

National Outcomes and Standards for Social Work Services in the Criminal Justice System

CRIMINAL JUSTICE SOCIAL WORK REPORTS and COURT- BASED SERVICES PRACTICE GUIDANCE

2010

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1. Introduction

The purpose of the Criminal Justice Social Work Report (CJSWR) is to assist in the sentencing process and to complement the range of other information available to Sentencers (for example, victim information and narrative from the PF). In particular, the CJSWR provides information on social work interventions and how these may impact upon offending behaviour.

This practice guidance is primarily directed towards report writers and their managers. It provides practical direction on how to complete a CJSWR for court. It should be regarded as a living document, subject to change in relation to future legislative and policy developments. This guidance should be read in conjunction with Section 4 (Assessment and Reports) of National Outcomes and Standards.

The practice guidance reflects a change in style of report writing, to a briefer, focused and more concise report. As a broad guide, the length of the report should be determined by factors such as:- inclusion of information with a relevance to offending behaviour, risks and needs, with due concern for public safety. A more detailed report is likely to be indicated (and may require a further period of deferment) where one or all of the following apply:-

- The case is being dealt with on solemn procedure
- Risk of re-offending is high and/or risk of serious harm is identified
- The complexity associated with risks and needs is such that it is likely to require an high frequency of contact

Cases of sexual offending and/or domestic abuse are examples of where these factors may be evident.

2. Legal Framework

The term “Criminal Justice Social Work Report” does not exist in law but is used to describe reports which local authority workers prepare and submit to courts in carrying out their duties under section 27 (1) (a) Social Work (Scotland) Act 1968.

[*\(Social Work \(Scotland\) Act 1968 \(c. 49\) - Statute Law Database\)*](#)

The Criminal Procedure (Scotland) Act 1995 outlines the circumstances under which the court is empowered to adjourn a case before sentence; “for the purpose of enabling enquiries to be made or of determining the most suitable method of dealing with a case.”

This Act sets out the circumstances whereby a court must obtain and consider a report from a local authority officer. In all circumstances the court has the power to adjourn a case before sentencing to enable enquires to be made or to determine the most suitable method of dealing with the case. An adjournment will not usually be for more than 4 weeks, although in certain circumstances it can be for up to 8 weeks.

The following list reflects the circumstances under which the court is required and/or may choose to obtain a report:-

When the offender is a person specified in section 27(1)(b)(i) to (vi) of the Social Work (Scotland) Act 1968, which includes a person who is:

- Under the supervision of a court
- Under supervision or subject to a community service order following release from prison or detention
- Subject to a community service order or a probation order which includes an unpaid work requirement
- Subject to a supervised release order
- Subject to a community reparation order
- Under 16 years of age and subject to a restriction of liberty order
- Aged 16 or 17 years and subject to a supervision requirement

When the court is:

- Passing an extended sentence
- Making a supervised release order
- Making a probation order
- Making a drug treatment and testing order
- Making a community service order
- Considering a custodial sentence for those aged between 16 and 21 years of age
- Considering a custodial sentence for those aged over 21 years of age who have not previously been sentenced to imprisonment or detention in the UK

Where a child is brought before the court, a report must be obtained on the home surroundings of the child and the education authority must supply information on the school record, health and character of the child.

The Community Pay-Back Order (CPO) will replace probation orders, community service orders and supervised attendance orders for offences committed after 1 February 2011. It will be a requirement in certain circumstances that a local authority officer's report be taken into account before a CPO is imposed. CPOs were introduced by section 14 of the Criminal Justice and Licensing (Scotland) Act 2010 which amended the Criminal Procedure (Scotland) Act 1995 by inserting new sections 227A-227N. These sections set out the new legislative framework for CPOs.

<http://www.legislation.gov.uk/asp/2010/13/contents/enacted>

Report writers should be aware that offences committed before the commencement date for the CPO will be subject to the previous provisions of the Criminal Procedure (Scotland) Act 1995.

Under the terms of the Data Protection Act 1998 there are certain circumstances which allow the sharing of personal data.

Local authority staff should have regard to their authority's data protection policies and procedures.

3. Data Protection and Information Gathering

3.1. Confidentiality

The sharing and handling of information about individuals takes place within the framework of the Data Protection Act 1998, the Human Rights Act 1998, the European Convention on Human Rights and the common law on confidentiality and privacy. The report writer should be aware of his/her legal obligations and have regard to any relevant guidance. This section provides a general outline of the issues which a report writer must take into consideration in producing a report. This is a complex area and if in doubt, the report writer should seek advice. There are 8 data protection principles which should be taken into account while ensuring that the processing of the CJSWR is fair and lawful.

The UK Information Commissioner has considerable guidance on all aspects of data protection and can be accessed at this link:

[\(\[http://www.ico.gov.uk/for_organisations/data_protection_guide.aspx\]\(http://www.ico.gov.uk/for_organisations/data_protection_guide.aspx\).\)](http://www.ico.gov.uk/for_organisations/data_protection_guide.aspx)

Your local Data Protection Officer should be able to provide you with advice and guidance if you have specific queries.

The report writer is making enquiries on behalf of the court. The subject of the report and any other person who provides information to the report writer should be clear that there are limits to confidentiality. Information contained within the report may be made public during a court hearing and there is the potential for local and sometimes national media to be present in the court. The report writer should make the subject of the report aware that copies of the report will be passed to the Sentencer, Procurator Fiscal and to his/her Defence Agent. At a later stage, where the outcome is a custodial sentence, the report will usually be passed to the Scottish Prison Service by the Scottish Court Service. The reasons for this as part of the court process should be explained to the subject of the report.

There are also limits to confidentiality in relation to certain types of information. For example if the individual, in the course of an interview, discloses information which places children, vulnerable adults or members of the public at immediate risk, then this information will be shared in line with local procedures with the aim of safeguarding children and the public.

3.2. Refusal to comply with report compilation

Where an individual refuses to provide information in order to allow the report to be compiled, there are two possible options:-

- Provide a letter to the court, outlining why a report is not available
- Compile a brief report based on contact details and other relevant information (where this is available), explaining that the individual refused to co-operate and the possible reasons

It will be possible to compile a fuller report under these circumstances **only** where there has been recent contact and the individual is well known to the writer, as the report requires to be based on a risk assessment and other current information.

3.3. Consent to share information

The CJSWR and information contained within it may be shared with relevant others without the consent of the subject of the report (for example at pre-sentence stage with the Procurators Fiscal and defence agents.) The sharing of this information must be fair and lawful. Report writers should make it clear to individuals and others providing information that the report may be used for the purpose of working with the subject of the report in order to address their offending behaviour.

The report should be retained securely in line with local authority policy and procedures on the basis that the report is used at a later stage for the purpose of rehabilitation and reducing re-offending.

Both the sharing and retention of a CJSWR and the information contained in it must again be compliant with the Data Protection Act 1998 and the Human Rights Act 1998 and the common law on confidentiality and privacy. Report writers should have regard to local guidance on these matters.

3.4. Managing highly sensitive information

Information may become available from the subject of the report or from other sources which is highly sensitive in nature. An assessment needs to be made as to whether this information requires to be conveyed to the court. To assist with this decision, the author of the report needs to consider, to what extent the sensitive information links to current or previous patterns of offending and may be critical for the Sentencer to take into account. The inclusion of this information must be proportionate to the aims of the report. For example, a

history of physical and/or sexual abuse from a person's childhood may have a bearing on their current attitudes and behaviour. The report writer may also wish to consider what the implications might be of omitting this information from the report. For instance, would it change the context or have the potential to influence the outcome of the sentence?

The report **must** contain only information which can be shared with the subject of the report. There is no scope to restrict sections of the report from that individual.

3.5. Managing third party information

A report will include personal data about the subject of the report, but may also contain personal data about other people, such as the victim or the subject's family and friends. Personal data includes any information from which an individual can be identified. A person may be identified even though their name is not specified. A report writer must be aware that they have duties and obligations, under the Data Protection Act 1998 and otherwise, to any person whose personal data they are dealing with.

It is essential that where possible information from the individual is verified from a reliable source other than a self report by the individual him/herself. The court is more likely to attach more weight to it and it could prove critical to a sentencing decision. This is where a third party contact would play an important part in compiling the report. An example of a third party contact is: a family member, an employer, medical practitioner, voluntary sector agency, department of work & pensions etc. The individual's view will be taken into account, however, where a third party contact is deemed essential and the individual objects then the report writer should discuss in detail with their line manager. Appropriate advice must be sought if the report writer has any concerns regarding compliance with the Data Protection Act or any other legal obligations.

In cases of domestic abuse, report writers should, with the consent of the victim, interview the victim to establish how the current offence may or may not fit into a pattern of abusive behaviour. (This interview should always be conducted separately from the individual and the victim guaranteed confidentiality). If a separate Caledonian System assessment is being carried out it is not necessary or appropriate for the report writer to make a separate visit. They can rely on the programme assessor to undertake the partner visit. Where local arrangements are in place to enable this, the police should be contacted in order to establish whether there have been any call-outs to the house alleging abuse; or call-outs to other households where the individual has previously lived. Information should also be sought from social work records to establish whether there is a history of abuse to this or former partners.

Considerations of the victim's safety are paramount and in most cases including information about previous abuse obtained only from the victim without verification is likely to increase the risk to her/him. If the report writer

decides in specific circumstances, (where there is no alternative) to use unverified information from the victim in the interests of conveying the seriousness of the offence, or its context, a full risk assessment needs to be undertaken and the decision and its safety implications discussed with her/him. When such information is not included in the report in the interest of victim safety, this decision should be discussed with line managers and the information recorded in restricted access files.

Where possible, report writers should interview women with either a female worker, Woman's Aid or where relevant a Caledonian woman's worker present. Information from the woman should not be disclosed to the subject of the report. Advice can be offered to women on safety planning.

<http://www.scotland.gov.uk/Resource/Doc/1032/0099922.pdf>

Reports can state that there is evidence of low risk of re-offending, where all of the following factors are present:

- individuals are claiming the offence to be a one-off event;
- where partner and/or police information confirms that this is the first incident of violence;
- where the level of psychological and physical harm appears to be low (e.g. the offending did not result in emotional trauma or injuries that required medical attention); and
- that there is no concerning pattern of background behaviour (e.g., psychological abuse, sexual jealousy, stalking).

3.6. Protecting the confidentiality of third parties

If third parties wish to protect the confidentiality of the information which they provide, then they should be invited to write to the court explaining why. They can be given no guarantee that information they provide will not be made public and they should be told that it will have to be shared with the Sentencer, Procurator Fiscal and Defence Agent. If third parties do not wish to make information available to the court, then report writers should note this in the report. However, third parties also need to be aware that the content of the report may be referred to in open court and possibly reported on by the media as outlined in section 3.1. It needs to be made clear whether the third party is providing information about themselves or the subject of the report. It is clearly preferable to get the consent of both the provider of the information and subject of the information to its disclosure, but is not essential. Obligations are owed to both data subjects and third parties (section 3.3).

3.7. Managing medical information

The principle that medical information is normally provided only with the patient's consent applies equally to offenders. There are, however, circumstances where it is necessary for doctors to disclose information without consent:

- when it is in the public interest to do so

- where disclosure is necessary to prevent serious damage to health of a third party; and
- where disclosure is in the best interests of the patient.

In the course of completing a report, it may be critical to the context of the report to make further enquiries about a person's physical or mental health. A medical mandate should be completed in order to get the individual's informed consent so that medical information can be accessed (see Annex B). The Court-Based Worker (CBW) will be well placed to complete this mandate with the individual, otherwise the author of the report can do so. Discretion needs to be exercised here as this information will not be required in every case. Where the individual refuses to give consent, then it should be made clear in the report that it was not possible to access this information.

Whilst NHS guidance on protecting patient confidentiality is available, this is currently being revised and a new code is anticipated in 2011.

(http://www.elib.scot.nhs.uk/SharedSpace/ig/Uploads/2008/Oct/20081002150659_6074NHSCode.pdf)

3.8. Interviewing the subject of the report

Interviewing the individual and, where appropriate, members of his/her family is critical to the information gathering process, in order to make an assessment and prepare a report. Key areas for investigation include:

- an analysis of the individual's offending behaviour;
- assessing the risk of re-offending/risk of harm which will have an impact on public safety;
- an analysis of the individual's personal and social circumstances;
- the context of his/her offending behaviour ;
- identifying offending and non-offending related needs;
- identifying protective factors as well as risk factors;
- the individual's response to previous community disposals; and
- feasibility of a community disposal

The individual should be given a leaflet explaining the purpose of the report before the first interview. The leaflet should set out the responsibilities of the report writer and the responsibilities and rights of the individual. It should also explain the limits to confidentiality and deal with any practical issues. At the first interview, it is important to check that the individual understands the purpose of providing a report and why certain questions will be asked e.g. reasons for offending or information relating to substance misuse problems.

4. Roles and Responsibilities

The Scottish Government has published guidance on the role of the registered Social Worker in statutory interventions. This guidance acknowledged the importance of developing public confidence that the accountability for statutory interventions rests with a registered social worker who retained accountability for:

- provision of CJSWRS and other reports to courts which could have an impact on an individual's liberty;
- provision of all reports to the Victims, Witnesses, Parole and Life Sentence division of Government as they could impact on public safety and/or on an individual's liberty;
(<http://www.scotland.gov.uk/Publications/2010/03/05091627/0>)

4.1. Role of the Court-based worker

The Criminal Justice Social Work Service staff in court provide a critical social work function within the court setting. They are often the first point of contact with the Criminal Justice Social Work Service for many individuals and their families and must be appropriately trained in order to deal with the demands from busy courts and the varied needs associated with the people whom they assist. In practice, some staff will be qualified social workers, while others will have other relevant qualifications.

(www.scotland.gov.uk/publications/2010/03/05091627/2)

The Court-Based Worker (CBW) needs to operate in a pro-active way by providing information as required to Sentencers but also offering advice where this may assist. For example, if a Sentencer requests a report to be delivered in 3 weeks' time but the CBW is aware that this information could be ascertained prior to the end of the court business on the same day, the CBW could offer to provide the information by the end of the day.

Other innovative ways of providing a pro-active service to Sentencers could also be employed. For example, the CBW or criminal justice assistant may prepare the court sheets on a daily basis and include in them information about when the last report was prepared or due to be completed. This can then be used to inform the Sentencers whether there is a need for full reports or not.

