is identified this should clearly be referenced within the pre-sentence report and the proposal should state how the sentence will address and manage this. Where low maturity is not identified this should also be stated within the report to show it has been considered.

6.88. When a defendant, previously known to Youth Justice Services, is formally transferred the Youth Justice Seconded Probation Officer ensures that all

information and documents are transferred to NDelius to support the OASys assessment. The Asset+ (the equivalent of OASys for youth offender services) can continue to be accessed after the transfer by the Youth Justice Service. Where the defendant is a care leaver information must be obtained from the Leaving Care team.

### **Organised Crime Group Involvement**

6.89. Where there is information indicating involvement in organised crime, police information / intelligence should be sought to assist with pre-sentence report assessment, including engagement with any appropriate specialist teams.

### **Integrated Offender Management (IOM)**

6.90. Where pre-court checks identify a defendant is supervised by Integrated Offender Management and no information has been received from the IOM team, Probation Service court staff should liaise with the relevant responsible officer (as stated on N-Delius) and/or the IOM police force single point of contact to inform them of the proceedings. Probation court staff are not responsible for identifying if a person meets the IOM criteria. The IOM team should provide a written progress report, where a person has been allocated within the scheme, in readiness for the defendant's first appearance to inform the development of a pre-sentence report. If the defendant is produced on warrant, information may need to be provided on the basis of a telephone call. Professional judgement should be used concerning the IOM status of a defendant so as to not adversely influence sentencing decisions. See [IOM Court Considerations \(Master\) \(justice.gov.uk\)](#) and [Court Information - What is IOM \(Master\) \(justice.gov.uk\)](#)

### **Women**

6.91. Specific consideration should be given to assessing personal and domestic circumstances and particularly, where applicable, the existence and impact of any trauma, caring responsibilities, the impact of sentencing on any dependents and the potential impact of a custodial sentence on the unborn child where the defendant is pregnant. Pre-sentence report authors should make appropriate use of a trauma-informed approach when preparing reports on women; see [Preparing and Writing Court Reports on Women - An Aide Memoire Pack \(Master\) \(justice.gov.uk\)](#) and [Women's Policy Framework - GOV.UK \(www.gov.uk\)](#). NB the Sentencing Council guidelines ([Sentencing pregnant women and new mothers – Sentencing \(sentencingcouncil.org.uk\)](#)) include a dedicated mitigating factor "pregnancy, childbirth and post-natal care"

### **Transgender**

6.92. The Probation Service is committed to the support and safe management of transgender individuals, including managing risks both to and from transgender individuals. Pre-sentence report authors must be familiar with [The Care and Management of individuals who are Transgender Policy Framework \(Master\) \(justice.gov.uk\)](#); this provides details of the steps to be considered, including the need to consider all available evidence and intelligence in order to achieve an outcome that balances risks and promotes safety.

### **Sexual offending**

6.93. Whenever a report is being prepared for an adult male defendant who is being sentenced for a sexual or sexually motivated offence, the PSR author must complete the two Sexual reoffending Predictor (DC-SRP & IIC-SRP) scores ( See [OSP Desk Aide \(Master\) \(justice.gov.uk\)](#) & [OSP Guidance for Practitioners](#)

[\(Master\) \(justice.gov.uk\)](#) These scores **must** be used to inform both the overall level of risk of serious harm that is set out in the report, as well as informing the sentence that the PSR author proposes.

6.94. Furthermore, for all pre-sentence reports for a sexual offence, the PSR author must:

- undertake all necessary safeguarding and domestic abuse enquiries.
- where the individual is subject to sexual offender notification, liaise with the police who are responsible for managing the individual's sexual offending notification requirements to gather any information from them about compliance, current risk issues and whether the individual is subject to any civil orders such as a Sexual Harm Prevention Order (SHPO).
- where the individual also has prior sexual convictions, ensure the assessment takes into account the pattern of offending.
- undertake a domestic abuse risk assessment (SARA) if domestic abuse related.

6.95. Where a defendant is being sentenced for a non-sexual offence but has a previous conviction for a sexual offence, the PSR author must still assess the risk of further sexual harm, including calculation of the DC-SRP and IIC-SRP scores. The PSR author must also check if the defendant is subject to sexual offending notification requirements and, if so, contact the police offender manager to gather information about compliance, whether there are any current risk issues and whether the individual is subject to any civil orders such as a Sexual Harm Prevention Order (SHPO).

### **Domestic Abuse defendants**

6.96. Where intimate partner abuse is a feature of current or previous relationships a specialist accredited assessment tool SARA (Spousal Assault Risk Assessment), should be completed for all offences; SARA can be used to assess both men and women involved in heterosexual, same-sex, and transgender intimate partner relationships. It is important to verify, as far as is possible, the information given, and not rely solely or predominantly on self-reporting. The PSR author must ensure domestic abuse enquiries (see below) are carried out where there are any concerns of domestic abuse. As a minimum, information on the extent of previous incidents, call outs and protective orders, including any breaches of those orders, needs to be known or obtained from police in order to assess risk of harm and suitability for sentencing options in all offences involving domestic abuse.

### **Defendants with child contact**

6.97. PSR authors must ensure safeguarding enquiries (see below) are carried out for defendants who live with, have caring responsibilities for, are in or seeking contact with any children or who present a potential risk of harm to children. PSR authors should also:

- consider the impact that imprisonment may have on defendants who have childcare responsibilities and pregnant women, including the woman's health and any effect the sentence might have on their children. Court officers should request additional time from the court if an application to a mother and baby unit (MBU) is required.
- assess any historic information held on case management systems about the defendant which indicates they might present a risk of harm to children.

- consider the impact that any caring responsibilities may have on the defendant's ability to comply with the proposed sentence.
- check what arrangements are in place for dependent children when custody is a stated option.
- pay attention to and be aware of parental and family child safeguarding risk factors such as domestic abuse, substance misuse, parental conflict, and poor mental health; provide an analysis of these risks in the PSR where they exist and explain any implications for the sentence.

### **Foreign National Offenders**

6.98. See [Guidance Preparing court reports on FNOs \(Master\) \(justice.gov.uk\)](#).

### **Defendants with mental health conditions**

6.99. Where a defendant has a mental health condition the PSR author must obtain any Liaison and Diversion Service/ Mental Health Service screening report. Where the defendant has serious mental health issues the PSR author must liaise with the community mental health. Secure unit/ hospital team to obtain any medical report and information about suitability for a mental health treatment requirement.

6.100. Where PSR authors become aware of new previously unrecorded information relating to self-harming behaviours or suicidal ideation, the PSR author must take steps to ensure that all relevant parties, including HMCTS, and prisons where applicable, are informed of this immediately. Even if the individual is not directly threatening to harm themselves, consideration should be given to wider behaviours and previous triggers which might indicate that a court appearance could give rise to potentially risky behaviour. See [Risk to self \(Master\) \(justice.gov.uk\)](#) [7 Minute Briefing - Suicide Prevention \(justice.gov.uk\)](#), [Suicide Practitioner Guide \(Master\) \(justice.gov.uk\)](#) [Assessing when suicide may pose a risk to Others \(Master\) \(justice.gov.uk\)](#) and [Information Security Policy Framework - GOV.UK \(www.gov.uk\)](#)

### **Terrorism and Counter Terrorism**

6.101. Where the offence involves Terrorism offences the PSR author, to assist with the pre-sentence report assessment, **must** contact the Divisional Probation Counter Terrorism (PCT) Team (contact list on EQuIP) for support in gathering all the relevant information including police and prison security information.

### **Overview of community orders**

#### **Recommending a community order**

6.102. Community orders may be imposed where an imprisonable offence(s) is serious enough to warrant such a sentence (s.202 and 204 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). Community orders are not available however where the sentence is fixed by law or the minimum custodial sentence provisions apply.

Before recommending a community order the PSR author must be satisfied that:

- the particular requirements forming part of the community order are the most suitable for the defendant. Some of the available requirements (alcohol treatment, drug rehabilitation, mental health treatment) require the defendant to confirm their willingness to comply prior to them being included as part of a pre-sentence report proposal. The individual must be made fully aware of the expectations that will be placed upon them without putting the individual in a position where there is a perceived threat of a negative consequence (e.g., threat of immediate custody proposal) if compliance is not given to the necessary requirement.

- the restrictions on liberty imposed by the order are commensurate with the seriousness of the offence or combination of offences; and
- that practicable requirements do not clash with religious, employment or educational commitments.

### **Required information in a community order**

6.103. A community order:

- must contain at least one of the requirements within Schedule 9 [Sentencing Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk). The [Imposition of community and custodial sentences – Sentencing \(sentencingcouncil.org.uk\)](https://sentencingcouncil.org.uk)” provides details on each requirement.
- must contain a punitive requirement or an additional fine unless there are exceptional circumstances. There is no definition of “punitive”, but it is commonly accepted this includes an unpaid work requirement or electronically monitored curfew requirement. Where other requirements are proposed as punitive requirements the rationale of this must be made clear. It is for the court to decide if there are exceptional circumstances, but PSR authors can assist by explaining any factors that might constitute exceptional circumstances.
- must contain an “end date” by which all of the requirements of the community order must be completed. This must be no longer than 3 years after the order is imposed and cannot be longer than the longest requirement.
- must specify the area where the defendant resides or will reside; this will also apply where the defendant has no fixed abode. Whilst the court decides the home local justice area, the pre-sentence report should recommend the area (the closest city/ large town). It is for the court to decide the home local justice area. Where the defendant is of no fixed abode the recommendation should be for allocation to the area where the defendant has recent substantial links as the Probation Delivery Unit in that area may be more familiar with, and in a better position to supervise, the defendant. Recent substantial links means in order: the area where there is recent information to believe the defendant is staying; the area where the defendant is currently being supervised, the area where it is believed the defendant is principally offending. Where there is no information linking a defendant to a particular area the recommendation should be for allocation to the area, where the defendant was sentenced (in the magistrates’ court) or to the area where the proceedings commenced (if sentenced by the Crown Court).
- may specify, where there are two or more requirements, dates by which each requirement must have been complied with and the last of which must be the same as the end date.

### **Defendant obligations**

6.104. The defendant has an obligation to comply with the community order otherwise they may be returned to court for breach (Schedule 10 [Sentencing Act 2020 \(legislation.gov.uk\)](https://legislation.gov.uk)). If a defendant commits an offence while subject to a community order, the court has the power in certain circumstances to revoke the order and resentence for the original offence. The defendant is also under a duty to keep in touch with the responsible officer, which can include attending appointments, in accordance with instructions given by that officer. The defendant

must also not change address without permission given by the responsible officer or a court.