The ability to work well within a multi-professional setting is important to the liaison and partnership approach required in order to deliver this service effectively. It is recognised that not every court or court hearing will have the services of a CBW each day. This makes the role even more challenging. However, although there is no legal requirement for a CBW to be in court, arrangements for attendance should be agreed with courts to ensure that

cover is available at critical times, and/or that staff can be on call from a local office and make themselves available to the court as required.

There are a range of tasks associated with providing information and advice to the court, as well as a through-care service to individuals and their families at the point when a custodial sentence is made. These include:

- providing information for Sentencers including same day oral/written reports for court;
- interviewing individuals immediately after the court has asked for a report and completing the medical mandate where significant medical issues have been highlighted (and as time permits - this activity may need to be prioritised)
- interviewing individuals/accused persons immediately after the court has passed a custodial sentence or remand;
- forwarding relevant information to the receiving prison in the event of a custodial sentence including details on persons who may pose a risk of harm to themselves and/or others;
- representing the local authority CJSW service in the court setting, including where appropriate court users' groups and liaising with other professional groups; and
- helping to divert persons suffering from a mental disorder who may be at a risk to themselves from a custodial remand, to either hospital (in conjunction with local medical, forensic and psychiatric services) or appropriate bail accommodation, where available, for assessment. Click below for a link to the Criminal Procedure (Scotland) Act 1995, section 200:

<http://www.legislation.gov.uk/ukpga/1995/46/section/200>

4.2. Dealing with requests for reports, making them available and speaking to them in court

The court-based worker assists with the following process:

- Arrangements are in place in many courts to allow for the immediate electronic transmission of requests for reports via the Court Clerk's office to the local CJSW office (or court team) by secure mailbox. This request should be accompanied by the information as outlined at section 9.1 within one working day. Other local arrangements may apply where electronic transmission is unavailable.
- Where any requests highlight a current address relevant to another local authority area, this should be forwarded electronically immediately to their secure mailbox no later than within one working day of receipt. On completion of the report, the "outside" area should forward the report to the CJSW office local to the court (or to the court team where appropriate) who will collate all reports due for court in their area.

- The court will receive reports electronically from the appropriate CJSW Service or court team (local to the court), no later than midday on the day before the court hearing. In many areas it will be administrative staff who assist with this function rather than the CBW, however the latter ensures that the timescales are adhered to and can explain clearly to Sentencers when reports are not available as requested. Where possible the reports should be transmitted to court as soon as they are completed in order to maximise the time available for Sentencers to read them.
- The CBW will speak to reports in court when required. It is not practical or cost effective for report writers to be present in court to speak to their reports, other than in exceptional circumstances or where the Sentencer requests that they do so. The CBW therefore needs to liaise closely with report writers under these circumstances.
- The CBW may be required to clarify issues raised in reports. If necessary, they should contact the author of the report to clarify the issue, follow-up any query raised by the court and feed-back any comments made by the Bench within one working day.
- The CBW must advise CJSWS managers of any relevant positive or negative comments made by the Sentencer in relation to reports or other aspects of the service. This may be done by telephone, email or transmission of a pro-forma containing this information. The CBW may seek assistance with this task from administrative staff.

4.3. Information for Sentencers/ Same day Reports (Oral or written)

Court-based staff are best placed to respond to requests for information and/or provide oral or written reports to the court in accordance with the standards outlined at section 5. Where required the information provided orally in court can be passed later in writing to the Sentencer on the national report template.

The court based worker will be required to interview the individual and/or family and make any relevant enquiries in line with the request by the Sentencer.

4.4. Interviewing individuals immediately after the court has requested a report

Court based workers must, wherever possible, interview all individuals (before they leave the court), where a CJSWR has been requested, in order to:

- make sure the individual understands the court's decision and its implications;
- confirm the individual's address, telephone number (including mobile where appropriate) and availability for interview;

- give the individual the address and telephone number of the CJSW office to which he/she should report for interview – in some areas it may be possible for the CBW to provide details of the first appointment; and
- provide the individual with an information leaflet on the purpose of the report for court.

4.5. Interviews immediately after the court has remanded the individual in custody or passed a custodial sentence

The volume of cases in some courts may mean that it is impossible to interview every individual remanded or sentenced to custody. The following priorities for interview must be taken into account:

- Young people under 18 years who are not accompanied by a social worker
- Those likely to be a risk to themselves or others
- Those for whom custody is likely to be particularly distressing or persons facing their first experience of custody
- Individuals receiving a life sentence/order for lifelong restriction
- Individuals convicted of offences against children
- Women offenders
- Single parents
- Individuals who are known to carry a serious infectious disease

A custodial remand or sentence may be distressing for the person concerned. In addition, they may have no time to deal with practical matters which require attention. It is therefore important to offer an immediate interview which aims to:

- clarify if necessary the decision of the court;
- establish if any pressing problems should be dealt with immediately – e.g. child-care arrangements or prescribed drug requirements etc;
- advise the individual of the voluntary through-care service (in the case of a short-term prison sentence) and how this works; and
- inform the individual/accused person about the prison-based social work service and how this can be accessed.

The CBW should therefore, where possible, provide the individual with the opportunity of a post-sentence interview prior to being transferred to prison. They must make the necessary arrangements with the court and/or custody staff in order to gain access to the prisoner prior to their departure into custody.

Following the interview, the CBW should inform family members of the court decision, particularly where custody had not been anticipated and where prompt action may be required. It may also be relevant to contact the appropriate social work service.

4.6. Persons at risk of self-harm

The CBW may become aware of information that a person is at risk of self-harm. This information may be from a health official, social worker, the procurator fiscal or other criminal justice staff. The information may also be assessed and ascertained in the course of a post-sentence interview. The CBW must follow the following process:

- Interview the individual following the court decision to sentence/remand in custody in order to assess for the potential that they may pose a risk to themselves.
- Ascertain as far as possible the nature of the concerns and possible causes – for instance this may relate to substance use, relationship difficulties, mental health problems or likely difficulties in coping with a custodial setting. The more detail, the better able the receiving institution will be placed to deal with the person.
- After concluding the interview, the risk of self-harm pro-forma (see Annex C) **must** be completed with as much narrative as possible and liaison with the person who originally registered the concern or other appropriate third parties who may be able to provide other supporting evidence.
- The completed pro-forma should then be passed (in a sealed envelope, highlighting on the front that it contains the pro-forma) to the officer responsible for prisoner escorting or to appropriate court staff. Ideally, this envelope should be placed with the Personal Escort Record (PER) (see Annex E). The PER has a range of information on the prisoner including the warrant, which on arrival at the appropriate institution will be passed by the prisoner escorting officer to the admissions staff. This will ensure that as full an assessment on the person as possible is available on admission.
- In addition, the CBW should contact the prison by telephone, fax or secure email - this may include admissions/health-centre/Governor in order to provide advance notice of the arrival of the person who potentially is a risk to themselves.
- Where a prisoner has been transferred to prison before enquiries were concluded, then concerns should be conveyed **immediately** to the prison by contacting the duty manager and emailing securely (or faxing where appropriate) the pro-forma and any relevant papers which will assist with the assessment of risk on arrival at the prison.
- It is the responsibility of prison staff to pass on information they have received from the CBW to the prison-based social worker (PBSW) (where appropriate) in order that they can contribute to the service response.
- It is possible that the CBW could make contact with the wrong prison where plans are not clear about which institution the prisoner will be accommodated in. In these circumstances, it is the responsibility of the SPS, through the duty manager, to find out where the prisoner has been accommodated and pass on the information immediately.

4.7. Interviews immediately following court disposals involving the criminal justice social work service

Court based workers should interview all individuals following any community disposal involving the CJSW service.

The purpose behind these interviews is:

- Checking the individual understands the decision of the court
- Checking the individual's current address and availability for contact
- Providing the first appointment at court where a disposal involving CJSWS has been imposed (see Annex F for tear off slip)
- Reinforcing the importance attached to the requirements of an order

Any immediate concerns or unusual reactions which were noted during the court hearing or following the court appearance must be passed onto the supervising case manager

4.8. Diverting persons suffering from a mental disorder

In this area of work it is vital to establish good liaison processes and procedures with local mental health services and to draw on the skills of staff qualified as designated mental health officers. An interview with an individual may be required at the request of the Procurator Fiscal who may have concerns about the mental health of an individual (perhaps due to agitated behaviour while in the cells) and who may wish to bring options involving diversion from remand/sentence to the Sentencer's attention. This will involve liaison with Forensic Services (where available), Community Psychiatric Nurses, police surgeon and other staff in order to assess and check the mental health history and ascertain whether the person may more appropriately be remanded in a hospital setting. It may be in these circumstances that a full bail information/supervision assessment is required.

4.9. Court-based social work assistance

There are a number of other tasks which CBW may provide associated with offering a social work service to a wide range of people. The services include:

- Providing information and advice to families and friends of individuals who have been sentenced. They frequently attend court and are often under stress as well as being distressed by the outcome of court proceedings. CBW should try to be as accessible as possible and responsive to their needs. There will be limitations to the work which can be undertaken by the CBW. However, they can refer people onto the most appropriate agency which is more able to address their issues.
- The provision of information and advice to witnesses and/or victims where no victim service is available. Referrals can be made to victim services as appropriate.

- CBW may be in a good position to identify particular problems faced by individuals and their families but are less able to provide a crisis intervention service. However, they can refer individuals and their families onto appropriate services e.g. alcohol counselling, housing services, financial management services etc.

5. Key Features of the Criminal Justice Social Work Report

The CJSWR is a professional assessment and a registered social worker must retain accountability for the provision of CJSWRS and other reports to court which could have an impact on an individual's liberty. Supported by appropriate training on report writing, there are a number of working principles to bear in mind when writing a report, which are explained in more detail throughout the guidance. Key features of the CJSWR include:-

- The report should assist the sentencing process and provide information on risk of re-offending, risk of harm, offending related needs and suitable interventions.
- Consideration should also be given to non-offending related needs, personal and social circumstances and the relationship with sentencing options.
- Risk assessment and offence analysis are closely related and will assist when assessing the feasibility of community disposals.
- The assessment of community disposals should be addressed alongside the impact of disposals on the individual and his/her family, including any children.
- The report identifies issues relating to public safety.
- Staff safety is a critical consideration at each stage of the report compilation.
- The report is confidential, but there are limits to confidentiality as detailed at section 3.1.
- There is potential for information contained within the report to come into the public domain, due to the presence of the press in court. Any information relating to child and/or adult protection requires to be managed in a sensitive and expedient manner, following locally agreed procedures.
- All reports must be presented on the nationally agreed reporting template, delivered timeously, accurately and transmitted by the most efficient and secure method. This includes CJSWR, Supplementary reports, Same Day Reports (verbal/written).
- Engagement with the individual is critical and the assessment should be participative, including with the family and any children where appropriate. The individual should understand the purpose of the report and have access to it.

- The report is objective and should take account of diversity issues, including religion, race, disability, gender or sexual orientation.
- The report should be written in a style which avoids the use of jargon and out-dated terms of reference.
- Criminal justice social work managers are responsible for the overall standard of reports.
- Report writers are accountable for the content of reports.

6. National Report Template: Step by Step Guide

6.1. General Advice

Use of the Criminal Justice Social Work Report (CJSWR) template – see Annex A allows for consistency across the country in relation to the presentation, content and style of information to be made available to Sentencers in Scotland. At the same time there is still scope for the report writer's interviewing style and professional approach to be incorporated into a more concise report writing framework. The interview with the individual does not need to follow the logical sequence of the template, but rather, the report writer should gather information in a format and style appropriate to the circumstances and the individual involved. Once the information is gathered then this should be used to populate the template and build a well informed picture of the individual which will assist the Sentencer to make a decision about the most appropriate sentence. The order in which the information is presented within the template must **not** be changed or altered.

The report focuses on the key factors which contribute to current and previous offending. It should contain relevant background information which links to both offending and non-offending related needs (such as health and accommodation issues). For example, if an individual is homeless at the point at which the report is being written, then resolving this issue will be a priority before they are likely to be able to concentrate on addressing other issues such as their offending behaviour. The report must also address public safety concerns and the feasibility of potential community sentences. It must consider also the impact of a custodial sentence on the individual and his family. Only information which is necessary, appropriate and unique to the person in question should be completed, therefore report writers should not feel obligated to fill in each section of the template if it does not apply to the person about whom they are writing a report. A shorter format report may be appropriate in certain cases.

The template provides “**comment**” boxes which are optional, allowing the report writer to expand upon a particular point highlighted within the template, where this is considered appropriate.

Where cases are dealt with under the auspices of solemn procedure and risks of re-offending and serious harm are indicated, with significant implications for public safety, then a fuller more detailed report should be considered. The boxes within the template are expandable, allowing as much information as is considered necessary by the author of the report to be presented to the Sentencer. There will also be certain cases being dealt with on summary proceedings which will warrant a fuller report due to the assessed serious risks to public safety or the high profile nature of the case. The report writer should not feel constricted to a briefer report where the risks and complexity of the case indicates that a more detailed report is necessary.

6.2. Use of language

The report must be completed on the template and written in plain and simple English, allowing it to be easily understood. (Where English is not the spoken language of the subject of the report, then local procedures should be followed which may involve obtaining relevant interpreters where appropriate).

Reports must be written in the “first person” (I suggest.....) and not the “third person” (the writer suggests.....). The individual should be referred to by title and surname - Mr/Mrs Smith rather than “the accused” or “the subject of the report”. The style of writing should reflect the authority of the court without necessarily “craving” or “begging” the court. A well informed, consistent style which reflects the professional assessment based on well argued and verified information should be presented to the court.

6.3. Personal details (Section 1 of Template)

This section contains factual information which identifies the subject of the report.

URN: ‘Unique Reference Number which will be required in order to complete a criminal history check. The URN is created by the police once a person has been charged. This number remains with the individual, should they come to the adverse attention of the police in the future. It is therefore an important way in which to identify an individual.

Social Work reference Number: Each criminal justice social work service will have its own unique information system, in order to help identify the subject of the report.

Personal details: Name, (including any aliases/AKA) address, postcode, date of birth, age and gender should be entered in this section.

Court status: This section should be completed as a tick box approach, indicating (where known) whether the subject of the report is ordained to appear, bailed or remanded in custody for reports or some other purpose. The comments box allows further detail to be given.

Current court order/Licence: this section should reflect whether the person in question is subject to a statutory order and/or any form of supervision/ monitoring e.g. community pay-back order, licence conditions, or serving a current prison sentence etc.

6.4. Court details (Section 2 of the Template)

Court: name of the court at which the individual is appearing, the date of the court appearance and any relevant comments (optional). For example, this may include continuation dates from a previous court appearance and any relevant disposals.

6.5. Current offence details (Section 3a of the Template)

This section requires information on the offences for which the individual is appearing on that particular day and the date on which the offences were committed.

6.6. Outstanding Matters (Section 3b of the Template)

The section on “outstanding matters” may be used to highlight whether a trial diet has been fixed in relation to other matters or to comment on other significant factors which may be appropriate to the compilation of the report. This information should be handled sensitively and with some caution. For example, it would not be appropriate to comment on the detail of a pending matter as this may prejudice any future proceedings.

6.7. Basis of report/verification of information (Section 4a of the Template)

This section is an outline of what the report is based upon. It should be written as free text or bullet points. It should indicate who was interviewed, where they were interviewed, when the interview took place, who else was present, who was consulted (and why), whether the subject of the report is known to the writer and in what capacity.

For example: The following report is based on:

- One office interview with Mr Smith on xxx
- One home visit with Mr Smith and his family on xxx
- Telephone consultation with George Jones, Manager, Community Addiction Team about Mr Smith’s alcohol use

Discretion should be exercised when deciding on where to interview an individual and/or his/her family and how many interviews may be required in

order to collate and assess all relevant information. This decision should be based on the level of risk and complexity of the case. It is vital that whether one or more interviews are conducted that as much information as possible is subject to verification. Information can be verified in a number of ways including:

- interviewing members of the individual's family;
- visiting the individual's home;
- contacting third parties including other agencies who may be able to contribute to any proposed action-plan; and
- further interview with the individual in cases which are complex, high profile and present public safety concerns.

The more detail of the individual's self-report which can be verified as accurate from other sources, the more credible the report/assessment is likely to be considered. The minimum amount of information upon which the report is based should include:

- the request for the report;
- details of the complaint or indictment;
- any amendments to the complaint which may have occurred during the course of a trial (e.g. certain words deleted from the complaint); and
- full criminal history information.
- departmental records/local case recording information

6.8. Office Interview/Home Visit

From the above information, some initial plans can be drawn up in relation to the contact with the individual in order to compile the report. This will include decisions about whether the individual should be interviewed within office premises, at home or whether contact at both venues is necessary or an alternative independent venue is desirable. Where very little information is available on the subject of the report, it may be wise to consider an office interview in the first place in order to maximise staff safety. Home visits may be indicated where a young person is the subject of the report, and where the risk assessment requires further detail and the quality of the information would be enhanced by undertaking a home visit. It is not appropriate to undertake home visits to domestic abuse offenders who are living with their victims although consultation with partners/victims should normally take place in their home. It is good practice to undertake a home visit as accuracy and comprehensiveness are enhanced. Home visits should be considered standard practice for cases of risk of serious harm and more complex reports. However, the implications for staff safety should be considered carefully **prior** to undertaking a home visit. Local health and safety procedures should be followed.

6.9. Other people interviewed/consulted

The report writer also needs to consider which important others may be interviewed as part of this process. This may include family members in order to explore the impact on the family of the offending behaviour, as well as the potential for engaging the family in supporting and helping the individual to change. Consideration should also be given to the potential impact of a community disposal but also the implications of a custodial sentence for children and other family members. The report should contain the detail of which persons were interviewed, but only where the report writer is confident that this will not place anyone in danger. This could be the case where family members are also the victim/s of the index offence: therefore obligations in relation to confidentiality should be followed as outlined in section 3.4 and 3.5.

In cases of domestic abuse, where information is sought and received from a partner/victim which cannot be used in the report for reasons of victim safety (see 3.5), or where for the same reasons the source of the information cannot be directly identified to the court, report writers can inform the court that normal practice would be for the report writer to contact the victim to inform the assessment contained within the report (without confirming whether the offer was taken up.) The report writer should also detail any other professional agencies with whom they have consulted in order to verify information.

6.10. Other people interviewed/consulted

The author of the report should advise the court whether the subject of the report is known to them and on what basis (e.g. are they a current service user or previously supervised on a statutory order). This may involve consulting with previous supervising officers.

6.11. Verified Sources of Information (Section 4b of the Template)

Section 4b of the template provides a list of possible sources of verified information, but it is not an exhaustive list. The sources will be very much dependent on the circumstances of the individual which require to be further explored.

The report writer should clearly distinguish between fact and opinion within the report. The credibility of the report is dependent on information being verified by appropriate third parties. The sources of information on which the report is based should be explicitly stated. The report should make clear what information is: i) verified; ii) not verified; and iii) not verified at the time of writing but was requested. The comments box may be used where some explanation would be helpful. For example, medical information was requested for the purpose of compiling the report but at the time of writing it was not available.

6.12. Criminal History

Criminal history information will provide the author of the report with information relating to the current offence, previous convictions,

outstanding/pending charges, warrants, fines, compensation orders, children's hearing appearances and Police and Procurator Fiscal fixed penalties. In relation to the latter, it should be noted that the court can have regard to fixed penalties for up to a period of two years. Information on pending matters should be handled sensitively as previously outlined. This information may be used, but the writer of the report needs to be sensitive to the fact that the individual may be pleading "not guilty" to some of the outstanding matters.

Criminal history information is valuable to the report writer as a tool to assess current and previous patterns of offending. This information should not be used as an attachment to the report nor should the detail be regurgitated within the report as a list. It should be used as a means of analysing offending behaviour and can be used to verify information already collated.

Where information comes to light that an individual has had previous addresses in England, Wales or Northern Ireland, then contact should be made with the local police within the writer's local authority or Community Justice Authority (CJA) area. The police should be able to assist (via the Scottish Police Services Authority) in determining whether there is a history of offending in England, Wales or Northern Ireland which would have a bearing on the report. There is currently no national protocol to support this process, therefore arrangements should be made locally in order to progress.

The European Council Framework Decision on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings has been implemented in Scotland by the Criminal Justice and Licensing (Scotland) Act 2010 and came into force on 13 December 2010. (http://europa.eu/legislation_summaries/justice_freedom_security/judicial_cooperation_in_criminal_matters/jl0004_en.htm)

This framework requires Scottish Courts to take account of convictions from European Union countries, for sentencing purposes.

(<http://www.legislation.gov.uk/asp/2010/13/section/71/enacted>)

There is an obligation on EU member states to exchange criminality information for use in criminal proceedings. The process by which this information will become available to report writers has yet to be determined. It is most likely to be available from the police or the Procurator Fiscal. If this information cannot be obtained at the point of writing the report then this should be highlighted within the report.

6.13. Risk Assessment Tools/Methods

A number of instruments or tools may be used to inform risk assessment. None of these alone gives a full picture of the risk posed by an individual, but used in the context of an understanding of an individual's background and recent circumstances they help to guide the overall risk assessment. All tools have limitations.

The writer should indicate which risk assessment tool(s) or methods were used to inform the overall assessment in the report. If there is an imbalance of information or gaps in available information, this should be highlighted also. Further information on the subject of risk assessment tools can be found within the Risk management Authority's Risk Assessment Tools Evaluation Directory [RATED]: <http://www.rmascotland.gov.uk/try/rated/>

Sources of other information critical to the report should be detailed, to clarify what the content of the report is based on e.g. departmental records were consulted, medical information availability, criminal history information, interviews with third parties etc. In some areas, summaries of evidence may be available from the Procurator Fiscal's service. If this is the case, this information should be managed cautiously, given that the information contained within the summary may differ from the facts established following a trial.

Consultation with "internal" services should be noted also where the available information has a bearing on the compilation of the report. This may include discussions with community care or children and families services where there are vulnerable adult or child protection issues to consider. CJSW managers must ensure that all CJSW staff are familiar with relevant adult protection legislation and guidance including the duties placed on local authorities by the Adult Support and Protection (Scotland) Act 2007 (<http://www.legislation.gov.uk/asp/2007/10/contents>). It is the responsibility of CJSW staff to bring to the attention of relevant community care colleagues, concerns about a person who may be an adult at risk of harm and to liaise with them to help identify and assess what intervention may be required to protect a person. It is of particular importance that CJSW staff are aware of the criteria which form the grounds of concern in relation to a person who may be an adult at risk of harm and ensure that they are aware of their duties and responsibilities to eliminate risk.

All staff who are working in CJSW should also be aware of their role in child protection, what kinds of circumstances constitute grounds for concern about the safety of a child, and the local protocols for referring to child protection colleagues. CJSW managers should ensure that practitioners possess both sufficient awareness of child protection issues and access to appropriate training to enable them to correctly interpret what is potentially important information. Managers have a duty to provide information, either in person, and/or by report, to any departmental meetings to address the needs of, and risks to, the child.

Consultation with community service and other colleagues should be detailed within this section of the template.

6.14. Comments

This box can be used for free text, relevant to the context of the report at this stage.

6.15. Offending analysis

In assessing current and previous offending the report writer will be starting to gather focused information in respect of:

- **Pattern:** since when, how much, how often?
- **Nature:** what and to whom?
- **Seriousness:** harm caused and intent

6.15.1. Offending Analysis - Current (Section 5a of Template)

Report writers will have information about the current offence and any previous offending from the individual's self report, information available from the court (complaint/indictment), as well as the full Scottish Criminal History, and possibly some other additional information from the police and/or procurator fiscal. The purpose is to gather information in order to assess and analyse the offending behaviour and to understand why he/she offended and in what circumstances.

This requires considering the types of offences that the individual has committed and their motivation e.g. acquisitive offences, sexual offences, violent offences and violence used in the course of other offences. This will help to inform the Risk Assessment section of the report. It will also inform the sentencing options open to the court. This section is **not** a descriptive account of the offence(s) or an opportunity for the individual to justify his actions or to make a "plea in mitigation". It is important to remember that where there has been a trial that evidence will have already been led establishing the case before the court.

This section provides some prompts. It is not an exhaustive list and should be read in conjunction with the Risk Assessment section (section 7 of the template).

6.15.2. Context

This is not a step by step account of what happened. The report writer may wish to listen to the individual's account and decide what information is relevant to be included in the report. For example, if the offence is a violent assault, then it will be important to seek to explore the context e.g. is there a history of antagonism between the individual and victim and what were the circumstances surrounding the offence. In cases of domestic abuse, ascertain whether children were present or involved.

6.15.3. Responsibility

It is important to assess the extent to which the individual accepts responsibility for the offence and explain why. This is not only a verbal acceptance of responsibility by the offender but the writer's assessment of the degree to which the individual accepts responsibility for his/her actions.

If the individual does not accept responsibility or is in denial regarding aspects of the offence, then the report writer needs to explore this denial further and assess whether this could be addressed as part of a community disposal. It may be that the denial relates to low self-esteem or other related issues which could be addressed as part of a desistance focused approach.

6.15.4. Level of planning

Many offences involve a degree of premeditation and planning. The individual should be encouraged to think about the events leading up to the offence by asking open questions. For example, tell me when you began to think about what you were going to do? If the individual uses substances in order to explain the offence, then the report writer may wish to ask when/why did you start to drink the possible consequences of this decision and what effect this had on your thoughts, feelings and actions ?

6.15.5. Attitude, seriousness and insight into the offence

The individual's explanation for his or her offending will provide some insight into the context and attitude to the offending. It is critical to assess this and what he/she thinks and feels about the offence(s). What could he/she have done differently to avoid offending?

It is important also to examine the individual's perception of the seriousness of the offence and why he/she thinks this way, by means of open questioning. This involves assessing the degree of harm caused or the intent to cause harm, and whether this was significant. Serious harm can be defined as that which is life threatening and/or traumatic from which recovery, whether physical or psychological, can be expected to be difficult or impossible. It may be necessary to test out the individual's thinking by asking a scaling question: e.g. on a scale of 1-10 (with 10 being the most serious) how serious does the individual regard the offence as having been?

6.15.6. Recognition of impact/consequences of the offences on the victim/community

In this section you are assessing and analysing the individual's attitude towards the victim and the degree of victim empathy and remorse. There is nearly always a victim or potential victim. For example, driving while disqualified has several potential victims, which can be explored by asking the individual what would happen if there was an accident, who would be affected and why the victim(s) would feel this way. The consequences of offending for others, including victims, must be explored. For some offences this is more self evident e.g. assault where physical injuries have been sustained. Questions may include: Why would the victim feel bad? In what ways could this affect the victim's life? How would you feel if this happened to you? Indirect harm should also be considered. For example, in cases of domestic abuse where children are present it is important to assess the individual's level of understanding of the impact on the children. The report should

consider any information available to the report writer about the relationship, if any, between the individual and the victim of the offence, and the possible impact of a sentence on the victim.

6.16. Offending analysis – Previous offending (Section 5b of Template)

Pattern and history of previous offending

Again, this is an assessment and analysis and there is no need to state in the report information which is already available to the Court.

The report writer is seeking to identify the type of offending and motivation, and explain any changes in frequency and severity e.g. in the use of violence and causing harm to others.

Past behaviour is one of the best indicators of future behaviour. Also the frequency of behaviour since onset, age at onset and duration until present time are important in establishing an understanding of the pattern of offending. The nature of the offending involves both the type and victim. For example, it is insufficient to refer to violence without specifying the nature of the violence – physical assault, sexual violence etc.

Consider the types of offences that the individual has committed and the motivation for these offences, e.g. acquisitive offences, sexual offences, violent offences and violence used in the course of other offences. Give consideration to the degree of harm caused, including whether this equates to serious harm as described above.

In cases of domestic abuse, if local agreements are in place for obtaining such information, include details of any pattern of police call-outs.

Explain which victim groups are at risk from this individual. There may be more than one victim group. The first step in identifying these groups is looking at previous victims. However, an individual may pose a risk to a wider range of victims than the people he or she has offended against previously, so consideration needs to be given to the potential for diversification in offending behaviour. Also understanding the development of an individual's behaviour may point to a change in the types of victims that may be targeted. You should consider why a particular victim was targeted and what it is about a particular victim or victim group that is important.