### **Cross-Jurisdiction Cases**

- 6.105. A defendant sentenced in England and Wales may reside, or indicate that they will reside, in another legal jurisdiction within the United Kingdom (e.g., Scotland or Northern Ireland), or vice versa. Not all requirements available for community orders or suspended sentence orders in England & Wales can be applied in other jurisdictions, and vice versa. See [UK Jurisdiction Community Penalties \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk). There is no provision for cases to be transferred to, and managed by, any jurisdictions outside of the United Kingdom.
- 6.106. Where the defendant resides or would reside in Scotland or Northern Ireland, relevant Scottish Criminal Justice Social Work Service (CJSW) or Probation Board for Northern Ireland (PBNI) team, as applicable in the receiving jurisdiction, must be contacted and may be asked to prepare any report requested by the court in England and Wales. Similarly, Probation Service staff may be asked to provide reports for cases being sentenced by a court in these external UK jurisdictions but who will subsequently be resident in England or Wales. For further information see [Scottish Orders and Cross-Border Cases](#).

### **Community order requirements**

#### **Unpaid work requirement (Part 1)**

- 6.107. An unpaid work requirement requires the defendant to complete at least 40 hours and no more than 300 hours of unpaid work. All defendants must be instructed to work a minimum of seven hours per week. For unemployed individuals who are not in training or education, arrangements must be put in place for them to increase their hours over a short period until they are instructed to undertake the 'intensive working' minimum of 28 hours per week. Maximum travel times have been specified to attend unpaid work induction and placements. See [PI Unpaid work: PI 04/2019 - GOV.UK \(www.gov.uk\)](#) for further information.
- 6.108. The PSR or Verification Report author should consider:
- whether the defendant will be able to properly understand the instructions they will be given.
  - any disability or health limitation; if necessary, reasonable adjustments can be made consistent with the Public-Sector Equality Duty.
  - caring responsibilities.
  - religious commitments; and
  - personal and domestic circumstances including pregnancy, maternity, and post-birth.

#### **Rehabilitation activity (Part 2)**

- 6.109. This is a requirement that the defendant must comply with any instructions given by the responsible officer to attend appointments, or participate in activities, or both. The court does not specify the nature of the activities or the number of activity days but must specify the maximum number of activity days for which the defendant may be instructed to participate in activities. The rehabilitation activity requirement (RAR) remains in force whilst the community order is in force and the defendant may still be required, in accordance with agreed policy, to attend appointments or activities even if they have completed the maximum number of activity days specified by the court. PSR authors should be informed by EPF1 prior to considering whether to propose RAR as part of a sentence. When a RAR is

attached to a suspended sentence order it must be completed by the expiry of the supervision period. See [Setting rehabilitation activity requirements: PI 58/2014 - GOV.UK \(www.gov.uk\)](#).

6.110. A RAR should only be proposed where it can address additional rehabilitative needs that cannot be met by an accredited programme or a treatment requirement. The RAR is designed to be flexible where the actual activities delivered may be subject to change depending on further assessments and potential change in the defendant's circumstances post sentence. The proposal for a RAR should include the needs that will be addressed within a RAR and the maximum number of activity days required to achieve this; specific interventions (i.e., a commissioned rehabilitative service, structured intervention, or Approved Toolkit) may be included to illustrate why a RAR would be beneficial, though neither the report writer nor the court may direct these; the responsible officer decides and instructs the defendant to participate in activities. The proposed number of days must also reflect the complexity of need/required length to complete specific interventions. RAR days are not to be used to reflect the seriousness of the offence. Longer orders with 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. The number of RAR days should be suitable and proportionate to the level of need and any eligibility requirements for proposed commissioned rehabilitative services that may be relevant.

### **Programme Requirement (Part 3)**

6.111. This is a requirement that the defendant must participate in an accredited programme on the number of days specified in the order. Programmes are accredited by the Secretary of State and are usually courses addressing offending behaviour covering topics such as sex offending, substance misuse, domestic abuse etc. The court does not specify the accredited programme; that is selected by the supervisor. The court must specify the number of days and may specify a date before the expiry of the community order by which it must be completed. Programme requirements are often combined with a Rehabilitation Activity Requirement to enable the responsible officer to arrange additional appointments and activities to support the work done on the programme. See [Accredited Programmes \(justice.gov.uk\)](#).

### **Prohibited activity requirement (Part 4)**

6.112. This requires the defendant to refrain from participating in activities as specified by the court. A court may not include a prohibited activity requirement in a relevant order unless it has consulted the Probation Service. See [Deliver residence exclusions and prohibited activity: PI 03/2012 \(sharepoint.com\)](#) for further guidance.

6.113. Examples might include:

- Football related offending – prohibited from attending any football match.
- Drink related offending related to pubs in general – prohibited from entering any/or named public house or licensed premises.
- Prohibited from association with named individual(s) (with whom the defendant might have committed offences).
- Stalking. Domestic abuse or sex offending – prohibited from approaching or communicating with victim and/or family members without the general approval of the responsible officer (and/or Local Authority Social Services Department).
- Sex offender

- prohibited from taking work or any other organised activity, which will involve a person under the relevant age, either on a professional or voluntary basis.
- prohibited from approaching or communicating with any child under the relevant age without the approval of the responsible officer (and/or Local Authority Social Services Department).
- prohibited from residing (or staying for even one night) in the same household as any child under the relevant age.

### **Curfew requirement (Part 5)**

6.114. This is a requirement that the defendant must remain at a specified place for specified times. It is usually electronically monitored; the court must also make an electronic compliance monitoring requirement unless there is another person without whose co-operation it will not be possible to secure the monitoring and that person does not consent.

6.115. The court:

- may specify different places or different periods for different days.
- may only specify periods which are between two hours and 16 hours in each day.
- may only specify periods up to a maximum of 12 months from the date of the order.
- must first obtain and consider information about the place or places proposed to be specified, including information about the attitude of persons likely to be affected by the enforced presence of the defendant at that place. PSR authors must receive information from the main occupier of the address on the suitability of the address and any impact on occupier(s) before recommending a curfew.

6.116. It is also now a mandatory requirement that all proposals which include reference to a curfew requirement, whether electronically monitored or not, must be informed by an assessment of address suitability, which includes the outcome of police and social services enquiries and contact with the main occupier of the address to seek informed consent for the person's enforced presence there. The landlord of an address should only be contacted where the defendant will be residing alone at the address, and this is to confirm the defendant is allowed to stay there, not to obtain informed consent. See [Domestic Abuse and Child Safeguarding Enquiries – Practitioner Guidance](#). Without these checks having been completed, pre-sentence report authors are not permitted to include this requirement as part of the sentencing proposal.

6.117. Where there are identified risks and where an electronically monitored curfew requirement cannot be managed safely PSR authors cannot make this recommendation to the court and must use the Effective Proposal Framework (EPF) to consider alternative sentencing options.

### **Exclusion requirement (Part 6)**

6.118. This prohibits the defendant from entering a place specified in the order for a specified period. The court:

- may only specify a period of 2 years or less.
- may specify that the prohibition is to operate only during the periods specified in the order.
- may specify different places for different periods or days; and

- must also impose an electronic monitoring requirement unless there is another person without whose co-operation it will not be possible to secure the monitoring and that person does not consent.

6.119. PSR authors should clearly define the area of a proposed exclusion requirement and if necessary, draw up a map; see [Map Maker \(field-dynamics.co.uk\)](https://mapmaker.field-dynamics.co.uk/moj/map/default) <https://mapmaker.field-dynamics.co.uk/moj/map/default> Examples of exclusion requirements might be:

- Football related offences relating to particular venues – exclusion from a named football stadium.
- Drink related, public order or violent offences associated with particular public house(s) – exclusion from named public houses.
- Public order offences committed in particular areas of a town – exclusion from that area.
- Stalking, domestic abuse – exclusion from the area around a victim’s home or workplace
- Sex offender excluded from a named swimming pool, leisure centre or playground, or from an agreed distance of named schools.
- Burglary where a particular area or estate appears to have been targeted – exclusion from that area.
- Persistent shop theft – exclusion from a named store or shopping area

6.120. These requirements are generally made with an electronic compliance monitoring requirement - see below and Part 14 Sentencing Code.

6.121. See [Mapmaker Link \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk/mapmaker-link) and [MapMaker Quickstart Video \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk/mapmaker-quickstart-video)

### **Residence requirement (Part 7)**

6.122. The residence requirement means that, during a specified period, the defendant must reside at a place specified in the order, or if so specified, at the required place or some other place with the prior approval of the responsible officer. There is no maximum period. Before making an order containing a residence requirement, the court must consider the home circumstances of the defendant. A court cannot specify a hostel or other institution as the place where a defendant must reside, except on the recommendation of Probation Service.

6.123. The following are examples of the use of a residence requirement:

- Domestic abuse – keeping the defendant away from the family home so residence may be at a hostel for example (residence at an approved premise should include a supervised curfew).
- Drug related offending – to move defendants away from their offending area and associates.
- Gang related offending – moving defendants away from the area.

### **Foreign Travel prohibition requirement (Part 8)**

6.124. These places restrictions on the defendant travelling to countries outside of the British Islands i.e., United Kingdom, the Isle of Man, and the Channel Islands. These are very rare. As specified, the defendant can be prohibited from travelling to:

- any country or territory outside of the British Islands.
- a country outside of the British Islands which the court specifies; or
- a country outside of the British Islands, other than those countries which the court specifies.

### **Mental Health treatment requirement (Part 9)**

6.125. This is a requirement that the offender must submit, during a period or periods specified, to treatment by or under the direction of a registered medical practitioner or a registered psychologist (or both, for different periods) with a view to improvement of the defendant's medical condition. This will require Probation Service to liaise with medical/mental health services. Before making this requirement, the court must be satisfied that:

- the defendant's mental condition is such that it requires and may be susceptible to treatment but is not such as to warrant a hospital or guardianship order.
- arrangements have been or can be made for the treatment intended to be specified, including arrangements for him to be admitted as a resident patient if necessary; and
- the defendant has expressed willingness to comply with such a requirement (the consent condition).

6.126. As well as specifying the period or periods of the treatment (no further detail is specified on the nature of the treatment), the court must specify:

- the home or hospital at which it is to be provided if in-patient treatment.
- the institution or place at which it is to be provided if out-patient treatment
- the registered medical practitioner or registered psychologist (or both) by whom or under whose direction it is to be provided if it is to be practitioner-based treatment.