Examining any offence-free periods will inform your assessment and understanding of desistance. The individual's perception and insight into the pattern and triggers of his/her offending behaviour will also be invaluable. There may be a link with life events e.g. death of a close relative, employment, or substance use.

6.17. Personal & social circumstances as relevant to offending behaviour / sentencing (section 6 of template)

There are a number of key areas relating to the individual's personal and social circumstances as relevant to offending behaviour and/or sentencing which should be investigated, assessed and concisely reported on in every report:

- Accommodation
- Family Relationships
- Education/ Employment
- Financial Circumstances
- Alcohol/ Drugs
- Health
- Leisure/ Recreation

The report writer's assessment within each of these areas should focus upon whether:

- there are any issues of **relevance** to the individual's involvement in offending;
- there are any issues of **relevance** to any proposed intervention or sentence which may be being considered. Is the issue a risk factor which should form part of a period of intervention in order to reduce the risk of reoffending? Are there any risk issues which could hinder or enhance any proposed sentence or period of intervention?

Accommodation

Are there any concerns about the individual's current living arrangements? For example:

- A lack of accommodation, unstable or unsatisfactory accommodation could hinder the individual's ability to engage in a community payback order, unless there is a prospect of addressing any identified accommodation problems.
- The individual's current living arrangement may be unsatisfactory if they live with or nearby any victim(s) of their offending. This may be particularly relevant in cases where the individual has been convicted of domestic violence, sexual offending or other types of violent behaviour.

The absence of stable or satisfactory accommodation should not preclude consideration of a community-based disposal such as a community payback order. Instead, the report writer should consider and propose whether action can or needs to be taken, and how effective it might be, to address any concerns about the individual's current living arrangements to:

- minimise the risks to any potential victims; and
- maximise the individual's ability to successfully complete a community based disposal

or whether such concerns indicate that a community based disposal might have clear disadvantages.

6.17.1. Significant Relationships/Background

Details of family members residing in the same household would be helpful here in order to establish the relevant domestic context and any caring responsibilities which the individual may have. This may include part-time/weekend contact/responsibilities in respect of children or other family members.

(e.g. Mr Smith resides with his wife and two children aged 8 and 10 years. He is the sole income provider for the family).

The absence of positive influence and support in an individual's life could be a risk factor in terms of further offending. Conversely, the presence of supportive, anti-criminal family members can be a strength or protective factor in the individual's life.

The emphasis here should be upon assessing the nature of the individual's relationship with family members to establish:

- whether they are, or could be, a positive source of influence to help the individual change his or her behaviour;
- whether their attitudes and beliefs or own involvement in offending behaviour are contributing to the subject of the report's involvement in offending; or
- whether any significant family relationships have broken down, or are at risk of breaking down as a consequence of the individual's involvement in offending behaviour or as a consequence of any relevant sentencing options.

6.17.2. Training/Education/Employment

The social rewards of being in training, education or employment, in addition to the financial rewards from paid work, can be powerful influences in reducing the risk of future offending.

It is not necessary to report the individual's education and employment history in detail. The emphasis here should be upon ascertaining the individual's current education or employment status and assessing whether current education or employment status is amenable to change, in order to reduce the risk of re-offending.

If the individual is *not* currently in education, training or employment:

- establish the reasons for this;

- establish what the individual's plans are, if any, in relation to education, training or employment and assess whether their plans are realistic or not; and
- establish what steps can or need to be taken to address any education, training or employment aspirations or needs the individual may have.

If the individual is in education, training or employment the report writer should take steps to verify the individual's account of their status. If verification is not possible, this should be stated within the report. In either case the report writer should also ascertain whether there are any concerns about the nature of the individual's current education, training or employment circumstances in light of the nature of their offending and what action is necessary or proposed to address any identified concerns. This will be of relevance, for example, where the individual's employment circumstances provide ongoing access to victims or potential victims.

6.17.3. Financial Circumstances

Investigating and reporting on the individual's financial circumstances will be particularly relevant where a financial penalty – compensation or fine – is considered as being an appropriate disposal.

Report writers should seek to:

- establish the amount and source of the individual's income;
- establish whether the individual has any inescapable financial commitments (for example child care costs) in addition to food, rent, utilities etc;
- establish whether the individual is experiencing any financial problems, assessing the reasons for this and what steps, if any, can be taken to address the problem;
- assess the individual's willingness and ability to pay a financial penalty.
- consider the impact of a financial penalty on the family, including children.

Report writers should take steps to verify the individual's account of the level of their income and outgoings where a financial penalty is under consideration. The individual may be asked to provide proof of income. If verification has not been possible, this should be stated within the report.

6.18. Alcohol/ Drugs

The term "substance use" refers to the individual's use of drugs and/or alcohol. Report writers need to establish with individuals what their patterns of usage are and to obtain as clear a picture as possible about whether this usage may be associated with their offending behaviour, or is having an adverse impact on any other part of the individual's life (such as childcare responsibilities). This section on substance use may link in with other

sections, such as health, home circumstances, and analysing offending behaviour, and if so, then the report writer needs to highlight the nature of these links. Added to this, if substance use is evidenced to be an issue in the individual's life, then any proposed case management plan being presented to the Court should indicate how the report writer intends to address these issues. Consultation must take place with other appropriate agencies, where they are identified as playing a role in relation to the individual's recovery from substance problems. The plan should identify what arrangements have been made and the proposed frequency of contact between the individual and the agency

It should also be noted, however, that if substance use is not associated with their offending behaviour, or is not having an adverse impact on any other part of the individual's life, then this section should record this fact and then move onto the following section of the Report.

6.18.1. Pattern of offending behaviour and substance use

In viewing the previous convictions provided through the Criminal History System, it could be ascertained that a history of acquisitive offending (eg theft by shoplifting) might be an indicator of problematic substance use (eg funding of heroin use). Added to this, a history of behavioural offending (eg Breach of the Peace) may also be an indicator of problematic substance use (eg offences committed whilst under the influence of alcohol).

There are key areas for investigation if the substance use of an individual is assessed to be a significant issue by the report writer. Consideration should be given as to whether a specialist report is required. Some areas for consideration include:

- Current use (prescribed/non-prescribed – including alcohol - consider what are the total number of units consumed daily/weekly?)
- History of substance use (include alcohol consumption history/pattern where appropriate. For example, number of units consumed on the heaviest drinking day?)
- History of treatment
- Funding of substance Use
- Physical/mental health associated with the misuse of drugs/alcohol
- Social circumstances

The report writer needs to clarify with the individual if they have any child/adult care responsibilities. Particular concern should be borne in mind in relation to any child/adult protection issues, and, as such, contact with other relevant agencies should be undertaken by the report writer. Particular attention is required in relation to children with alcohol dependent parents/carers and/or drug misusing parents/carers. The confidentiality owed to third parties is outlined at section 3.3

www.scotland.gov.uk/Resource/Doc/26350/0012816.pdf

All of the above would normally be by self-report from the individual, so verification of the above information would provide the court with a greater degree of confidence in the assessment being undertaken. Consideration should be given to the individual's motivation to address these substance misuse problems and an appropriate means of addressing these difficulties is to link with local services.

6.19. Health

Where no physical or mental health issues or risk of self-harm are identified, then a clear statement, to this effect should be made in the report.

The presence of any physical and/ or mental health problems or concerns is relevant to a range of possible disposals – particularly disposals which could result in the involvement of Criminal Justice Social Work Services or where a period of imprisonment is possible. Reference should be made to section 7 on individuals with special profiles.

Report writers should establish whether the individual:

- suffers from any serious illness or physical disability;
- suffers from, or is in receipt of medical, psychiatric or psychological treatment for any illnesses or behavioural problems;
- has a history of or is at risk of self-harm or suicide attempts; and
- has any identified learning disability.

Where report writers have any concerns about:

- the individual's mental state or wellbeing;
- the accuracy of the medical information provided by the individual
- the implications of any reported health problems upon a range of possible disposals (particularly any sentence involving the social work service or where a period of imprisonment is possible)

then verification or advice should be sought from an appropriate health professional and/ or the report should advise the court that a medical, psychological or psychiatric report should be requested before making a decision on the case. Where report writers are concerned about mental health issues and the potential vulnerability of an individual should they receive a custodial sentence, then they **must** convey this information to the court-based worker. They should also make contact with the Scottish Prison Service if the individual is given, or is likely to be given, a custodial sentence.

6.20. Leisure/ Recreation

The way individuals use their time and who they spend it with can be significant factors when considering any risk of re-offending. Report writers should:

- establish how the individual spends their spare time outwith any work, training, education of care commitments and assess whether the activity or activities are constructive or whether they are likely to be contributing to the individual's offending or anti-social lifestyle;
- establish who they spend most of their time with and assess whether the individual's friends and associates are a positive or negative influence in their life. It is not necessary to establish the identity or names of the individual's friends and acquaintances and the report should not enable them to be identified, unless both necessary and relevant. Rather, report writers should attempt to establish whether the individual spends their time in the company of people who are involved in offending themselves and/or hold attitudes and beliefs which support offending or, conversely, whether there are significant others in the individual's life who hold anti-criminal views and lead an offence free lifestyle; and
- establish what steps can or need to be taken to address any identified concerns in relation to how the individual spends their time or who they spend their time with.

6.21. Risk assessment (section 7 of the template)

There is a range of standards, guidelines and guidance resources (1) on the topic of risk assessment available from the Risk Management Authority.

Risk assessment and analysis of offending behaviour sections are closely related and should be considered collectively as part of the overall assessment within the report.

The assessment should not aim to be a prediction of future offending, but should highlight issues that if addressed effectively may promote rehabilitation, and that if unaddressed may render further offending more likely.

6.21.1. Risk

Risk is a product of the likelihood that an adverse event will occur and the impact of that event. In the context of CJSWR the adverse event is offending behaviour and every risk assessment should address at least both likelihood and impact.

6.21.2. Risk Assessment process

1 For example, A CD-Rom entitled 'The Assessment and Management of Risk' is widely available and further copies can be obtained from the RMA.

Risk assessment is a process by which workers evaluate relevant information about an individual, using appropriate tools, to come to the best understanding of:

- the likelihood of them committing further offences;
- the types of offences they might commit;
- the circumstances under which they might commit offences;
- who might be at risk from them;
- the potential seriousness of offending; and
- how that risk should be managed.

6.21.3. Limitations of risk assessment

In the context of the CJSWR there are several specific limitations:

- assessment relies on information. The information that a report writer receives with a report request is limited and so the scope for assessment may be equally limited
- full and comprehensive risk assessment may not be feasible within the routine reporting process; and
- reports provide information and advice to Sentencers to assist sentencing generally. They also make a specific contribution to assessing the individual's suitability for a community-based disposal, particularly where the alternative may be custody. This means that the risk assessment is for a specific, time-limited purpose and therefore its use has limitations.

Risk assessment is dynamic and changing, so risk assessments must be reviewed regularly particularly where there has been a significant change in circumstances or new information comes to light e.g. a report is completed and the outcome of the case is a custodial sentence. This would be a significant change in circumstances for most people.

6.21.4. Process of Risk Assessment

In the context of the CJSW report the following steps should be followed:

- Be clear about the **basis of the risk assessment** in terms of the information on which it is based and the methods used.
- **Identify** the *presence* of major risk factors for offending and protective factors that promote desistance. The Personal and Social Circumstances section will have provided you with invaluable information to help you to identify these factors.
- **Analyse** the *meaning* and *relevance* of those factors in terms of the pattern, nature, seriousness and likelihood of offending.
- Make a meaningful **statement** in those terms
- **Evaluate** the significance for the task in hand
- **Communicate** effectively

The following advice provides guidance on the type of information which should be contained within the Risk Assessment heading as outlined on the template.

6.21.5. Risk factors

The term 'risk factor' can be used in various ways. Two of these are:

- to refer to a factor in someone's background that helps towards forming a conclusion about the risk posed (e.g. a history of certain types of offending); and
- to indicate a factor showing that something is imminent (e.g. access to victims or drinking alcohol).

It is important to identify all relevant risk factors, both in terms of background factors and current factors, and to understand how these interact so that an informed conclusion as to the current risk posed can be made. Related to understanding of how risk factors interact is an understanding of why the individual has offended in the way they have: offence analysis (please refer to section 6.15.1).

6.21.6. Protective factors

A protective factor is not merely the absence of a risk factor; and externally imposed risk management strategies, although they may help decrease risk to others, are not really protective factors. Unfortunately there has been relatively little research on protective factors, and protective factors rarely feature in risk assessment tools.

However, the individual's strengths should be highlighted. Some strengths may be life-long, and some may develop with help, support and intervention. A key issue to consider is whether there is evidence the person has the skills, ability and inclination to lead a pro-social life, meeting their needs (for relationships, occupation, friendship, self-worth, acquiring material goods) in a way that does not involve offending.

Beyond intrinsic strengths, the report must also consider external supports, relationships and other circumstances which may help the individual to not re-offend.

Looking at periods of an individual's life where they have not offended and positive responses to previous intervention can help in identifying protective factors in a particular case.

6.21.7. Analysis from risk assessment

This section should comprise of the collated information from the offence analysis section alongside the outcome from the risk assessment. It is a summary which pulls these sections together. Assessing the likelihood of further offending is not sufficient in itself to inform decisions about the

appropriate course of action in each case. You must also consider the potential impact of offending with a focus on:-

- Pattern
- Nature
- Seriousness, i.e. how serious the harm to a future victim might be
- Likelihood in current context

Make a meaningful statement about the above factors which places the risk in context. When risk is communicated effectively it explains the likelihood and impact of the possible event and, most importantly, the necessary action that requires to be taken in order to minimise the risk. Likelihood can be described as a statement of how likely it is that the individual will reoffend in the future. For the CJSWR the concept of likelihood is to inform decision making by identifying the factors that contribute to the likelihood of further offending unless addressed: you are not attempting to *predict* what may happen.

6.21.8. Serious harm and imminence

For the majority of cases an initial analysis of offending should suffice for the court report. However, report writers should be aware that in order to assess serious harm and imminence properly, it is unlikely to be possible to undertake this assessment within the normal 3-4 week deferment.