6.127. See [Sentencing offenders with mental disorders, developmental disorders, or neurological impairments – Sentencing \(sentencingcouncil.org.uk\)](#)

### **Drug rehabilitation requirement (Part 10)**

6.128. This is a requirement that, during a period specified, the offender must:

- submit to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on or propensity to misuse drugs; and
- provide samples as directed during the period to ascertain whether they have any drug in their body.

6.129. Before making this requirement, the court must be satisfied that:

- the offender is dependent on or has a propensity to misuse drugs,
- the offender requires and may be susceptible to treatment.
- arrangements have been or can be made for the treatment intended to be specified (including for their admission if they are to be treated as a resident).
- Probation Service have recommended the requirement as suitable for the offender; and
- the offender expresses a willingness to comply with the requirement (the consent condition).

6.130. The treatment for any particular period must be, either as a resident in an institution or place specified, or as a non-resident in or at an institution or place, and at such intervals as may be so specified but the nature of the treatment is not to be specified. The court may fix reviews of the requirement (paragraph 21, Schedule 9 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). This must be done if the treatment and testing period is greater than 12 months but is discretionary for 12 months or less.

6.131. The offender is required to attend appointments with the treatment provider and to submit to regular drug testing. The offender is also required to attend appointments with their probation practitioner. See [Implementation of the support delivery of the drug rehabilitation requirement specification: PI 04/2015 \(sharepoint.com\)](#), [DRR Guidance \(justice.gov.uk\)](#) and [Drug Rehabilitation Requirements \(DRRs\) and Alcohol Treatment Requirements \(ATRs\) \(Master\) \(justice.gov.uk\)](#).

#### **Drug testing requirement (Part 10A)**

6.132. Specific to the Intensive Supervision Courts pilot, the drug testing requirement necessitates that, during a period specified by the court, an offender must provide samples to ascertain whether there is any drug or psychoactive substance in their body as directed by the Probation Service. The court must be satisfied that the offender's misuse of a drug or psychoactive substance caused or contributed to the offence or an associated offence or is likely to cause or contribute to the commission of further offences by the offender and that arrangements for implementing drug testing requirements are available in the offender's home local justice area. If the offender is to provide samples to a person other than the Probation service, the order must require that the results of the tests carried out on the samples are to be communicated to the Probation Service. This requirement can be in addition to a DRR or as a standalone requirement and can last the length of the sentence. If used as a standalone requirement, there is an expectation that the offender will be tested randomly on a minimum of a once-weekly basis.

#### **Alcohol treatment requirement (Part 11)**

6.133. This is a requirement that, during a period specified, the offender must submit to treatment by or under the direction of a specified person having the necessary qualifications or experience with a view to the reduction or elimination of the offender's dependency on alcohol. There is no provision for testing in this requirement. There is no specific requirement for a report however the court should seek the advice of the Probation Service in order to be satisfied the criteria are met. The court cannot make this requirement unless satisfied that:

- the defendant is dependent on alcohol.
- their dependency is such as requires and may be susceptible to treatment.
- arrangements have been or can be made for the treatment intended to be specified (including for their admission if they are to be treated as a resident); and
- the offender has given their consent and expressed their willingness to comply with the requirement.

6.134. The treatment for any particular period must be:

- as a resident in such institution or place as specified.
- as a non-resident in or at such institution or place and at such intervals as specified; or
- by or under the direction of such person having the necessary qualifications or experience as may be so specified.

6.135. See PI 05 2015 [Implementation of the support delivery of alcohol treatment requirement specification: PI 05/2015, AI 06/2015 \(sharepoint.com\)](#) and [Alcohol Treatment Requirement\(justice.gov.uk\)](#)

#### **Alcohol abstinence and monitoring requirement (Part 12)**

6.136. This is a requirement that:

- for a maximum period of 120 days the offender must abstain from consuming any alcohol; and

- the defendant must submit to monitoring during the specified period. This is by means of a special electronically monitored tag which measures the alcohol levels when the defendant perspires.

6.137. The court may only impose this requirement if:

- the defendant consents.
- the consumption of alcohol either contributed to, or was an element of, the offence which is being sentenced or a related offence.
- the court does not include an alcohol treatment requirement in the order; and
- monitoring arrangements have been made in that court's area.

6.138. This requirement already includes the electronic monitoring of alcohol abstinence. The court (Part 14, Schedule 9, Sentencing Code):

- must not impose a separate electronic monitoring requirement to monitor the alcohol abstinence requirement; but
- may impose a separate electronic monitoring requirement to monitor another requirement or the defendant's whereabouts.

6.139. This requirement can still be made where the defendant is of no fixed abode if the monitoring equipment can be fitted at a Probation Service Office to which the defendant will need to attend for monitoring. If of no fixed abode, the offender needs to charge the tag on a frequent basis at a local Probation Service. Prior to recommending such a requirement the report author should check with the local office if there is facility for the equipment to be stored.

6.140. See [Alcohol Abstinence Monitoring Requirement - \(justice.gov.uk\)](https://www.justice.gov.uk)

#### **Electronic compliance/whereabouts monitoring requirement (Part 14)**

6.141. An electronic compliance monitoring requirement may be imposed alongside other requirements to monitor compliance with those requirements. It is generally used with curfew requirements and exclusion requirements. It may not be imposed to monitor an alcohol abstinence and monitoring requirement; separate provision for electronic monitoring is made by that requirement. An electronic whereabouts monitoring requirement can be imposed as a separate requirement or with other requirements. Before imposing an electronic monitoring compliance or whereabouts requirement the court must check that local arrangements are first in place. PSR authors recommending an electronic whereabouts monitoring requirement, or other GPS monitored requirement, should also include recommend a rehabilitation activity requirement; this facilitates the review of whereabouts data and reinforces associated changes to behaviour.

6.142. Where the court imposes an electronic monitoring without a curfew, the court will need to specify a condition to enable the electronic monitoring installation: "You must remain indoors at [specific address] between 5pm and midnight until [date two days after release] for your tag to be fitted. This condition no longer applies once the tag has been fitted. You must co-operate with the fitting and installation of the tag and monitoring equipment."

6.143. See [EM - Electronic Monitoring Operational Framework \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk)

### **Recommending a discharge, fine or deferred sentence**

#### **Absolute Discharge & Conditional Discharge**

6.144. An absolute discharge and conditional discharge (ss. 79-82 [Sentencing Act 2020 \(legislation.gov.uk\)](#)) may be imposed if the court is of the opinion that it is inexpedient to inflict punishment. They cannot be imposed for offences where: the sentence is fixed by law; minimum sentences apply, for example for certain repeat offenders or legislation specifically prevents it. A conditional discharge requires the offender not to commit an offence during a period not longer than 3 years which the court fixes otherwise the offender can be resentenced for the original offence. It will be very rare to recommend a discharge as in ordering a pre-sentence report the court has decided that at least the community threshold has been passed.

### **Fines**

6.145. The court must inquire into an offender's financial circumstances before fixing the amount of a fine. Fines should therefore not be recommended in a pre-sentence report unless the court has already ascertained this information. Sentencing Guidelines provide fines bands dependent on the nature and circumstances of an offence. These are mainly bands A, B and C with starting points of 50%, 100% and 150% of an offender's weekly income. Where an offender receives benefit income the guidelines fix the assumed rate of income. A court may impose a Band D fine (starting point 250%) for an imprisonable offence which merits a community order e.g., against an individual who is unable to comply with any requirements. A court may impose a Band E fine (starting point 350%) for some imprisonable offences which merit a custodial sentence. It will be rare to recommend a Band A, B or C fine as the court has decided that the community threshold has been passed.

6.146. A fine can be imposed at the same time as a community order is imposed for the same offence. In particular, a court must generally impose a fine if the community order does not include "at least one requirement imposed for the purpose of punishment" and can impose the fine even if the order does include a punitive requirement ( s.200 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). The court need not impose a punitive element with a community order, such as a fine, where there are exceptional circumstances relating to the offence or the offender which would make it unjust to do so.

### **Deferred Sentence**

6.147. A court may "defer" a sentence once for up to 12 months (or 6 months if the conviction was before 22/3/26) (s.3 [Sentencing Act 2020 \(legislation.gov.uk\)](#); see [Deferred Sentences – Sentencing \(sentencingcouncil.org.uk\)](#)). The Sentencing Guidelines state that deferred sentences will be appropriate only in limited circumstances and where at the point of the first sentencing hearing there is no basis for imposing a non-custodial sentence forthwith but there is a real prospect that a period of deferment will allow the imposition of a non-custodial sentence. The court may, but need not, impose any requirements during the period of deferment that it considers appropriate. These could be specific requirements as set out in the provisions for community sentences, restorative justice activities or requirements that are drawn more widely. The purpose of deferment is to enable the court to have regard to the offender's conduct after conviction or any change in circumstances, including the extent to which the offender has complied with any requirements imposed by the court. When deferring sentence, the court should give a clear indication of the type of sentence it would have imposed if it had decided not to defer. Requirements should be specific and measurable and not involve a serious restriction of liberty. The court fixes a date to which the sentence is deferred and serves the defendant with a copy of the order including any requirements. There is no power to enforce the requirements. The only sanction is for the court to impose the more severe sentence it identified when deferring.

- 6.148. To impose a deferment order the court must be satisfied that:
- the defendant consents and in the case of restorative justice activities any other participants must consent.
  - the defendant undertakes to comply with any requirements imposed by the court; and
  - the court is satisfied that deferment is in the interests of justice.

- 6.149. Pre-sentence reports should consider proposing a deferment order where appropriate based on rehabilitation potential and risk. Circumstances where deferring sentence may be suitable, and therefore where a pre-sentence report might make such a recommendation, include those where:
- if the person is on the cusp of custody threshold, abiding by the conditions of deferment could lead to a non-custodial sentence being given, as opposed to a custodial sentence.
  - the defendant's personal circumstances have changed significantly between the date of the offending and the date of sentence, leading to a realistic reduction in their risk of re-offending.
  - immediate imprisonment may be disproportionate if the defendant's circumstances improve
  - time will clarify risk levels and the prospects of not re-offending (e.g. young adults, those commencing treatment programmes)
  - the defendant has dependent children, where engagement with welfare plans would benefit the child and reduce the risk of recidivism; or
  - intensive rehabilitation requirements can be imposed to incentivise engagement; and
  - restorative justice is underway, and the time will demonstrate willingness to make amends

6.150. Where the court decides to defer sentence, the Probation Service act as supervisor for the period of deferment until the point of sentence. The supervision of any requirements of a deferred sentence may be undertaken by partnership/voluntary agencies. Where it is determined that probation supervision of the deferment period is not needed, the case should remain with the court team and not be transferred to sentence management colleagues. In the event that requirements imposed do require a probation practitioner to supervise them, the case should be transferred to a sentence management team for the duration of the deferment period.

6.151. If before the deferred sentence date, the defendant commits an offence, the court which imposed the deferment order can bring sentencing forward for the deferred offence/s. That court can issue a summons or warrant to bring the defendant before the court. The court may then sentence the new offence and the offence/s for which the deferment was made. Otherwise, on the date to which the sentence has been deferred, the court will proceed to sentence the defendant.

6.152. See also Part 7 "deferred sentence reports".

## **Recommending a custodial sentence**

### **Immediate custodial sentence**

6.153. A court must order a pre-sentence report before imposing a custodial sentence unless it decides that this is unnecessary. PSR authors should prioritise cases

where the court indicates, or it is likely, that the custodial threshold has been met. This avoids unnecessary delays which adversely impact victim of serious offences.

- 6.154. An immediate custodial sentence may be recommended where a community order appears to be clearly outside of the sentencing range for the offence at step 1 of the guidelines unless there is substantial mitigation known to the report writer. The reasoning being that the court would have to take an exceptional course of action to go outside of the sentencing guidelines offence range to impose a non-custodial sentence. The PSR author must ensure that the pre-sentence report addresses the impact of a custodial sentence upon the defendant including the impact on any caring responsibilities.
- 6.155. A discretionary custodial sentence may only be imposed and therefore proposed when an imprisonable offence is so serious that neither a fine alone nor a community sentence can be justified for the offence, or the defendant expresses unwillingness to comply with a requirement in a community order for which an expression of such willingness is necessary.
- 6.156. A custodial sentence may also be imposed where the court determines that it is necessary to protect the public. The custodial sentence must be for the shortest term that in the opinion of the court is commensurate with the seriousness of the offence. The length of sentence depends on the seriousness of the offence and the maximum penalty for the crime. The custodial sentence is imprisonment where the offender is 21 or over and detention in Young Offender institution (YOI) where the offender is 18 -20. A sentence of imprisonment or YOI may be suspended.
- 6.157. The majority of custodial sentences imposed are discretionary. Some offences, e.g., involving knives and offensive weapons, require the court to impose a mandatory custodial sentence for a second conviction unless it would be unjust to do so. Before a court may impose a discretionary custodial sentence the Sentencing Guidelines guideline on the imposition of community and custodial sentences must be considered: whether the custody threshold has been passed; is a sentence of imprisonment unavoidable, the shortest term commensurate with the seriousness of the offence and whether the sentence can be suspended.
- 6.158. Where the defendant has or appears to have a mental health condition, the court must obtain and consider a medical report before imposing a custodial sentence unless the court decides that it is unnecessary to do so. The Sentencing Council guideline on the "Imposition of community and custodial sentences" reminds the court "to obtain a pre-sentence report, whether verbal or written, unless the court considers a report to be unnecessary".

### **Suspended Sentence Orders**

- 6.159. Pre-sentence reports must not propose a Suspended Sentence Order. If the pre-sentence report author assesses that the defendant is manageable in the community and that immediate custody is unnecessary after considering the seriousness of the offence, a community order can be recommended containing requirements addressing rehabilitative aims and providing sufficient restrictions on liberty. It is the role of the court to undertake the assessment of whether custody is unavoidable and whether a custodial sentence should be suspended. See [Sentencing & Proposals: Guidance on SSOs \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk/sentencing-guidelines/sentencing-proposals-guidance-on-suspended-sentence-orders). It is nevertheless important that court staff understand these orders in case the court decides to impose one.

- 6.160. Where a court may impose a sentence of imprisonment or detention in a young offender institution it may order that the sentence is suspended. A suspended sentence order is a custodial sentence and not a severe form of community order. It may only be imposed if the custody threshold has been passed, a custodial sentence is unavoidable and no other sentence can achieve the aims of sentencing; see The Sentencing Council guideline [Imposition of community and custodial sentences – Sentencing \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk).
- 6.161. The custodial term of the period of the custodial sentence imposed must be at least 14 days for a sentence of imprisonment or 21 days for a sentence of detention in YOI. The maximum custodial period which may be suspended is 2 years or where the conviction was on or after 22/3/26, 3 years. The period for which the suspended sentence is suspended is called the “operational period”.
- 6.162. The court may order the defendant to comply with the same requirements which the court could have imposed as part of a community order. The period in which any requirements are completed is called the “supervision period”. Where the court imposes more than one requirement, the requirements must be compatible with each other. The supervision period must be at least 6 months and no longer than 24 months regardless of the custodial period suspended. The supervision period must also be no longer than the “operational period”.
- 6.163. The court may still impose a requirement for less than 6 months e.g., a stand-alone electronically monitored curfew requirement, even though this will be shorter than the minimum supervision period. The operational period must be at least as long as the supervision period and no longer than 2 years, or where the custodial period suspended is more than 2 years, no longer than 3 years.
- 6.164. All requirements will not continue beyond the supervision period specified in the order, unless there are outstanding unpaid work hours, in which case the supervision period, and therefore the requirements, will continue until the end of the operational period. Any outstanding unpaid hours can be completed after the original supervision period has passed up to the end of the operational period. After the end of the operational period any outstanding hours will remain incomplete.
- 6.165. A court may decide to impose a suspended sentence of imprisonment or detention in YOI without any requirements. There is then no supervision period. The suspended sentence means that the term of imprisonment or detention in a young offender institution will be activated, unless unjust to do so, if the defendant commits any offence during the operational period or breaches the requirements of the order.

### **Crown Court Supervision Orders**

- 6.166. A Crown Court may make a supervision order where an individual has committed an offence but is unfit to plead or has been found to be not guilty by reason of insanity [Criminal Procedure \(Insanity\) Act 1964 \(legislation.gov.uk\)](https://www.legislation.gov.uk). The law provides for either a Probation Officer or a Social Worker to be responsible for supervising the individual under a Supervision Order. A judge cannot make a supervision order without first obtaining the consent of the individual who will be named as the supervising officer on the order. See [Supervision Orders National Guidance \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk) for full details relating to the assessment and management of cases where a Supervision Order is made. The above guidance

provides further details on the considerations that could lead to the Probation Service indicating that it would be inappropriate for a probation practitioner to be named as the supervising officer. It also provides information relating to the preparation of a pre-sentence report, where this is deemed to be appropriate.

## **Completing and delivering the pre-sentence report**

### **Submitting the pre-sentence report**

6.167. The PSR author must record the sentencing proposal and any proposed requirements promptly in N-Delius in accordance with case recording instructions. It is vital that the report is submitted to the court in a timely manner, even if the sentencing hearing is scheduled weeks later, and within agreed timescales. Court staff should familiarise themselves with the [PSR Recording Guidance \(Master\) \(justice.gov.uk\)](#) and [CRI027 Court and Sentencing \(Master\) \(justice.gov.uk\)](#).

### **The manner of delivering an oral pre-sentence report**

6.168. PSR authors must deliver oral pre-sentence reports in accordance with [Oral Delivery Reports Practice Guidance \(Master\) \(justice.gov.uk\)](#).

6.169. In delivering an oral report court staff should speak clearly, confidently and with clarity to ensure they can be heard by all in the court room.

6.170. To ensure compliance with court etiquette court staff must:

- use polite language and a calm tone of voice.
- stand whenever the court is addressed; if this is not possible, ask permission from the sentencer to address the court while seated.
- address the whole court not just the sentencer, making eye contact not interrupting when other court users are speaking.
- bow to the coat of arms above the sentencer when entering and leaving the court room.
- generally, refer to magistrates as “Your Worship” or “Madam/Sir”, District Judges (Magistrates’ Court) as “Judge” and Crown Court Judges as “Your Honour”.
- Respond appropriately and accurately to queries. Ask for clarification if a point or question is not heard or understood. Be confident to ask for more time to find out an answer to a query where further information is not readily to hand which is needed to assist the court.

### **Recording an orally delivered report**

6.171. To record the oral report PSR authors must:

- use the Oral Report template in NDelius to accurately, clearly but briefly, reflect what was said in court; bullet points may be used. Information that the author has placed within an OASys assessment can be referred to where that has been completed, rather than duplicating information.
- Where child or adult safeguarding concerns are identified, these should be explicitly stated within the report write-up and OASys risk of serious harm assessment/risk screening and include (where relevant) information about any existing engagements with other agencies, or referrals to these agencies. Where contact with children is known, reference to safeguarding must be stated within the report write-up and OASys (i.e., R2 of the risk screening), including stating where there are no safeguarding concerns.

6.172. See [Oral Delivery Reports Practice Guidance \(Master\) \(justice.gov.uk\)](#)

## Part 7 - Post Sentence

### Case Allocation (See Case Allocation PI 05/2014)

- 7.1. The Probation Service has the responsibility for to allocate individuals sentenced to a community or custodial sentence within HMPPS or to an Electronic Monitoring provider. The CSR and ARP scores should be completed and recorded on NDelius, and the individual given reporting instructions to the relevant provider. For cases where no PSR has been prepared probation practitioners at court should be asked to complete the actuarial tools on a static basis only, as dynamic scoring will not be possible without an interview having first taken place. Information relating to sentence must be provided promptly to Community Offender Management and Prison Offender Management as relevant.
- 7.2. Where the defendant receives an immediate custodial sentence but is released at court due to sentence/time served and the court duty officer is in court building, the court duty officer will issue a next day appointment to the defendant to attend the local Probation Office for induction where this has been established as local practice.
- 7.3. Court staff should refer to the Interim Practice Guidance [on Case Allocation](#) for further details on when RoSH screening/assessments require completion post sentence. Where the RoSH screening indicates that there are risk indicators a RoSH full analysis must be completed in order to determine a RoSH level and to identify the risks involved.
- 7.4. Within 3 days of sentencing court staff **must** identify and record all applicable cases as MAPPA nominals on the approved case management system. For further information see 6.5. [MAPPA Level 1 Policy Framework \(Master\)](#) and [CRI016 MAPPA Registrations \(Master\)](#)

## Post Sentence Reports

### Review reports

- 7.5. Certain courts (See [The Community Order \(Review by Specified Courts\) Order 2007 \(legislation.gov.uk\)](#)) have the power, after imposing a community order, to fix review hearings to check on a defendant's progress (s.217 [Sentencing Act 2020 \(legislation.gov.uk\)](#)). This is most common for orders containing alcohol treatment requirements, drug rehabilitation requirements and mental health treatment requirements. Where the court imposes a drug rehabilitation requirement as part of a community order or suspended sentence order the court must if the requirement is more than 12 months, or may if less, direct review hearings (Paragraph 22, Schedule 9 [Sentencing Act 2020 \(legislation.gov.uk\)](#)).