There are no straightforward, tick box approaches to identifying whether the risk of **serious harm** is a concern. Patterns of previous offending and behaviour are important but considering the risk of serious harm must include more than establishing whether serious harm has been caused by the individual in the past. Assessing the risk of serious harm necessitates having an individualised understanding of each individual's background and pathway to offending. The following factors may be useful when considering risk of serious harm, although none can be used in isolation and this list is not exhaustive:

- History of perpetrating serious harm
- Escalation of behaviour/offending
- Psychopathy
- Sadism (sexual or non-sexual)
- Disinhibiting effects of alcohol
- Problems with anger and/or rage
- Reckless disregard for consequences of actions on others
- Targeting particular vulnerable groups, e.g. children
- Use of weapons
- Diversity of offending behaviour
- Stated intent to cause serious harm
- Homicidal or violent ideas, thoughts or fantasies

The term **imminence** is used to describe how quickly the individual is likely to offend and the circumstances under which they are likely to do this. As well as asking whether an offence looks imminent now, workers should identify triggers, precipitants, circumstances and states that would indicate that an offence might be imminent.

6.22. Suitability for Community Disposal/Public Protection Issues

You are evaluating the impact and responses to previous offending and/or sentences. Exploring the individual's responses to previous sentences will further inform your assessment of what works and why and whether a community sentence is appropriate. If previous disposals did not work successfully, explain the reasons for this, e.g. was this due to lack of motivation, personal circumstances or lack of pro-social supports? The individual's circumstances may have changed and will help you consider what needs to be different now to make a community-based disposal more effective e.g. through a more intensive supervision package.

6.23. Community supervision

If the individual has been subject to community supervision, you will need to assess the level of compliance and how he/she responded and made use of opportunities to address offending behaviour. Examine what offending-related behaviour programme work was completed and the outcome and whether there is evidence that the individual met the objectives of the case management plan.

6.24. Custodial sentence

If the individual has been in prison or spent periods on remand, assess how he/she has responded and examine what offending-related behaviour programme work has been completed and the outcome. Examine any escalating pattern of custodial sentences and the reasons for this. In cases where individuals have served short prison sentences, with no opportunity to address offending behaviour, then explore to what extent a community disposal may be timely in addressing such behaviour.

In reports for individuals where a Supervised Release Order or Extended Sentence (sections 6.25.2 and 6.25.3), is under consideration authors should include a statement regarding any evidence to suggest that a period of supervision post release is, or is not needed, to reduce the risk of serious harm.

6.25. Review of relevant sentencing options (section 8 of the template)

This section is a review of all **relevant** sentencing options. These options **must** be linked to the risk posed by the individual and the gravity of the offence. In every report you **must** consider the implications of a community

payback order² and of a drug treatment and testing order (DTTO) (where there is a significant drug problem). Other options need not be considered if it is clear that they are not appropriate to the case or to the individual under consideration. The assessment of the report writer should also take account of the individual's motivation to change and suitability for a community disposal.

6.25.1. Custody

This sub section should be completed in every report, where there has been some indication that custody is being seriously considered by the Sentencer. This is likely to be the case where the seriousness of offending, persistence of offending and/or the risk to public safety is of concern. Sometimes comments are available from the "Bench", indicating that a custodial sentence is under consideration. The report writer should not offer an opinion on whether custody would or would not be an appropriate disposal. But they should be clear as to what the advantages and disadvantages of such a disposal might be, and how the individual might respond to it. Care must be taken when reviewing custody and consideration should be given to the following points:

- is the individual assessed as being likely to present a risk of serious harm? Will a period of post custodial supervision be necessary in order to protect the public – if yes, then the implications of an extended sentence or supervised release order should be reviewed also, highlighting the level of harm posed and who is likely to be at risk. Comment on how the period of post supervision could be used in order to minimise risks/change behaviour. Alternatively, consider whether the individual would respond to a community payback order with regular progress court reviews as a means of monitoring behaviour and risk. In doing so, the report writer should also consider any changes in level of risk presented by an offender as a result of receiving a community sentence;
- experience of current remand (if appropriate); and
- would the individual find a custodial sentence difficult to cope with and be at a risk of self harm or present a risk to others? If so explain why from information previously explored within the report (and advise the court-based worker also of any such concerns in the event that the individual receives a custodial sentence). What is the likely impact of a custodial sentence on both the individual and his or her family including any children? You should take account of whether he/she is the sole breadwinner, if the family home may be in jeopardy and if caring responsibilities could no longer be fulfilled etc. (For example, Mr Smith lives alone but has care of his children at weekends, which

² If the date of the offence is before 1 February 2011, which is the commencement date for the community payback order, then consideration should be given to the implications of a community service order, probation order or supervised attendance order.

allows his ex-partner to maintain her employment. A custodial sentence would have a detrimental effect on both Mr Smith and his family.....)

6.25.2. Supervised Release Order

The court can make a Supervised Release Order in indictment cases for offences other than sexual offences when the individual is sentenced to less than 4 years. A SRO cannot be imposed in indictment cases where an Extended Sentence could be imposed (an ES allows for a longer period of supervision than SRO). The court will make a SRO after considering a CJSWR but it is not necessary to seek the individual's consent. The SRO can last for 12 months following release but cannot extend beyond the expiry date of the custodial sentence.

6.25.3. Extended sentence

The extended sentence can be used in indictment cases to impose additional post release supervision in respect of violent and sexual offences where the courts consider that any existing supervision would not be enough to protect the public from serious harm from the individual. It can be imposed:

- on sex offenders who receive a determinate custodial sentence of any length;
- on violent offenders who would have received a determinate custodial sentence of 4 years or more.

The maximum extension period is 10 years for both violent and sexual offences. There is no age limit. The court will make an Extended Sentence after considering a CJSWR but is not required to seek the individual's consent. The same criteria applies as outlined at 6.25.2.

6.25.4. Order for Lifelong Restriction

The Order for Lifelong Restriction (OLR) is available to the High Court as a disposal for individuals convicted of:

- a sexual offence;
- a violent offence;
- an offence which endangers life; or
- an offence the nature of which, or circumstances of the commission of which, are such that it appears to the court that the person has a propensity to commit a violent, sexual or life-endangering offence.

A case may be remitted from the Sheriff Court to the High Court to consider an OLR.

As a form of life sentence, an OLR can only be imposed by the High Court. It differs from a discretionary life sentence or a long determinate sentence because of the crucial element of statutory risk assessment and risk

management which is undertaken prior to sentence being passed and in carrying out the order. For example, a Risk Management Plan is required throughout the individual's life, and this plan is subject to scrutiny and monitoring by the Risk Management Authority (RMA).

On an application from the prosecutor or at its own instance, if the court considers that the statutory criteria is met, it will make an order, known as a Risk Assessment Order (RAO) commissioning the preparation of a Risk Assessment report (RAR).

This has the effect of adjourning the case for the purpose of a risk assessment to be carried out by an RMA accredited assessor. In practice, the RAO may be made on conviction, in which case the RAR and CJSWR may be prepared at the same time. Alternatively, reports submitted to the court, such as the CJSWR or psychiatric report may lead the court to consider that the risk criteria has been met and a RAO should be made.

6.25.5. Drug treatment and testing order (DTTO)

Where significant drug problems are indicated, all reports **must** have a section on the need for a full assessment in order to consider DTTOs. In most cases this will mean suggesting that the court obtain a specialist assessment.

The Scottish Government DTTO Guidance gives a clear indication of the suitability criteria for those being placed on such an Order.

If the Report Writer assesses that a DTTO may be a possible sentencing option for the individual, they should explain to the individual the nature of such a disposal, and also the specific assessment process that is involved with a DTTO.

Careful consideration needs to be given to the 'high tariff' nature of this disposal, and that for many individuals this will not be a suitable disposal. However, the report writer needs to evidence the reasons why they either wish to have sentence deferred for the purpose of a full DTTO assessment, or why they wish not to pursue the option of a full DTTO assessment.

If the report writer requests and is granted a period of deferment for a full DTTO assessment to be undertaken, but the assessment subsequently indicates that the individual is unsuitable for this community option, then the Sentencer's attention should be directed to the original CJSWR which outlines other potential sentencing options.

6.25.6. Community Pay-Back Order

This section should be read in conjunction with the CPO practice guidance chapter. The report writer **must** comment on the suitability or otherwise of this option.

There are nine different requirements which can form part of a community payback order. When a court imposes a community payback order as an

alternative to a custodial sentence it may select from the full range of nine requirements³. But courts will also be able to impose a community payback order with a restricted range of 3 requirements as an alternative to, or in addition to, a fine. These are an offender supervision requirement; a conduct requirement; and/or a level 1 unpaid work or other activity requirement.

It would be unusual to get a request for a report where a CPO consisting solely of a level 1 unpaid work and other activity requirement is the expected outcome. The exception to this would be in cases where a CPO with an unpaid work requirement is imposed under s 227A of the Bill, on an under-18 as a first instance disposal (when an offender supervision requirement must also be imposed), then a CJSW report should be obtained by the court and taken into account before sentencing. However, where the CPO with unpaid work requirement is imposed on an under-18 (with offender supervision requirement) as a consequence of his/her defaulting on a fine, then the court will not be required to first obtain a CJSW report.

The key purposes behind a CPO are to require an offender to address and change behaviours which contribute to his or her offending, to improve community safety and to require individuals to pay back to the community for the harm which they have caused and to provide opportunities for them to reintegrate themselves into society. The individual must give his/her consent to the CPO being made and to each of the requirements contained in it (except where the CPO is being imposed following fine default, in which case it would be unusual for a report to be requested). If he/she does not give consent, this should be noted in the report. Consideration should be given in the report to the individual's motivation to successfully complete the order.

The report writer must provide advice to the Sentencer on which requirement(s) might be most appropriate as a means of addressing offending behaviour in the community. This advice takes account of the individual's circumstances, assessed level of risk and both offending and non-offending related needs. The more requirements attached to the order, the greater the possibility it is that the individual will fail to comply, therefore careful targeting of the requirements to assessed risk and needs is necessary. Ideally, most community payback orders will consist of at most three requirements. The report writer should assess what form of payback is appropriate in relation to the nature of the offence. The requirements contained within an order need to be compatible with each other.

The report must contain an initial case management plan where a CPO is proposed as a suitable means of addressing offending behaviour (the exception to this rule is where a CPO with unpaid work or other activity alone is proposed). The plan should identify the necessary actions required in order to promote reparation to the community and/or victims, to address offending behaviour and to motivate change. The objectives within the plan should be based on SMART principles (as far as this is possible at the report stage) – Specific, Measureable, Achievable, Realistic and Time Bound. This should

³ A JP court may select only from a restricted range of 5 requirements.

include the level of supervision which is appropriate to the level of risk identified earlier in the report.

This plan can be built upon once the CPO is in place and will be subject to regular reviews in order to monitor the progress of the individual. Some individuals may respond positively to periodic reviews (court-based progress reviews), which can be arranged by the court at the point of sentence, as part of variation or following breach.

The following information will assist the writer to determine which requirements meet the individual's risk and needs profile:-

6.25.6.1. Offender Supervision Requirement

The purpose behind supervision is to promote the rehabilitation of the individual and reduce assessed risks. Supervision **must** be a requirement of a CPO where:-

- the individual is under 18 years of age
- where any requirement is imposed (other than unpaid work and other activity)
- where the court imposes two or more requirements

In practice, this will mean for example that if the report writer considers both an alcohol treatment requirement and a conduct requirement to be a necessary part of a CPO, or indeed if he or she considers that only one of these requirements is necessary, then a supervision requirement must also form part of the CPO.

6.25.6.2. Programme requirement

A programme may entail individual work or group-work, designed to address offending behaviour and reduce risks. The report writer must inform the court of the individual's suitability and eligibility for the programme, following consultation with the provider of the programme, indicating whether they are in agreement for the individual's participation on the programme. In certain circumstances, a specialist report may be required by the programme provider (Caledonian Programme). A supervision requirement must be imposed where a programme requirement is imposed. The length of the programme cannot exceed the length of the order, therefore the report should indicate the anticipated start and completion date of the programme. This should assist Sentencers when determining the length of the supervision requirement.

6.25.6.3. Unpaid Work or Other Activity

An unpaid work or other activity requirement is a visible means of demonstrating pay-back to communities. Individuals must be 16 years or more in order to undertake this requirement. A CPO can consist solely of an unpaid work or other activity requirement or can combine such a requirement

with other requirements. (In the case of 16-17 year olds the CPO **must** contain a supervision requirement.)

There are two categories of an unpaid work or other activity requirement:

Level 1 20-100 hours to be completed within a three month period

Level 2 101-300 hours to be completed within a six month period

The report writer must explain to the individual what an unpaid work or other activity requirement will entail, in order that he/she may give informed consent, should this disposal be made in court. The report writer should consider the following:-

Availability of placement: The report must indicate whether a place is available to undertake unpaid work. If there are waiting lists for weekend or evening placements then this should be highlighted within the report.

Suitability of the individual for unpaid work: The report must indicate whether the individual is suitable or unsuitable for unpaid work. If unsuitable, then the reasons for this must be stated, so that the court is clear what some of the difficulties may be, should an order be made. Where an individual is employed and the offender's circumstances make it unlikely that he/she will be able to complete the order within the three (level 1) or six month (level 2) period(eg due to working hours combined with caring responsibilities), then this should be clarified within the report in order that the court can take advantage, if it wishes, of its option at the point of sentence to specify a different, perhaps longer, period for completion of the unpaid work.

If some preparatory work might be needed in order for the individual to be suitable for unpaid work – eg some initial work relating to alcohol abuse – then this should be indicated to the court which might wish to specify a longer period for completion of the unpaid work. Alternatively the court might wish not to impose unpaid work initially, but to impose a CPO containing a requirement (such as supervision or alcohol treatment) under which such preparatory work could be done, and to schedule a review hearing with the intention of varying the CPO to impose unpaid work at that later point.

Motivation: There may be occasions when the report writer has concerns about the motivation of the individual. If this is the case, this should be highlighted within the report and the reasons for this. For example, poor response or attitude to unpaid work or chronic substance misuse problems which will make completion of the order unlikely.