### Deferred sentence reports

- 7.6. The Probation practitioner supervising the period of deferment should prepare the deferred sentence report; this should be in writing. During the period of the deferment, the Probation Service will carry out an interview(s) with the supervised individual where applicable to obtain an update of their progress towards completion of the conditions of the deferment. Post sentence and during the period of deferment the defendant will be instructed to attend a Probation Service office.

- 7.7. Deferred sentence reports are not to be counted as a pre-sentence report. It must also not offer an independent proposal as a sentencing proposal will have been put forward by the court at the time of making the deferment order and would not be supported by an appropriate risk assessment or completion of the EPF. The report should focus on the progress made by the individual against any requirements imposed and assess the impact of this against their individual circumstances and the risk of reoffending or harm posed.
- 7.8. When writing the deferred sentence report the author should either recommend that the:
- lesser sanction outlined originally by the court should be imposed, where the defendant has complied with the conditions imposed and the assessor can confirm this.
  - more serious sanction outlined originally by the court should be imposed where the defendant has failed to comply with the conditions imposed, unless there are exceptional circumstances, which should then be outlined.
- 7.9. Where a pre-sentence report was written prior to the deferment and the report author finds the original proposal to still apply, attention may be drawn to this. By contrast, if the original proposal no longer applies, or there was no pre-sentence report prior to deferment, then the report author should prepare and submit a pre-sentence report.

### **Court of Appeal Reports**

- 7.10. An appeal can be made to the Court of Appeal against conviction or sentence made by the Crown Court. The Court of Appeal may order a report. The format of a report (and the applicable template) is different depending on the purpose of the report. The judge may order:
- a pre-sentence report where none was ordered prior to the sentence; This will be a “Pre-appeal report” and will include post-sentence information regarding the appellant’s viewpoint of the offences post-conviction and reaction to their sentence and current personal circumstances. The report will be allocated by the court to the court team situated at the court where the original sentence was imposed.
  - a report to address a particular matter, along with any progress post sentence (“a supplementary report”). The report may also include the likely impact of a custodial sentence, or the defendant’s progress during the custodial term imposed. The report will be allocated to sentence management.
  - A report to explore the up-to-date situation (“A progress report”). This will apply when a pre-sentence report was prepared for sentence within the last two months and the Court wants an update e.g., with housing, substance misuse treatment where there may be the possibility of a community sentence. The report will be allocated to sentence management.
- 7.11. Authors producing reports for the Court of Appeal must ensure the report is of the highest quality and is completed by the requested date, unless there are exceptional circumstances. See [Advice Note -Recording Court of Appeal Outcomes \(Master\) \(justice.gov.uk\)](#)



## Part 8 – Staff Support, Guidance & Training

### Race Equality in the Probation Service

8.1. The HMPPS Race Action Programme (RAP) has put in place several practical solutions which are designed to improve the experiences of ethnic minority staff. This includes improvements to the consistency and application of staff policies, creating a community of action-oriented race allies (and piloting of race allyship training), launch of the Diversity and Inclusion Hub and Inclusive Behaviours Programme, introduction of the progression buddies' scheme and a matching solution to ensure diverse representation on recruitment panels. All probation regions have deployed strategies for improved engagement with minority ethnic staff as captured in the regional strategic Equality Diversity and Inclusion (EDI) plans. The plans are reviewed via regional governance structures and the various products from RAP, where available, are being utilised as part of that process. Whilst RAP has ended many of the initiatives it has instigated are ongoing and will be continued by the Disparities Unit. Senior Probation Officers will always endeavour to discuss the allocation of the needs of specific cases with relevant staff prior to allocation. Regions have committed to reiterating this message to all Senior Probation Officers given the number of new managers, and to emphasise the importance of this.

### Practice Guidance

8.2. Practice guidance with associated mandatory instructions and an outline of processes can be found in HMPPS EQuIP (Master) ([justice.gov.uk](https://justice.gov.uk)). This is an online portal available to all staff and contains all Probation Service and OMiC operational and corporate processes, procedures, and guidance. Documents can be accessed by searching under the documents tab, pressing link under "view details" then on next page pressing the document name next to the title field. An account can be requested via the Equip team. Annex 1 includes practice guidance referenced in this framework.

### Accessing Learning & Development

8.3. There are many learning opportunities in the Probation Service including 'mandatory learning' that all are required to complete and then 'required' learning that is specific to the roles. The Probation Court Strategy and Change Team (PCSCT) provide support and communications to Probation court staff to access Learning & Development.

- The HMPPS intranet provides learning based role specific mandatory, required and desirable training e.g. [Probation Service Officer \(Courts\) – Probation Hub \(hmppsintranet.org.uk\)](https://hmppsintranet.org.uk) / [Probation Office \(Courts\)](https://hmppsintranet.org.uk). It is expected that you would complete this learning during the first 6 months of practice. MyLearning ([myLearning: Log in to the site \(mydevelopment.org.uk\)](https://mydevelopment.org.uk)) and [HMPPS EQuIP \(Master\) \(justice.gov.uk\)](https://justice.gov.uk) hosts courses, guidance and job aids to support professional development, enhancement of skills and knowledge by providing resources to further embed practice development within probation court teams.
- Line managers should support 'Protected Learning Development Time' to complete your training needs. Alongside your line manager you should identify and address your learning needs and seek out relevant learning when it is needed.
- The Probation Service values professional development ensuring staff have the knowledge of policy and processes, the ability to develop and refine skills, and understand the evidence behind the work we all do.

### Legal Awareness

8.4. Legal guidance can be found on [The Probation Court Strategy & Change Team - Home \(sharepoint.com\)](https://sharepoint.com) including:

- guidance written for magistrates' court legal advisers by JCS; where this diverges from Probation service policy the policy must be followed.
- an indexed list of previously asked legal queries and their answers.

- The Probation Court Companion. This contains criminal procedure overviews e.g., remands in custody and on bail, and plea allocation and sending in the magistrates' court and the sentencing guidelines.

# Annex 1 - References and links to Operational guidance

## Part 3 Stakeholders

Judicial Engagement Charter 2024 – See Annex 2

Regional and local judicial engagement and liaison- Annex 3

Liaison between the judiciary and Probation Service- Annex 4

## Part 4 Bail Information Service

n/a - awaited

## Part 5 Pre-court preparation

[Domestic Abuse Policy Framework](#)

[Child Safeguarding Policy Framework](#)

[Oral Delivery Reports Practice guidance](#)

## Part 6 Pre-sentence Reports

### PSR Delivery

- [Better Case Management Revival Handbook – January 2023 - Courts and Tribunals Judiciary](#)
- [A Smarter Approach to Sentencing \(publishing.service.gov.uk\)](#)
- [Oral Delivery Reports Practice Guidance \(justice.gov.uk\)](#)
- [Practice Guidance Written Pre-sentence Reports](#)
- [Advice Note 05022021 Pre-Sentence Oral Report Recording \(justice.gov.uk\)](#)
- [Guidance for Probation Practitioners conducting Remote Pre-Sentence Assessments.](#)
- [PSR Recording Guidance \(Master\) \(justice.gov.uk\)](#)
- [Practice Guidance: Gatekeeping Process for written Pre-Sentence Reports November 2023.](#)
- [CRI027 Court and Sentencing \(justice.gov.uk\)](#)
- [PSO PO PSR Allocation Guidance \(Master\)](#)
- [Domestic Abuse PSRs: Required learning for PSR authors \(Master\)](#)

### Risk Assessment

- [Risk of Serious Harm \(RoSH\) Guidance \(Master\) \(justice.gov.uk\)](#)
- [RSR FAQs \(justice.gov.uk\)](#)
- [RSR Violent Offence List \(Master\) \(justice.gov.uk\)](#)
- [Creating RSR & RoSHA in OASys Guidance \(Master\) \(justice.gov.uk\)](#)
- [Dangerousness Assessments: Guidance for NPS Staff \(justice.gov.uk\)](#)
- [Substance Misuse Screening Tool 'How to guide' \(Master\) \(justice.gov.uk\)](#)

## **Cohorts with specific considerations**

- [PSR - Aide Memoire - Preparing pre-sentence reports for ethnic minority people \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Probation Service Management of Young Adults Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [The care and management of individuals who are transgender](#)
- [The Care and Management of Individuals who are Transgender - Operational Guidance](#)
- [OSP Desk Aide \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk)
- [OSP Guidance for Practitioners \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Meeting Diverse Needs in PSRs – A brief guide'](#)
- [DIF Guidance \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Preparing and Writing Court Reports on Women - An Aide Memoire Pack \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk)
- [PSR Maturity Aide Memoire](#)
- [Young Adults policy framework \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- [IOM Court Considerations \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Court Information - What is IOM \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Guidance Preparing court reports on FNOs \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Domestic abuse policy framework \(sharepoint.com\)](https://sharepoint.com)
- [DA & Child Safeguarding Information Storage Guidance \(Master\) \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Domestic Abuse and Child Safeguarding Enquiries – Practitioner Guidance](#)

## **Sentencing**

- <https://www.sentencingcouncil.org.uk/crown-court/>
- <https://www.sentencingcouncil.org.uk/the-magistrates-court-sentencing-guidelines/>
- [Sentencing Guidelines \(Crown Court\) \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk)
- [Reduction in sentence for a guilty plea – first hearing on or after 1 June 2017 – Sentencing \(sentencingcouncil.org.uk\)](#)
- [Totality – Sentencing \(sentencingcouncil.org.uk\)](https://www.sentencingcouncil.org.uk)
- [Effective Proposal Framework - Practitioners User Guide - General Users \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Unpaid work: PI 04/2019 - GOV.UK \(www.gov.uk\)](https://www.gov.uk)
- [Setting rehabilitation activity requirements: PI 58/2014 \(sharepoint.com\)](https://sharepoint.com)
- [Accredited Programmes \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Deliver residence exclusions and prohibited activity: PI 03/2012 \(sharepoint.com\)](https://sharepoint.com)
- [Mapmaker Link \(justice.gov.uk\)](https://www.justice.gov.uk)
- [MapMaker Quickstart Video \(justice.gov.uk\)](https://www.justice.gov.uk)
- [Implementation of the support delivery of the drug rehabilitation requirement specification: PI 04/2015 \(sharepoint.com\)](https://sharepoint.com)

- [DRR guidance](#)
- [Drug Rehabilitation Requirements \(DRRs\) and Alcohol Treatment Requirements \(ATRs\) \(justice.gov.uk\)](#)
- [Implementation of the support delivery of alcohol treatment requirement specification: PI 05/2015, AI 06/2015 \(sharepoint.com\)](#)
- [ATR - Alcohol Treatment Requirement - \(justice.gov.uk\)](#)
- [AAMR - Alcohol Abstinence Monitoring Requirement - \(justice.gov.uk\)](#)
- [EM - Electronic Monitoring Operational Framework \(Master\) \(justice.gov.uk\)](#)
- [Deferred Sentences – Sentencing \(sentencingcouncil.org.uk\)](#)
- [Imposition of community and custodial sentences – Sentencing \(sentencingcouncil.org.uk\)](#)
- [Supervision Orders National Guidance \(Master\) \(justice.gov.uk\)](#)
- [Advice Note -Recording Court of Appeal Outcomes \(Master\) \(justice.gov.uk\)](#)

#### **Part 7 Post Sentence**

- [Case Allocation: PI 05/2014, PSI 14/2014 - GOV.UK \(www.gov.uk\)](#)
- [MAPPA Level 1 Policy Framework \(Master\)](#)
- [CRI016 MAPPA Registrations \(Master\)](#)

#### **Part 8 Staff Support, Guidance & Training**

- [HMPPS EQuIP \(Master\) \(justice.gov.uk\)](#)
- [The Probation Court Strategy & Change Team | General | Microsoft Teams](#)
- [myLearning: Advice to Court \(mydevelopment.org.uk\)](#)
- [myLearning: Risk Assessment and Risk Management \(mydevelopment.org.uk\)](#)
- [myLearning: Domestic Abuse \(mydevelopment.org.uk\)](#)
- [myLearning: Working with People in Prison and on Probation – Protected Characteristics \(mydevelopment.org.uk\)](#)
- [myLearning: Young Adults \(mydevelopment.org.uk\)](#)
- [Probation Service Officer \(Courts\) – Probation Hub \(hmppsintranet.org.uk\)](#)
- [Case Administrator – Courts – Probation Hub \(hmppsintranet.org.uk\)](#)



## Annex 2 - HMPPS Judicial Engagement Charter Text (March 2024)

### 1. Introduction

1.1. The Judicial Charter was launched in 2020 ahead of unification of the Probation Service following discussion with the Senior Presiding Judge and approval from the Judicial Oversight Group. The importance of improving engagement between HM Prison and Probation Service and the judiciary was emphasised by Amy Rees, Director General Chief Executive HMPPS, at a critical time of change for the Probation Service.

1.2. The aim of the Charter is to set out the minimum engagement needed to support good communication with the judiciary, with a view to increasing understanding and confidence in probation delivery. This includes:

- **The judiciary know what we do** – provide information on policy, interventions and reform.
- **The judiciary know what works** – share research and evidence and provide training and shadowing opportunities to show how practice works.
- **The judiciary value the service and request it in court** – facilitate dialogue and understanding between the two parties, increasing the value of the service for the judiciary.
- **The judiciary know how well the service is delivered** – provide feedback on key areas of performance to the judiciary 2.1. To improve the way HMPPS engages with the judiciary we have developed a charter in collaboration with members of the HMPPS Judicial Forum. The charter sets out what magistrates and judges can expect from HMPPS.

### 2. Aims of the Charter

2.1. To improve the way HMPPS engages with the judiciary we have developed a charter in collaboration with members of the HMPPS Judicial Forum. The charter sets out what magistrates and judges can expect from HMPPS.

2.2. HMPPS is responsible for prisons, probation and youth custody. Under the unified Probation Service, Regional Probation Directors will lead on engagement with the judiciary on behalf of the whole service, with oversight by Area Executive Directors. This will mitigate the risk of duplication of effort and streamline the judiciary's route into HMPPS.

2.3. Where local engagement practices are working well there will be no need for change. However, there is a need for greater consistency and the charter below sets out a proposal for the **minimum** engagement we should offer.

2.4. We recognise the need for support from HM Courts and Tribunals Service and the judiciary for effective engagement and will also facilitate support this through national meetings.

### 3. HMPPS Judicial Engagement

To ensure HMPPS is providing the judiciary with the right information, in the right way, at the right time, HMPPS commits to increasing its engagement by:

- Holding quarterly national 'HMPPS Judicial Forum' meetings chaired by the Chief Probation Officer with judicial representatives nominated by the Senior Presiding Judge, Chief Magistrate (District Judge), Magistrates Leadership Executive and Magistrates' Association to discuss national performance, change programmes and relevant MoJ policy issues.
- Providing relevant local performance information to the judiciary in a timely and transparent fashion
- Agreeing appropriate engagement between Presiding, Resident and District Judges (Magistrates' Court) and Regional Probation Directors in each region, supported by Area Executive Directors

- Regional Probation Directors sending personalised quarterly updates to judicial office holders in their area updating on key local issues.
- Supporting local engagement events with judicial officer holders such as Probation Liaison meetings and agreeing other local initiatives including the use of digital channels to share feedback on local performance.
- Regional Probation Directors attending Regional Leadership Magistrate Group meetings at least bi-annually to provide updates on performance and local news and respond to any local concerns. Also ad hoc attendance at other regional meetings as required to continue to build relationships with the local judiciary.
- Supporting training and shadowing opportunities in all regions for judicial office holders in both community and custody settings.



## Annex 3 - Regional and local judicial engagement and liaison

### Overview

Where the Judicial Engagement Charter sets a minimum offer, the following framework details a range of engagement activities that can support collaborative work between the Probation Service and members of the judiciary within regions. In addition, the framework extends to opportunities for joint working with HMCTS and stakeholder colleagues to enhance service delivery. This document does not seek to replace the Judicial Engagement Charter. It aims to enhance activity in broadening the focus of regional engagement opportunities.

### Regional level

#### Regional Probation Director (RPD) quarterly update

An opportunity for RPDs to provide personalised bulletins to the Judiciary in their region on key local and national issues. Content could include, but is not limited to:

- Developments in regional services, interventions, and management structure
- The Judicial Survey
- Probation Reform
- Supervision of Community Orders
- Requirements: Accredited Programmes, Unpaid Work, RAR interventions, Community Sentence Treatment Requirements, Electronic Monitoring
- Enforcement & Breach
- Prisons
- Feedback from people on probation
- Victim contact services.

**Regional updates / bulletins** can be distributed electronically via the HMPPS Judicial Forum Secretariat.

**Frequency:** Quarterly issue

#### Regional Magistrates Leadership Group (RMLG)

An opportunity for Regional Probation Directors to attend Regional Leadership Magistrate Group meetings to provide information on performance, local news / developments, national strategy, judicial survey, and respond to any regional issues.

**Who attends:** Regional Probation Director / appointed lead representative for court.

**Frequency:** Recommended to take place at least bi-annually.

#### Strategic Sentencer Liaison Forums

An opportunity for strategic focus and overview within regions to enable a range of stakeholders to discuss thematic areas, share information on policy and practice developments, promote effective relationships, and provide information on organisational priorities and performance.

**Meetings** are typically chaired by the Resident Judge and attended by the District Judge, Senior Legal Manager, HMCTS Team Manager, Bench Chairs, Unpaid Work Manager, Interventions Manager, Electronic Monitoring Manager, Deputy Governor, and the Probation Service.

**Who attends:** Court SPO and/or Head of PDU.

**Frequency:** Typically set by the Resident Judge and can take place on a quarterly basis

### Regional Engagement Events

An opportunity to provide members of the judiciary with a focussed and interactive forum that comprises thematic areas, information on local initiatives and services, national developments, practice developments, feedback from people on probation, and promoting information on the experiences and journeys of those subject to supervision.

The aim of raising awareness of what the Probation Service offers both at court stage and sentence management can promote both confidence in and understanding of probation's value. Regional Engagement Events can offer a specifically designed agenda to reflect local needs and interest, whilst offering an ease of feedback and engagement, and the opportunity to build and establish relationships.

**Events** can be held digitally by way of webinars on MS Teams, or physically as appropriate. They can be flexible from one large event for a region and / or smaller groups to reflect local priorities.

**Who attends:** They can be chaired / hosted by a National Court Strategy Group (NCSG) Lead, Head of PDU, and/or Court SPO, and include a range of contributors.

**Frequency:** Dependent on regional / local need in collaboration with members of the judiciary but recommended to take place bi-annually.

### Meetings with HMCTS Head of Legal Operations (HOLO)

This can be a vital link with HMCTS and provide Regional Probation Directors and Regional Court leads with effective collaboration regarding operational strategy, problem-solving, training and development opportunities, agreeing and promoting service developments/pilots, recovery and EDM alignment, and building relationships.

**Who attends:** Regional Probation Directors and / or Regional Court Leads.

**Frequency:** Dependant on regional / local agreement but recommended to take place at least quarterly.

## Local level

### Pre- court Meetings in the magistrates' court

Pre-court meetings can occur before the start of a court session between the legal adviser/court associate, Crown Prosecutor, defence advocates and duty Probation Officer involved in that court session. They are integral to effectively progress the work of the courtroom by helping to

- identify and resolve issues, early on, that may impact on how cases are progressed.
- focus the minds of courts and Stakeholders, speeding up representations and decision making.

See JCS Guidance on the pre-court briefing.

**Who attends:** the duty Probation Officer covering that court session.

**Frequency:** immediately prior to court sessions as decided locally

### **Probation Liaison meetings**

Liaison meetings are of central importance to effective service delivery, strong local relationships with members of the judiciary, and levels of confidence in the Probation Service. Liaison meetings are a means to provide information about the services available in a local area including:

- Quality and timeliness of pre-sentence reports.
- Programmes and requirements available locally as part of a community order, suspended sentence order, or other probation measure, such as bail conditions.
- Information and presentations from EMS on available provision.
- Information about compliance with local programmes, including completion rates, enforcement, sanctions, and breaches; and feedback on unpaid work.
- Local re-offending data.
- The availability of local accommodation provision for those on bail.
- Provision of services for specific groups of defendants such as female or young offenders.