Details of placement commencement: Arrangements should be made for the initial appointment following the order being made within one working day. details of these arrangements should be contained within the report itself or conveyed by the court worker. As referenced in section 6.36 (for all community disposals involving criminal justice social work being highlighted in the report) the court worker should confirm this in writing post sentence, by

giving the individual the community disposal tear-off slip (available at Annex F)

6.25.6.4. Residence requirement

Problems associated with homelessness alone are **not** an indicator that a residence requirement is appropriate. These problems should be addressed through the normal channels. The residence requirement can be used to instruct an individual to reside at a particular address, in order to ensure a safe distance from previous victims or to place the individual in a home environment – eg with parents - which is more likely to support their efforts at desistance. A very small number of individuals, who pose a high risk of serious harm to the community, may require a higher level of supervision, which may include residing at an approved address.

In a small number of cases residential rehabilitation or specified hostel accommodation may be required in order to address the needs and risks identified.

The report writer may recommend to the court that a residence requirement is considered following consultation with appropriate others. The case management plan should focus on the feasibility of a particular approved address as well as how the supervision and support will address offending behaviour within a community setting.

6.25.6.5. Mental Health Treatment Requirement

The purpose behind a CPO with a mental health treatment requirement is to ensure that an individual with a mental health condition and/or a learning disability receives support, care and treatment. The report writer needs to bear in mind that the court must seek evidence from “an approved medical practitioner” which confirms that the individual suffers from a mental health condition which may be susceptible to treatment, but does not require compulsory treatment.

A CPO with a mental health treatment requirement **must** also contain a supervision requirement and the mental health treatment requirement cannot last longer than the offender supervision requirement. The individual in question **must** consent to the mental health requirement and must suffer from a mental health condition to warrant this requirement.

A mental health treatment requirement should not be confused with a community based mental health order granted by the Mental Health Tribunal for Scotland under the Mental Health (Care and Treatment) Scotland Act 2003 or the Criminal Procedure (Scotland) Act 1995, both of which compel an individual to have treatment for a mental disorder. A CPO with a mental health treatment requirement **cannot** be granted where the individual requires compulsory measures.

It is likely that a CJSWR and a psychiatric/psychological report will be requested at the same time. Alternatively, following an interview with the

individual by the report writer, the view may be that a specialist report is required in order to establish whether this requirement would be appropriate under the circumstances.

If the report writer judges that the individual would be suitable for a mental health treatment requirement, then the report must confirm that arrangements allowing such treatment to go ahead have been made.

6.25.6.6. Drug Treatment Requirement

The report writer, having assessed both the current pattern and previous history of substance use, should be assisted by this information to determine whether a drug treatment requirement is necessary. This requirement should be under consideration where the assessment identifies drug issues, but where this is not the sole issue associated with offending behaviour. In some cases, it may be necessary for the court to obtain a specialist report on the nature of the individual's drug use and any proposed treatment required to address this problem. The report writer may suggest to the court that a further deferment is sought in order to obtain this specialist report. Where drug misuse is the sole issue driving offending behaviour, the report writer should consider whether a Drug Treatment and Testing Order might be a more successful disposal in terms of addressing the drug issues. A DTTO may be imposed alongside a community payback order.

The report writer needs to be clear that "drug treatment" as a requirement of a CPO does not necessarily relate to medical treatment. The aim of the requirement should be recovery from drug use and "drug treatment" may include:-

- psychological care/counselling
- support (possibly from a voluntary sector organisation)
- medical treatment
- relapse prevention/harm reduction services

Women offenders who are not suitable for DTTO (as they do not meet the criteria), but present with complex issues including drug related offending, should be considered for their suitability for this option.

The report writer should consider whether activity to address drug issues could be undertaken as part of a supervision requirement or whether a "drug treatment" requirement is necessary in order to reinforce the work associated with recovery from drug use.

If the report writer judges that there would be advantages to the individual undertaking a drug treatment requirement, then the report must confirm that arrangements for such treatment have been or could be made. This will require consultation with other agencies who may be involved in the delivery of this treatment.

6.25.6.7. Alcohol Treatment Requirement

If an alcohol treatment requirement is being considered, then a specialist assessment would be appropriate. This would assist with the assessment in order to determine whether there is evidence of alcohol dependency, which would then be reflected in the case management plan. The report writer needs to consider whether alcohol issues could be addressed as part of a supervision requirement or whether an alcohol treatment requirement is necessary in order to reinforce the work associated with recovery from alcohol dependence.

If the report writer judges that there would be advantages to the individual undertaking an alcohol treatment requirement, then the report must confirm that arrangements for such treatment have been or could be made. This will require consultation with other appropriate agencies who may be involved in the delivery of this treatment.

6.25.6.8. Conduct Requirement

A conduct requirement is imposed where the court requires the individual to do or refrain from doing specified actions, in order to promote good behaviour and prevent further offending. This requirement must be imposed alongside a supervision requirement. The report writer should not recommend this requirement where another requirement would meet the objective.

For example, a supervision requirement alone may suffice in order to address offending behaviour, but in other cases it may be necessary to have a conduct requirement stating that the individual "must not approach or enter play parks" as a means of reinforcing other work which is designed to address offending behaviour and in some cases to protect the public.

6.25.6.9. Compensation requirement

The report writer should be considering the advantages of a CPO with a requirement for the individual to pay compensation in cases of personal injury, loss, damage or under other circumstances which have been as a result of the individual's offending behaviour.

Similar considerations apply to the imposition of a compensation requirement as would to the imposition of a compensation order (see section 6.31). As with a fine, the court must consider the individual's means. The individual must pay the clerk of court who then forwards the money onto the victim of the offence. The payment may be paid in a lump sum or by instalments and full payment must be possible within a reasonable period. Reference will therefore be required to be made in the report to the individual's financial circumstances and the potential impact of this requirement on other family members.

Commission of a further offence while subject to a CPO

It is important for the report writer to bear in mind that the commission of a further offence while subject to a CPO does not automatically constitute a breach of the order. However, if the nature or circumstances of the further offence contravene a requirement of the Community Payback Order then it could result in a breach. (For example, if a conduct requirement is imposed that the individual should not enter the town centre on a Friday night and the new offence took place in the town centre on a Friday night, then as well as a new offence, the fact the individual was in the town centre would indicate that he or she had breached the conduct requirement.)

It is likely in these circumstances that the Sentencer will call for a report to assist the sentencing process. The report should address any progress made while subject to the current CPO, motivation to change behaviour, current risk assessment, protective factors and public protection issues. If the individual continues to be suitable for a community disposal, then an additional CPO can be considered. It is not possible to add further conditions to the existing CPO under these circumstances. Any suggested requirements on a further CPO need to be compatible with the existing CPO and achievable for the individual to meet all of the necessary requirements. It would also be possible for an individual to be subject to two CPO's with exactly the same requirement(s) as a means of reinforcing good behaviour. Careful consideration is needed however when assessing the most appropriate requirements which will assist in addressing risks and needs. The consequences of non compliance could mean that the individual could then be breached potentially on two or more orders. Where a CPO is breached, then the court may vary the existing order.

The report writer needs to be mindful of the maximum hour requirements when more than one unpaid work or other activity requirement is under consideration. For example, unpaid work and other activity can be imposed for up to a total maximum of 300 hours.

6.26. Sexual Offences Prevention Order at the point of Conviction

The Criminal Justice and Licensing Act 2010, amends section 109 of the Sexual Offences Act 2003, to provide that a Sentencer can make a SOPO at the point of conviction or the Procurator Fiscal/Advocate Depute can tender a motion for a SOPO to be considered. This is likely to apply to a small number of individuals who present a risk of serious harm to the public and is likely to involve the report writer (and his/her manager) in a MAPPA meeting in order to address the public protection issues at the report stage. This meeting will help inform the necessary requirements associated with the SOPO and should be conveyed by the Chair of the MAPPA (or nominated representative) to the Procurator Fiscal/Advocate Depute.

Reference can be made to the SOPO within the CJSWR, alongside any recommendations for a community pay-back order with relevant requirements in order to maximise public safety. The conditions attached to a SOPO will be monitored by the police. (Guidance on SOPOs will follow in due course).

6.27. Criminal Anti-Social Behaviour Order (CRASBO)

Where an offence includes an element of anti-social behaviour, then a CRASBO can be considered.

The Scottish Government guidance on CRASBO's (2005), suggests that local authorities, police and other partner agencies should identify cases where a CRASBO may be appropriate. It further states that it is good practice to liaise with the Procurator Fiscal in cases where an ASBO is being considered and there is also a criminal case pending. It may not always be obvious to the report writer when there are outstanding or previous incidents of anti-social behaviour, therefore, the report writer requires to take account of the circumstances and determine whether the above may apply. In addition, consideration should be given to local partnership arrangements (Community Safety Partnerships, ASB Teams), which have responsibility for monitoring anti-social behaviour in order to collectively consider whether a CRASBO may be an appropriate disposal.

<http://www.scotland.gov.uk/Publications/2004/08/19850/42068>

6.28. Restriction of liberty orders

A Restriction of Liberty Order (RLO), is a direct alternative to custody. The purpose of this order is to restrict the freedom of the individual by requiring him/her to remain at or away from a specified place for set periods of time while enabling him/her to remain with their families and to continue in employment or training. The individual must consent to the imposition of an RLO. When considering an RLO as a possible sentencing option, report writers should consider what the objectives of the disposal might be, for example:

- Where an individual has previous experience of other community disposals and is thought to be likely to be at serious risk of custody.
- Avoiding circumstances which have led to offending in the past, ie restricting the individual to his home at the times that he is most likely to reoffend.
- Seeking to ensure that the individual does not go to a particular place, eg the home of a previous victim. An RLO cannot prevent the individual from doing so but can serve as a deterrent and gives warning if the individual goes near to that address. It is important for the report to recognise however, that an RLO is not a guarantee of safety for a person who may be at risk from an individual.

An RLO can be imposed concurrently with a CPO, which would enable restrictions on the individual's freedom, whilst enabling more rehabilitative elements to be addressed via the CPO.

Where a CPO is breached, the court may impose an electronically monitored restricted movement requirement. This is not an RLO but is imposed as a requirement of the CPO.

6.29. Remittal to children's hearing system

Keeping young people within the child-care system or diverting them from the adult criminal justice system to the child-care system, should be a priority and is consistent with the United Nations Convention on the Rights of the Child.

If a young person is subject to a Supervision Requirement through the Children's Hearing System, then advice from the Children's Panel requires to be sought by the Sheriff Court and may be sought by the High Court. Click below for a link to section 49(3) Criminal Procedure (Scotland) Act 1995):

<http://www.legislation.gov.uk/ukpga/1995/46/section/49>

If a young person is aged 17 years and six months or younger, then the case can be remitted back to the Children's Hearing for advice and/or disposal (where appropriate to do so). The young person does not require to be subject to a Supervision Requirement through the Children's Hearing System, or known to the System.

The report writer must **always** comment on the option of remittal back to the children's hearing, (where the subject of the report meets the criteria of being under 17 years and six months) **but** it is critical to be clear that remittal is being considered with a view to work being undertaken which will address both the needs and risks already identified as well as being tailored to the young person's stage of development. Local arrangements require to be in place in order to determine which service will undertake this work.

If a young person appears in court on Indictment and is subject to a supervision requirement and is assessed as being at risk of a custodial sentence then the report writer should consider whether a secure unit rather than prison is appropriate. Any local resources available which could be considered as an alternative to custody must be explored within the report.

Where remittal to the Children's hearing is not viable for a young person and they require to be sentenced in the adult criminal justice system, then the principles of GIRFEC (Getting It Right For Every Child) should be borne in mind in order to work with the young person in a young person centred manner. This means dealing with them in an age appropriate manner.

6.30. Financial penalty

If the offence is deemed to be less serious and there are no significant issues of risk, then a financial penalty could be considered – fine or compensation order.

Comment should be offered where appropriate on the impact of a financial penalty on both the individual and his family. The financial circumstances should have been explored earlier in the report.

It is important to bear in mind that Fines Enforcement Officers (FEO) are located within courts as part of the reforms to summary justice in Scotland. FEOs work within both Sheriff and Justice of the Peace Courts. Fines are now mainly collected and enforced after the court has made an Enforcement Order (EO). When the Court imposes an EO, it gives the Fines Enforcement Officer responsibility for:

- enforcing fines;
- giving advice to individuals about how to make payments;
- supporting those who want to pay but are struggling;
- taking a range of actions against those who won't pay;
- making sure that individuals keep to the terms of the EO; and
- making sure that individuals know what will happen if they don't keep to the terms of the EO.

However, the FEO can still refer individuals back to court as a last resort. The FEO will do this if it appears unlikely that an individual is going to pay his fine. The court can then impose an alternative sentence.

6.31. Compensation order

The court can make a compensation order (either instead of or in addition to dealing with the individual in any other way) which requires the individual to compensate the victim financially for any offence which causes loss, damage or personal injury. Such orders are most frequently used where the amount of damage or loss is clear and where there is no doubt that it has arisen from the offence in question. As with a fine, the court must consider the individual's means. An order need not necessarily be for the full amount of the damage or loss. The individual must pay the clerk of court who then forwards the money onto the victim of the offence. Full payment must be possible within a reasonable period. Where the individual is of limited means and the court is considering either a fine or compensation order, then the compensation order must take precedence.

6.32. Deferred sentence

If the report indicates that a deferred sentence may be an option which the Sentencer would wish to consider, then the reasons for this view must be clearly explained. For example, a deferred sentence could provide the individual with an opportunity to seek assistance on a voluntary basis to address a problem e.g. an alcohol problem. It could also provide an opportunity to demonstrate that for the period of deferment that the individual can be of good behaviour or where currently subject to statutory supervision that they have the opportunity to continue to demonstrate good engagement with services. This needs to be balanced with the concern that it could delay the final outcome of the case – therefore careful consideration is required with this option.

6.33. Structured deferred sentence (where available)

Where a basic deferred sentence is not applicable but there are contributory factors to be addressed that are linked to the individual's offending and the person may not be considered suitable for a community pay-back order, then a Structured Deferred Sentence (SDS) may provide a viable sentencing option. The SDS is primarily aimed at less serious offending by individuals including young people and women, as well as those with substance problems or mental health difficulties. The aim is to offer a period of intensive social work or related interventions (normally between 3-6 months duration), in order to address specific issues related to offending behaviour. While the court retains the full range of sentencing options at the end of the period of deferment, the intention is that where the intervention has proved effective, this will be reflected in the final sentence of the court.