In order to maintain consistency, it is desirable that liaison meetings follow the standardised agenda set out below:

- Apologies and Introductions
- Minutes of last meeting
- Matters Arising
- Action Log
- Sentencer Issues
- Performance Information (PS & HMCTS)
- PS Specific Items
- EMS Specific Items
- AOB
- Date, Time, and Venue of Next Meeting

Content of meetings can also be agreed based on exploring the priorities for members of the judiciary within regions, so that meetings have specific relevance to the needs of judicial colleagues, and that local relationships are strengthened and negotiated.

Notice of meetings must be sent out no less than 14 days before the meeting date and finalised agendas no less than 7 days prior to the meeting. Items of detail and issues to be raised by attendees should be included in the finalised agenda which enables all participants to fully prepare.

**Who attends** – as decided locally.

**Frequency** – as decided locally.

### **Liaison Meetings in the Crown Court**

These are arranged by the Probation Service, typically Court SPO, at the direction of the probation liaison Judge. They are chaired by the Judge and representation is expected from the Probation Service, HMCTS and EMS.

**Who attends:** Court SPO and / or Head of PDU.

**Frequency:** Meetings should be held at least bi-annually.

### **Liaison Meetings in the Magistrates' Court**

The Head of Legal Operations (HOLO) and regional/local PS representative are responsible for arranging the liaison meetings for Judicial Delivery Groups (JDG) between relevant judicial office holders and probation. Representation at these meetings must be from the Probation Service, HMCTS, and EMS. The meetings are attended by the Chair of the Bench / Deputy Chair of the Bench, Probation Service, HMCTS, and EMS.

**Who attends:** Court SPO and / or Head of PDU.

**Frequency:** Meetings are held to coincide with JDG quarterly meetings, or more often as the nominated chair of the JDG deems necessary.

### **Court User Group meetings**

Court Users meetings provide the forum for operational focus on effective delivery of services at court and are typically arranged by the Resident Judge at Crown Court and HMCTS in the magistrates' court. Attendance includes Judge/Magistrate, HMCTS, Probation Service, Police, Prison Service (Deputy Governor), Crown Prosecution Service, defence community, security, and custody manager.

**Who attends:** Court SPO.

**Frequency:** Is set by the judiciary / HMCTS but usually occurs quarterly.

### **Local Criminal Justice Board meetings**

Local Criminal Justice Boards (LCJBs) bring together criminal justice organisations at police force area level to support joint working and improve services. The purpose and vision of the LCJB is to reduce crime, harm, and risk by increasing the efficiency and credibility of the Criminal Justice System.

Meetings are arranged by the Chair of the Boards and attendees include the Police and Crime Commissioner, Police, HMCTS, CPS, The Probation Service, HMPS (Deputy Governor), Youth Offending Service, and Legal Aid representative.

**Who attends:** Head of PDU.

**Frequency:** Quarterly or above.

### **Legal Adviser meetings**

Regular meetings between Probation Service Court SPOs and Senior Legal Advisors / Legal Advisors within magistrates' courts work to align operational priorities, service delivery, and contribute to effective running of courts and local working agreements. These meetings are important in co-ordinating services and can be conducted face to face or virtually (for example via MS Teams).

**Who attends:** Court SPO.

**Frequency:** Recommended to occur weekly or fortnightly

### **Senior Legal Manager meetings**

Meetings with Senior Legal Managers provide an opportunity to promote the work of the Probation Service, collaborate on key developments, and review service delivery.

**Who attends:** Court SPO.

**Frequency:** Recommended to occur regularly, at least twice per year.

### Further engagement routes

A range of further opportunities for liaison and engagement can include:

**Specialist Domestic Violence Court meetings:** Court SPO attendance quarterly with range of stakeholders including HMCTS, CPS, Police, IDVA representation.

**EDM arrangements:** Health & Safety. Court SPO and HMCTS Service Delivery Manager attendance.

**Local communications, briefings, and digital newsletters** to members of the judiciary on local initiatives / specialist services / national developments. Prepared by Court SPOs and approved by Heads of PDUs / NCSG leads.

## Regional and local Training and Visits

### Training

A training offer for members of the judiciary within regions can provide a range of awareness and development activities, including in both community and custody settings.

Liaising with Resident Judges, Bench Chairs, and HMCTS Heads of Legal Operations can provide opportunities to arrange and deliver training that can include new magistrates training, magistrates' continuation training, specific themes or policy and practice developments for magistrates and Judges and contribute to training for legal advisers.

**Content:** Training events can be provided on an agreed theme and be delivered face to face or digitally. They are most effectively supported by training materials / slide packs, with provision for feedback to be provided by participants to enhance future training experiences. Training can be developed in regions to meet specific needs, and products to support this work can also be commissioned centrally via Probation Court Strategy and Change Team, and then localised to meet regional need.

**Who attends:** With oversight by NCSG Leads and PDU Heads, Probation regions have the flexibility to consider who is best placed to deliver any training package. The local needs of the judiciary and HMCTS colleagues can also be explored via existing liaison and engagement meetings.

**Frequency:** Will be dependent on the needs or requirements of members of the judiciary and HMCTS within regions.

### Visits

Site visiting opportunities and shadowing can offer a valuable first-hand experience of a range probation and prison contexts and support members of the judiciary with direct insight and awareness of how the sentences and requirements of court are delivered. Examples can include

visits to probation offices, local prisons, unpaid work placements, or Electronic Monitoring provision.

Magistrates' requests should be made through the Head of Legal Operations for the TAAACs (Magistrates Training Committees). Resident Judges can make requests on behalf of Judges. Arrangements can be facilitated via PDU Heads with assistance from SPOs, prison governors, relevant interventions managers, or the Electronic Monitoring Service. Probation Regions are most effectively placed to understand the local interests of Judges and Magistrates and make provision accordingly.

**Frequency:** Will be dependent on the needs, requirements, and ability of members of the judiciary to attend within regions.

## Judicial Survey

The annual Judicial Survey is now an established mechanism to engage and invite the views of judicial colleagues on services provided by the Probation Service. The level of responses received to the survey can now be considered as statistically representative of the views of the judiciary. The survey covers themes including:

- Advice to court
- Enforcement and Breach
- Communication
- Experience of Probation

It also offers the facility for feedback and opinion on quality of services, satisfaction levels, observations on areas to improve, and differences in needs and preferences between Magistrates' and Crown Courts.

The survey offers regions an ability to understand the experiences of the judiciary, both nationally and regionally, and so can be used as vital resource in developing services, communications, relationships, and engagement strategy with stakeholders. Promoting survey involvement with the judiciary, and presenting and discussing findings can assist meaningful engagement, and be utilised as a central theme within overall liaison activity.

## Perspective of those on probation

Promoting the perspective of individuals on probation is vital in understanding how services are best delivered and improved. It also offers real-world examples of the progress and achievements of the men and women sentenced at court and can offer members of the judiciary with effective insight into the journeys of those following sentence. It is recommended that the experience of people on probation acts as a thread through engagement activity with the judiciary. As such, consideration within events, training activity, and site visits in incorporating this voice will add significant value to overall engagement and promoting probation's purpose.

## Assurance of engagement activity

Providing assurance and tracking of engagement activity within regions is now possible through the **Regional Engagement Tracker**. It is accessible via Court Managers – National MS Teams under Judicial and Stakeholder Liaison and broken down by types of activity, who attends, frequency, key themes, materials used and feedback. Each region can enter the specific activities that take place between the Probation Service and judicial and HMCTS colleagues. Benefits include:

Comprehensive monitoring, reporting and measurement of liaison with members of the judiciary.

Regular oversight of activity by the National Court Strategy Group (NCSG) and Judicial Forum

An open and transparent tracking system

- Providing Regional oversight of the range of activities
- Local tracking of local activity

The tracker is available for regions to decide who is responsible to update it. NCSG has oversight to ensure minimal engagement is taking place in accordance with the Judicial Engagement charter.

## **Annex 4 - Liaison between the judiciary and Probation Service**

### **GUIDANCE ISSUED BY THE SENIOR PRESIDING JUDGE**

#### **Introduction**

This guidance replaces the guidance issued in November 2016. This version has been agreed between the Senior Presiding Judge and the Ministry of Justice.

Sentencing is and will remain a judicial function. However, local and national meetings between sentencers and all providers of probation services provide an effective way of establishing and maintaining confidence of judicial office holders by discussing practical issues arising from the demand and supply of probation services and by exchange of knowledge, views and experience of what is productive and practical in helping to reduce crime.

#### **Commencement and Amendment**

The guidance will take effect from **23<sup>rd</sup> July 2018** and may be amended as appropriate by the Senior Presiding Judge.

The guidance will be reviewed on an annual basis, or when matters arise which require an interim update. The annual, or any interim review, will be carried out by MOJ Policy lead and the office of the Senior Presiding Judge.

#### **Scope**

This guidance applies to all Crown Courts and Magistrates' Courts. This document sets out guidance for local liaison between judicial office holders and the providers of probation services, as regards probation services which support and deliver court decisions, to ensure best delivery of probation services in general and not specifically in relation to individual cases.

#### **National Liaison**

Liaison at national level between judicial office holders and providers of probation services will continue to take place through established meetings, including the National Improvement Team.

The National Probation Sentencer Forum (NPSF) will provide a forum for discussion of probation issues at national level.

#### **Local Liaison**

The National Probation Service (NPS) will facilitate liaison between judicial office holders and providers of probation and Electronic Monitoring (EMS) services in existing multi-agency meetings and other ad hoc meetings as required. Probation Providers will provide judicial office holders with information about the services available in their local area including:

- Quality and timeliness of pre-sentence reports;

- Programmes and requirements available locally as part of a community order, suspended sentence order, Post sentence supervision requirements or other probation measure, such as bail conditions;
- Information and presentations from local Community Rehabilitation Companies and EMS on available provision;
- Information about compliance with local programmes, including completion rates, enforcement, sanctions and breaches; and feedback on unpaid work;
- Local re-offending data;
- The availability of local accommodation provision for those on bail;
- Provision of services for specific groups of offenders such as female or young offenders.

Consistency of liaison and provision of information throughout all court areas is desirable. A standardised agenda is provided in [Annex B](#).

Judicial officers may request an opportunity to observe probation and prison work in the local area. Magistrates' requests should be made through the Head of Legal Operations for the TAAACs (Magistrates Training Committees). NPS & CRCs should endeavour to meet any such reasonable requests at an appropriate time and place. This could also include visits to the EMS monitoring centre in Manchester and opportunities to observe the work of the Field Monitoring Officers during field visits.