Structured Deferred Sentences are currently available in the following areas – Glasgow CJA, Northern CJA (Highland Council only), Tayside CJA, South West Scotland CJA (Ayr and Kilmarnock Sheriff Courts only).

6.34. Admonition

If the offence is relatively minor and isolated and the assessed risk is low, then admonition may be considered an appropriate option. In other more serious cases, the individual may already be sentenced to a high tariff disposal on certain charges while admonition may be appropriate for other less serious offences. Admonition is therefore not necessarily consistent in every case with a lower risk individual.

6.35. Absolute discharge

It would be very unusual in the course of compiling a CJSWR to suggest that this sentencing option is considered. It indicates that no further action need be taken on the matter for which the individual is currently appearing

6.36. Conclusion (section 9 of the template)

This section should provide a synopsis, briefly summarising what has been detailed in the report. No new information should be introduced at this stage and there should be a logical flow, bringing the professional assessment throughout the report to a conclusion. This should be a concise outline of the individual's attitude to offending, motivation to change as well as risks and needs identified and suitability for a community disposal.

The report should highlight the worker's **professional analysis**. Language is important in the report and never more so than in this area, as some Sentencers may regard it as inappropriate for the report to offer any recommendation as to what the court might impose as a disposal. On the other hand, in some courts, such suggestions, when they form part of the overall professional analysis, are regarded as good practice. It is important to bear in mind that the decision on what disposal to apply is entirely for the court. The author of the report requires to be discerning in his/her choice of words, but can however, offer their professional assessment of which

relevant sentencing options may maximise the opportunity for the individual to reduce reoffending and change their behaviour.

Wording is important. While it would be reasonable for a report to say:

“If a community disposal is considered to be appropriate, then the court may wish to impose a community pay-back order with a supervision requirement in accordance with the case management plan outlined earlier.”

It would not be appropriate for it to say:

“The community disposal most likely to result in the successful rehabilitation of this individual would be a community pay-back order with a supervision requirement in accordance with the case management plan outlined earlier.”

If there is no preferred option, then the author of the report needs to consider any conclusion which could be drawn from this decision and state why no preferred option has been highlighted.

Where the report refers to the possibility of a community disposal involving criminal justice social work, details of the first appointment should either be contained within the report (the **conclusion** may be the logical section in which to include it) or be passed to the court worker who can inform the individual immediately following sentence. A tear-off slip is available at Annex F.

6.37. Report writer’s details (section 10 of the template)

The author of the report should detail name, position (e.g. Social Worker), office address and relevant contact details – telephone number, fax and email address.

The report should be signed and dated. Most reports should be sent electronically to court, where a secure mailbox is available therefore an electronic signature is necessary. In some areas, Sentencers may also require a hard copy of the report, duly signed. Local protocols should be followed.

7. Individuals with special profiles

7.1. Women Offenders

The profile of women offenders differs from their male counterparts and tends to be characterised by multiple problems, such as substance problems, relationship difficulties, history of abuse, current abusive relationship and low self-esteem. Women are often also carers of children and at times other

vulnerable family members. Researchers have noted the tendency for report writers to adopt a different approach to the preparation of reports on women. In particular, they have identified that report writers tend to seek to explain individual women's offending in terms of psychological, psychiatric or other medical problems. Such problems may very well be a feature in the offending of some women, but are not necessarily always the case and workers must remain alert to the possibility of other significant underlying factors. Where significant health issues do exist, consideration should be given to whether a specialist report by a health professional should be highlighted to the Sentencer as an option prior to sentencing.

When preparing reports on women offenders, report writers must take care to give proper consideration to the provision of information about and analysis of employment issues, education and training and in particular alcohol and drug use as well as health and financial circumstances. It is important to be clear about the difference between offending related needs as opposed to other social needs, by making use of the most appropriate risk assessment tools to assist with this process. They must also ensure that they review the full range of community disposals which may be available and appropriate in the light of the unique circumstances of the case. Current responsibilities and commitments should not automatically rule out community disposals such as a CPO with a requirement of unpaid work or other activity.

Given the high incidence of women who present with multiple problems including complex substance issues, but who do not meet the DTTO criteria, then particular consideration should be given to their suitability for a CPO with a drug treatment requirement. This will allow some of these complex needs and significant underlying factors to be addressed, with a focus on drug related offending.

7.2. Young people involved in offending

When writing a CJSWR on a young person involved in offending (under the age of 18 years), their needs as well as risks require to be taken into account and the **GIRFEC** (Getting it Right for Every Child) principles taken into account.

[Getting it right for every child - Overview](#)

It is important that proportionate, appropriate and timely interventions are considered as part of the assessment while compiling the report. Multi-agency working and the sharing of information with partners is critical such as with Children and Families Services, Child Protection Services and the Voluntary Sector etc

It is important to remember that despite the fact that the young person finds themselves being dealt with in an adult system, they are not an adult and have unique needs and risks which require to be considered in a young person centred approach (wherever possible). Adolescence is a time of development and many young people who offend do not continue to do so in adult life.

If a young person is or has been known to other services, information should be collated from departmental records and colleagues to ensure that the report is based on a full assessment of available information.

The risk assessment tools and risk management approach should be appropriate to the age and stage of development of the young person being assessed.

The young person's family should be visited where appropriate in order to contribute to the assessment and to ascertain what supports (if any) might be available from family members. This should build a greater understanding of the young person's needs, risks and strengths. It is preferable that a home visit is undertaken in order to ascertain this information, provided that it is appropriate to do so and would not compromise staff safety.

Where the young person is already known to services, it is important that the young person is fully informed of the court process and that they understand expectations of them – e.g. how to conduct themselves while in court and how to address the sentencer (if asked to do so). This work should be undertaken by the most appropriate person i.e. the Children and Families worker/court-based social work staff (where available), criminal justice social worker (where appropriate) or other court staff.

Report writers should be aware of alternatives to secure care and/or custody where appropriate, informed by the "Securing our Future Initiative (SOFI) Report."

(http://www.sircc.org.uk/sites/default/files/SOFI_report.pdf).

It is important to bear in mind that the majority of young people who offend can be safely managed within their local community.

8. Related information and advice services for the court

There are a number of other ways in which the local authority CJSW staff provide information and advice for the court which assists sentencing. These include: information for Sentencers, same day verbal or written reports provided on the day of court, supplementary reports and other reports. All reports should be presented on the national report template, but only the relevant sections completed. This will allow for a brief, short format report to be delivered on the template where appropriate. The template should not be used for other reports such as bail reports, progress reports etc.

8.1. Information for Sentencers on day of court

CJSW staff at court may provide information to Sentencers at their request and present this orally in open court. This is usually provided at short notice on a case known to them where this would be helpful to the court and often can relate to practical matters. The purpose of this information for Sentencers is to:

- provide information which may make it possible for the court to continue a case on bail rather than remand in custody;
- provide information on specific matters which may make it possible for the court to deal with a case without requesting a CJSWR;
- provide additional information which has become available since an CJSWR or related report was submitted; and
- following an initial assessment, to suggest that a CJSWR, medical or other report might be helpful.

Oral reports are not sufficient where the individual is facing a possible custodial sentence or where an individual presents a serious risk of harm to the public.

Where a CJSW staff member wishes to attend court to provide an oral report, he or she must notify the clerk of court giving the name of the case. Wherever possible this should be done before proceedings begin either by the worker directly or the court based worker.

8.2. Same Day Oral or Written Reports

The court may ask for an immediate oral or written report from a court-based worker during the course of court proceedings and adjourn the case until later in the day for this to be completed. This is normally a brief report and not a full CJSWR. These reports are usually related to the need for specific information and advice to assist with decision-making. The information may be relevant to decisions regarding bail or custody, the need for a full report, the need to continue the case to a future date and final disposal.

Workers undertaking these reports should:

- respond to the court's request for any specific information;
- make clear if they consider that a full report would be desirable; and
- assist, where appropriate, by carrying out investigations and making arrangements which may enable the individual to be released on bail.

The worker concerned must be in court to provide either a oral or written report and to answer any questions. Where a same day brief, oral report has been delivered to the court, the worker involved should use the template outline to assist with this task. It is recommended that a hand-written (or typed) record of this report is retained but counted as an oral report for statistical purposes

Where the circumstances of the case cannot be conveyed orally without divulging sensitive information in open court, then a brief same day written report should be considered, where this is approved by the Sentencer.

Workers should always suggest that the case is continued for a full report where there may be a risk of custody or where the individual presents a serious risk of harm to the public.

8.3. Supplementary reports

Supplementary reports are most frequently requested in connection with a decision to defer sentence. They should not be confused with progress reports which are also requested by the court where a court is regularly reviewing the progress of an individual subject to a community payback order (CPO) or Drug Treatment and Testing Order (DTTO). Supplementary reports may be used:

- to obtain additional information and advice with regard to disposal; and
- to find out how the individual has behaved during a period of deferment, including his/her compliance with conditions.

The worker preparing the supplementary report should address matters which concerned the court when the case was originally deferred. Comment should also be made on whether the individual has been found guilty of any other offences during the period of deferment and/or whether there are any outstanding charges. The accuracy of this information must be verified by police, Scottish police services agency and/or procurator fiscal as appropriate.

Supplementary reports should begin with an opening statement indicating that the report supplements an earlier report. It should provide an update on events and changes which have occurred, including any subsequent offences and the outcome of any further court appearances, to assist the court to determine the most appropriate disposal. The report should also respond to any specific requests for information by the court; and review feasible sentencing options alongside a review of the risks posed.

It is important to remember that if the last report is less than six months old, then this may be submitted to court with a brief update.

8.4. Other related reports

Section 203 of the Criminal Procedure (Scotland) Act 1995, requires all courts to obtain a report in respect of any convicted individual under supervision by order of a court. The report must cover “the circumstances of the offence and the character of the offender, including his behaviour while under supervision.....”. The report template should be used to compile this type of report also. This requirement has proved difficult to implement because the court may not always be aware at the point of sentence that the individual is under supervision.

9. Procedures for providing reports

9.1. Court requests

The court requests a report through the clerk of court. Social Work authorities must arrange with the clerk to pass these requests by secure electronic transmission, where possible, from court to CJSWS (and vice-versa once the report is complete). The information to be passed includes:

- the request for the report, which includes details of the individual's name, current address, sex, date of birth and employment status if known;
- copy of the complaint/indictment with any amendments/deletions to the documentation noted;
- summary of evidence where this is available from the PF service
- whether the individual has been ordained, bailed or remanded in custody;
- where applicable, whether the individual is currently serving a custodial sentence or is remanded on another matter;
- when the report is required and the address to which it should be sent;
- note of whether any other reports were requested e.g. medical or psychiatric;
- a note of any relevant comments made by the bench;
- list of any previous convictions of which the Procurator Fiscal thinks the Sentencer should be aware when sentencing;
- the individual's unique reference number so that the report writer can access the individual's complete criminal record;
- information about any outstanding charges, warrants, fines or compensation orders; and
- the report writer must check whether there is any relevant information about the individual or his/her family in the local authority's records. For example, this may be information relating to child protection issues or the individual's response to previous periods on community disposals.

The request for the report must be passed on to CJSWS on the day it is requested by the Court Clerk.

Cases must be allocated to report writers within **2 working days of the request being received**. Requests for reports for areas outwith the local authority, should be forwarded within one working day by the CJSWS with responsibility for court services in the area the request is received by CJSWS.

The worker must begin to prepare the report as soon as possible after it has been allocated. This should allow sufficient time to obtain Scottish Criminal History information, examine the relevant background information, make necessary enquiries, carry out interviews, write/type the report and ensure the individual is aware of the content.

The CJSWS must arrange with other agencies to ensure that report writers receive any other necessary background information as soon as possible after the court has requested the report. (This may include agencies delivering group-work programmes or supported accommodation or health services etc)

A new report is always required unless one has been prepared within the last 6 months and there have been no significant changes to the individual's circumstances. The report writer has discretion to provide a Supplementary Report in appropriate circumstances where the last report is less than 6 months old. Where this is the case, the existing report can be submitted along with a supplementary report focusing on the current offending behaviour. Click here for further information:

<http://www.scotland.gov.uk/Publications/2006/04/JDcircular42006>

Workers preparing reports will normally write to individuals to let them know where and when they will be interviewed and to provide information about the purpose of the interview. When individuals are remanded in custody, it may not always be possible to specify the time of the interview but it is good practice to try to do so and provide written information about the purpose of the report and to give an indication of when the interview may take place. In some local authority areas contact may be made with those at liberty by SMS text messaging where current mobile numbers are known to the author of the report, as an additional means of communication.

9.2. Completed reports

Reports should be sent electronically or by post or other means to the clerk of court no later than midday on the working day before the court hearing or sooner, in order to allow Sentencers sufficient time to read completed reports prior to the court hearing.

In exceptional circumstances where report writers intend to be present at the court hearing to speak to their reports they should let court social work staff know when they submit reports. Authors of reports must always attend court when requested by the court. In most cases, report writers do not need to attend court, but need to brief court social work staff on any issues which may arise, and court social work staff should be prepared to deal with any questions or queries about a report from the Bench.

Whilst a report is in preparation, report writers should discuss its contents with the individual including any conclusions about the possible sentencing options. It is the clerk of court's responsibility to ensure that the individual,

his/her agent, if they have one, and the Procurator Fiscal receive a copy of the report.

There may be occasions where the report writer may wish to ask the court for more time to complete a report by asking for a longer deferment. This may be where a further assessment is required or where a particularly complex action plan is being negotiated.

In the interests of justice, no CJSW staff should discuss the content of individual reports with Sentencers in private before the court hearing. Any such discussion should be in court so that the individual, his defence agent and the procurator fiscal can hear what is said and take part in any discussions.

10. Management responsibilities

This section should be read in conjunction with chapter 10 of National Outcomes and Standards for Social Work Services in the Criminal Justice System.

Managers have responsibility for the continuous improvement of performance and outcomes in relation to the compilation of CJSWRs. This requires effective leadership skills. CJSW managers require to work closely with Chief Officers of Community Justice Authorities (CJA) in order to monitor, review and evaluate practice in relation to report writing and the delivery of court-based social work services.

Local authority CJSW managers are responsible for the following tasks associated with providing effective and efficient services.