### **Arrangement for Local Meetings**

#### **In the Crown Court**

The NPS will arrange the liaison meetings in the Crown Court at the direction of the probation liaison Judge. Representation is expected from NPS, HMCTS, CRC & EMS. Meetings should be held at least 6 monthly, or more often as the probation liaison judge deems necessary.

#### **In the Magistrates' Court**

The Head of Legal Operations (HOLo) and regional/local NPS representative are responsible for arranging the liaison meetings for Judicial Delivery Groups (JDG) between relevant judicial office holders and probation providers. Representation at these meetings must be from NPS, HMCTS, CRC & EMS. Meetings should be held to coincide with JDG quarterly meetings, or more often as the nominated chair of the JDG deems necessary.

### **Lack of Probation Services Resources Service**

Any issue concerning the availability of programmes or requirements must be notified to the relevant judicial office holders and HOLo by the NPS or CRC.

### **Problem Resolution**

#### **In the Magistrates' Court**

The JDG affected will seek resolution of any local issue with local NPS and CRC or EMS representatives as appropriate. The JDG will report the issue and outcome of discussions to the JBG, and in any event, will notify the Judicial Business Group (JBG) if the issue has regional implications. The HOLo will report the issue to the local Service Integration Group (SIG). If the issue cannot be resolved or has national implications, then the matter should be referred to the Magistrates' Liaison Group (MLG) or the Judicial Oversight Group (JOG) as appropriate.

## **In the Crown Court**

The Crown Court probation liaison Judge will seek resolution of any local issue with local NPS and CRC or EMS representatives as appropriate. The Crown Court probation liaison Judge will report the issue and outcome of discussions to the Resident Judge, and in any event, will notify the issue to the Presiding Judges if the issue has regional implications. If the issue cannot be resolved or has national implications, then the Presiding Judges will notify the Senior Presiding Judge. 15. Where problems cannot be resolved locally, the NPS representative will notify the Director of Probation responsible for Courts who will inform the Director of Probation, the CEO or nominated representative of the CRC or EMS as appropriate and the NPS representative on the National Improvement Team for that group to provide cross agency consideration.

## **Senior Presiding Judge for England and Wales**

**2018**

### **Annexe B**

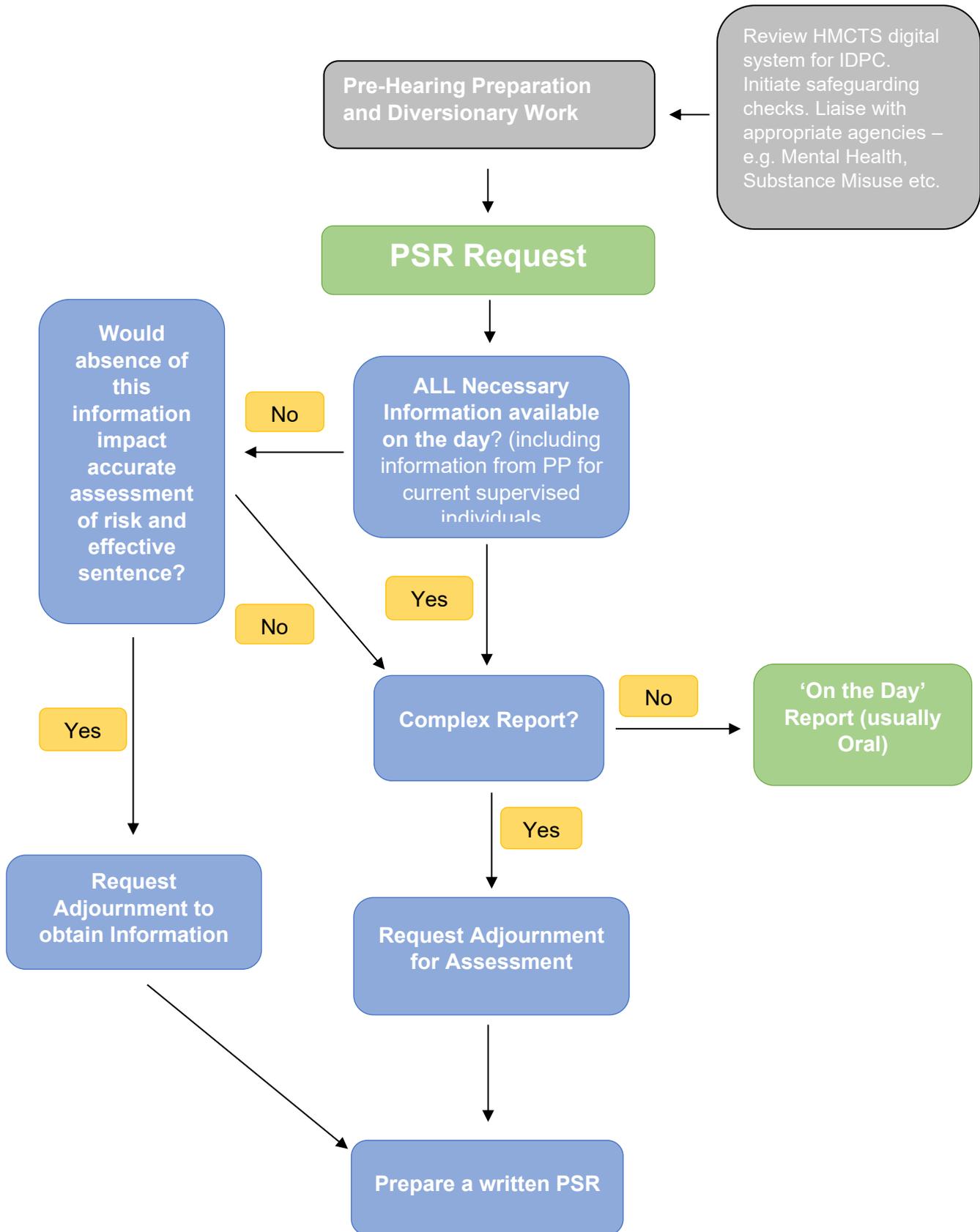
1. In order to maintain consistency, it is desirable that liaison meetings follow the standardised agenda set out below.
2. Notice of meetings must be sent out no less than 14 days before the meeting date and finalised agendas no less than 7 days prior to the meeting. Items of detail and issues to be raised by attendees should be included in the finalised agenda which enables all participants to fully prepare.
3. The differing types of information to be provided at the meeting can be found in paragraph 8 of the protocol. The degree of granularity or detail required is not prescribed however it should be of sufficient quality to satisfy the purpose of the liaison meeting.

### **Sentencer and Probation Providers Liaison Meeting**

#### Agenda

1. Apologies and Introductions
2. Minutes of last meeting
3. Matters Arising
4. Action Log
5. Sentencer Issues
6. Performance Information (NPS, CRC, HMCTS)
7. NPS Specific Items
8. CRC Specific Items
9. EMS Specific Items
10. AOB
11. Date, Time and Venue of Next Meeting

## Annex 5 – Determining pre-sentence report format



## Annex 6 - Complexity

Category	Potential Areas of Complexity	Comments
<b>Multiple considerations</b>	Involvement of Multiple Agencies inc. MAPPA	<b>Where time is needed</b> to liaise with other agencies, hold professional discussions, to complete assessment, and to write complex report.
	Layering of Issues	<b>Where time is needed</b> to consider and assess a range of factors influencing RoSH, an example could be a high-risk domestic abuse case with mental health issues. In such circumstances more time could be needed to inform a report for safe sentencing.
<b>Individual Characteristics of Offender</b>  <b>Note:</b>  It is useful to consider protected characteristics and links to assessment  Areas suggested here are examples but not by definition exhaustive	Mental Health	<b>Where time is needed</b> to fully consider Mental Health and any links to RoSH and reoffending. Possible scenarios could involve non-co-operation with treatment, lack of services involved, symptoms or difficulties not presented before, or involvement of multiple agencies.
	Experience of trauma	<b>Where time is needed</b> to fully consider the impact of traumatic experience and how that relates to risk and proposals for interventions. Experience of trauma can affect all offenders, although it is more likely to require significant investigation in <b>female offenders</b> due to a proportionally higher level of occurrence.
	Transgender	<b>Time is needed</b> to fully consider experiences, and any emotional and psychological issues that may be present and linked to RoSH and re-offending,  <b>PI 2016/16 states:</b> <ul style="list-style-type: none"> <li>An adjournment should be considered in all cases in order to prepare the PSR.</li> </ul>

		<ul style="list-style-type: none"> <li>• “An adjournment is an opportunity to propose a sentence to the court that takes account of the offender’s transgender status.”</li> <li>• “Where a custodial sentence is likely, PSR writers must attempt to convene a pre-sentence local Transgender Case Board to agree initial prison location and initiate a care and management plan.”</li> </ul>
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Category	Potential Areas of Complexity	Comments
Cont’d	Those with Primary / Main Caring Responsibilities	<p>For those at risk of custody and who are primary / main carers with responsibilities for children / dependents, <b>an adjournment is considered mandatory to ensure that:</b></p> <ul style="list-style-type: none"> <li>• <b>The impact</b> of a custodial sentence on dependents is considered</li> <li>• <b>Care plans are developed and in place</b> with Children’s Services or Adult Safeguarding Services.</li> </ul>
	Where children are a factor	<p><b>Safeguarding Children: Our “full part” in safeguarding children and promoting their welfare, NPS guidance 2015 states:</b></p>

		<p>“If an offender has caring responsibility for a child, or has regular contact with a child, a system needs to be in place to check whether the child/ren is known to Children Services. Separately, check if the Police are aware of any domestic abuse concerns in the household. Any relevant information must form part of the overall assessment of the offender and his/her circumstances, including details of previous involvement if a case is closed.</p> <p>When checks are not completed in time for Court reports, a clear note to that effect must be recorded in the report and NDelius (case management system). It must be followed up immediately if the offender is given a form of probation supervision.”</p> <p><b>Also see reference to HMIP standards on pg. 6</b></p>
<b>Offence-related</b>	Pattern of Offending	<p><b>Where time is needed</b> to assess a pattern of recidivism linked to RoSH. An example could be a pattern of domestic abuse, serious violence, or sexual offending. It could include offences involving serious organised crime.</p>
<b>Immediate concerns</b>	Safeguarding	<p><b>Where time is needed</b> to further assess any current safeguarding concerns.</p>