10.1. Monitoring the standard of CJSWR

Local authority CJSW managers must implement the use of the nationally agreed report framework and ensure that the standard of reports is monitored regularly. This should include:

- Checking that the template has been used and that the standard of individual reports is acceptable
- Reviewing samples of reports by undertaking regular audits. For example, reports on high risk individuals, individuals under 18 years, women etc
- Examining reports where the sentence was custody in order to determine that all available information on the feasibility of community disposals was conveyed to the Sentencer
- Requesting regular feed-back from Sentencers on the quality of reports

- Undertaking cross authority audits within CJA areas and seeking performance improvements in the light of CJA annual reports and recommendations within the Social Work Inspection Agency (SWIA) inspection reports

Local authority CJSW managers must ensure that arrangements are in place to monitor the quality of reports prepared on women and young people as well as other under represented groups. Such arrangements must be sufficient to monitor both the quality of information and any review of sentencing options in the report, which takes account of the profile of women as well as young people involved in offending.

10.2. Liaison with courts

CJSW managers should agree liaison arrangements with Sentencers and court staff. They must allow for regular review of issues associated with effectiveness and efficiency of services. The agenda for liaison should include:

- Making opportunities to raise operational issues of mutual interest
- Provide information which is updated regularly about the nature and scope of services which the local authority and its voluntary partners make available to the courts
- Providing information on how services are performing
- Providing information about services under development and how these contribute to policy, planning and practice

10.3. Making provision for court-based social work services

Local authority CJSW managers must take the necessary steps to provide an adequate court-based social work service. This is likely to mean that priorities will need to be determined through consultation with the Scottish Court Service and taking account of available resources.

It is a matter for CJSW managers to decide how to allocate resources to court-based social work services most cost effectively, basing this allocation on throughput of cases, the demand for verbal/written reports and the anticipated demand for services across all types of court in their area.

Where court boundaries cover more than one local authority area, arrangements should be made to ensure that there is not duplication in service delivery. (These discussions should include CJSW and appropriate personnel from the Scottish Court Service). Operational protocols should be agreed.

Every effort should be made to provide the range of services as outlined at sections 4 and 8. However, it is acknowledged that this may not always be possible due to the number of court hearings taking place and the available number of court-based social work staff.

Criminal Justice Social Work managers must ensure that potential users of the service including Sentencers, clerks of court, local faculty of solicitors, procurator fiscal and police are aware of the nature and scope of services which are available to the court. This may include the updating of the local authority website.

Appropriate administrative support is essential to the effective delivery of court based social work services. Suitably qualified staff should be used to deliver this key service as outlined in section 4.

10.4. Accommodation and resources

The Scottish Court Service is responsible for providing appropriate facilities for the efficient and effective delivery of court-based social work services in Scottish courts. This should include access by CJSW staff to local social work information systems within the court building and confidential interviewing space, where possible. CJSWS managers should meet regularly with court staff in order to negotiate suitable facilities from which to deliver the court-based service.

Annex A: National Reporting Template

[INSERT Council logo]			
CRIMINAL JUSTICE SOCIAL WORK REPORT			
1. Personal Details			
URN:		SW Ref:	
Name			Gender:
D.O.B			Age
Address			
Post code			
Court status	Bailed <input type="checkbox"/>	Remanded custody <input type="checkbox"/>	in <input type="checkbox"/> Ordained <input type="checkbox"/>
Comments			
Current court order/Licence:			
2. Court details			
Court			
Date of Court			
Comments			
3(a) Current Offence Details			
Offence(s)		Date offences committed	
3(b) Outstanding Matters			

4 (a) Basis of Report/Verification of Information	
4(b) Verified Sources of Information	Tick as appropriate
Complaint/Indictment	
Departmental information/service records	
Medical Information	
Criminal History Check	
Summary of Evidence	
Risk Assessment Tool(s)	
Comments:	

5(a) Offending analysis- current
Analysis of current offence(s)
Context:
What is the level of responsibility for the offence?
What is the level of planning?
What is the individual's attitude and insight into the offence(s)? :
What is the level of recognition by the offender on the impact/consequences of the offence(s) on the victim/community?
5(b) Offending Analysis – Previous offending
What is the pattern/history of previous offending?
6. Personal and Social Circumstances Relevant to Offending Behaviour and Sentencing
Accommodation

Significant Relationships/Background

Training/Education/Employment

Financial Circumstances

Health

Leisure/Recreation

Drugs/Alcohol use

7. Risk Assessment

Risk factors

Protective factors

Analysis from risk assessment

Serious Harm/Imminence

Suitability for community disposal/public protection issues

8. Review of Relevant Sentencing Options

Community Payback Order

DTTO – suitable/unsuitable(only where DTTO criteria applies)

9. Conclusion

10. Report writer details:

Name:

Position:

Office Address:

Office telephone/Fax:

Signed:

Date:

Annex B: National Medical Mandate

MANDATE TO RELEASE MEDICAL INFORMATION

Dear Dr.....

REGARDING:

NAME.....DOB.....

Address.....

.....

The above-named person is subject of a Criminal Justice Social Work Report and is due back in court on

.....

He/She has given consent for any medical information to be disclosed which may have a relevance to the completion of the report. The worker completing the report will be in contact in due course.

REASON FOR REQUEST FOR INFORMATION:

Court-based Social Worker

.....

I consent to my Doctor/Psychiatrist providing medical information relevant to the compilation of the report for my forthcoming court appearance.

Signed..... Date.....

Annex C: Risk of self-harm pro-forma

RISK OF SELF-HARM PRO-FORMA

The following information should be completed where there is concern about the risk of self-harm following a remand or custodial sentence:

NAME:

ADDRESS:

DOB:

COURT:

DATE OF APPEARANCE:

OFFENCE/S:

SENTENCE LENGTH/REMAND:

NATURE OF CONCERN:

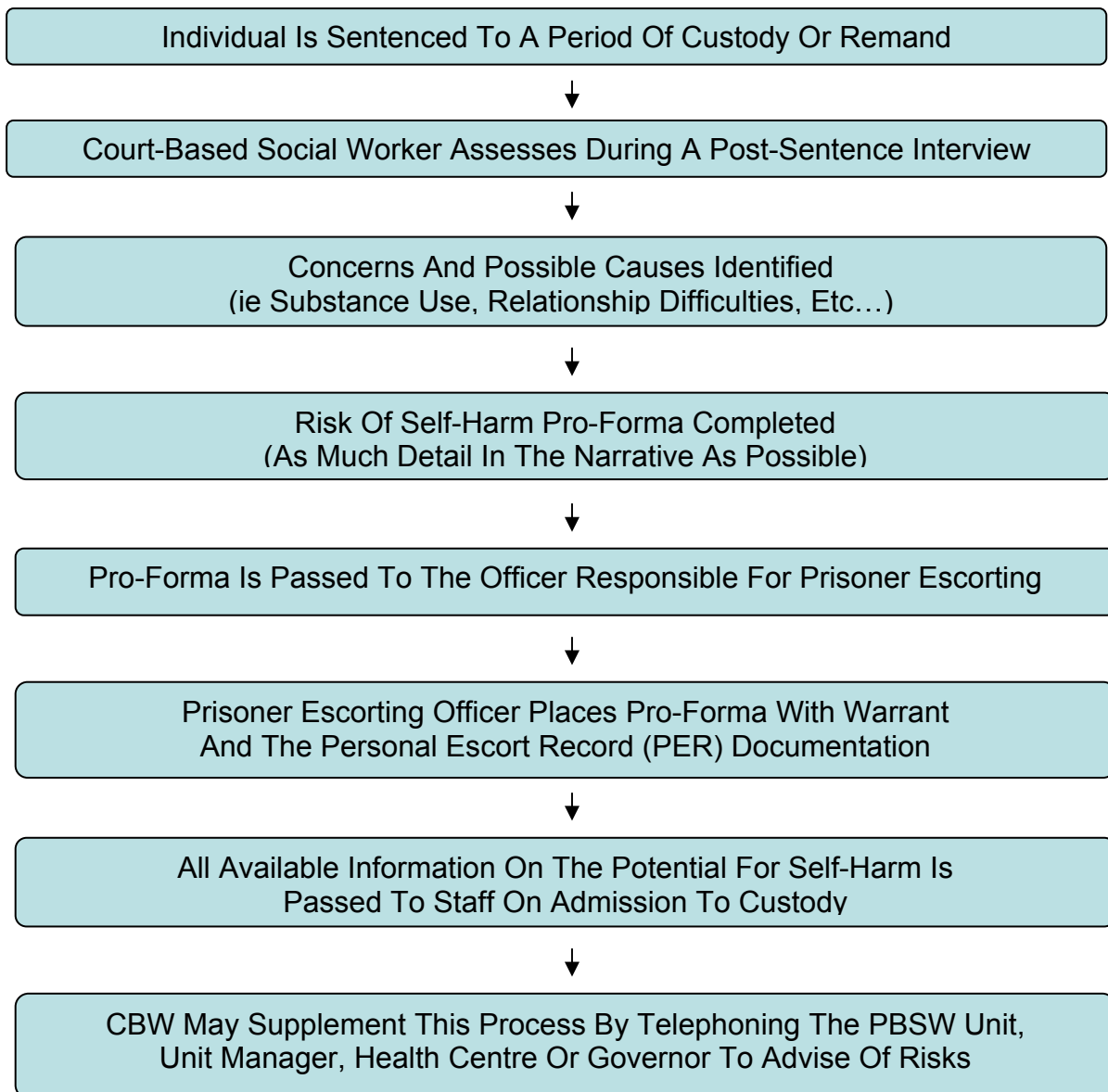
SIGNED _____ DATE _____

Position _____

This information should be passed to the prisoner escorting officer and form part of the Personal Escort Record (PER) in order to ensure that details of risk is available on admission to custody.

Annex D: Risk of Self-harm Flow Chart

.....**Council**
CRIMINAL JUSTICE SOCIAL WORK SERVICES
RISK OF SELF HARM



Annex E: Personal Escort Record

RESTRICTED PERSONAL ESCORT RECORD

ATTACH
PHOTO
IF AVAILABLE
(TOP COPY ONLY)

NOT FOR RELEASE **REASON FOR HOLD** _____

ALL MATTERS DEALT WITH ? YES NO IF NO REASON _____

PERSONAL DETAILS PRISONER NO. _____

NUMBER & TYPE OF MATTERS PERSON IS APPEARING ON (INCLUDE CRIME / PF REFERENCE NUMBERS IF AVAILABLE)

PRISON POLICE HOSPITAL MALE FEMALE UNDER 21
 Prisoner Supervision Level (circle as appropriate): HIGH MEDIUM LOW

SURNAME _____ ALIAS(ES) _____
 FORENAME(S) _____ D.O.B. _____ AGE _____

TICK APPROPRIATE BOX: NO KNOWN RISK **RISK** (PROVIDE FULL DETAILS BELOW)

RISK CATEGORIES		DA	RCS	SECURITY		DA	RCS	OTHER		DA	RCS
MEDICAL				VIOLENCE				DRUGS/ALCOHOL ISSUES			
MEDICAL CONDITION	<input type="checkbox"/>	<input type="checkbox"/>		CONCEALS/ CARRIES WEAPONS	<input type="checkbox"/>	<input type="checkbox"/>		SUICIDE/SELF HARM	<input type="checkbox"/>	<input type="checkbox"/>	
PSYCHIATRIC CONDITION	<input type="checkbox"/>	<input type="checkbox"/>		ESCAPE RISK	<input type="checkbox"/>	<input type="checkbox"/>		INJURIES	<input type="checkbox"/>	<input type="checkbox"/>	
MEDICATION ISSUED	<input type="checkbox"/>	<input type="checkbox"/>		HOSTAGE TAKER	<input type="checkbox"/>	<input type="checkbox"/>		VULNERABLE	<input type="checkbox"/>	<input type="checkbox"/>	
SPECIAL NEEDS	<input type="checkbox"/>	<input type="checkbox"/>		STALKER/HARASSER	<input type="checkbox"/>	<input type="checkbox"/>		FORCE/RESTRAINT USED	<input type="checkbox"/>	<input type="checkbox"/>	
FIRST AID GIVEN	<input type="checkbox"/>	<input type="checkbox"/>		RACIAL MOTIVATION	<input type="checkbox"/>	<input type="checkbox"/>		CS SPRAY	<input type="checkbox"/>	<input type="checkbox"/>	
				SEX OFFENCE	<input type="checkbox"/>	<input type="checkbox"/>		OTHER	<input type="checkbox"/>	<input type="checkbox"/>	

RCS - Reliance Custodial Services
DA - Dispatching Agency

Does the prisoner require to be segregated (tick if YES)?

Reason for segregation _____

RISK - ADDITIONAL INFORMATION (attach report where necessary)

<p style="text-align: center; margin: 0;">DA</p> <hr/> <hr/> <hr/>	<p style="text-align: center; margin: 0;">RCS (Please update RECORD OF EVENTS with this information)</p> <hr/> <hr/> <hr/>
---	---

PRISONER PROPERTY (SEAL/SERIAL NOS.)	ESCORT DETAILS (OUTWARD)
	FROM _____
	TO _____

PRISON, POLICE, HOSPITAL	ESCORT	COURT / ESTABLISHMENT
SIGNED _____	SIGNED _____	SIGNED _____
NAME / OFFICER No. _____	NAME (CAPS) _____	NAME (CAPS) _____
DATE _____	VAN No. _____	DATE _____

ESCORT DETAILS (INWARD)

FROM _____	TO _____
------------	----------

ESCORT	ESTABLISHMENT
SIGNED _____	SIGNED _____
NAME (CAPS) _____	NAME (CAPS) _____
VAN No. _____	DATE _____

RESTRICTED

RCS 110A

**Annex F: First contact following community disposal
tear-off slip**

TEAR OFF SLIP: FIRST CONTACT FOLLOWING COMMUNITY
DISPOSAL

DATE:

YOU APPEARED IN COURT TODAY/ON _____ WHEN
YOU WERE MADE SUBJECT TO (delete as appropriate):

COMMUNITY PAYBACK ORDER / DTTO / SAO

OTHER _____

YOUR REPORTING INSTRUCTIONS ARE DETAILED BELOW:

NAME:

ADDRESS:

DATE OF APPOINTMENT:

TIME :

VENUE FOR APPOINTMENT:

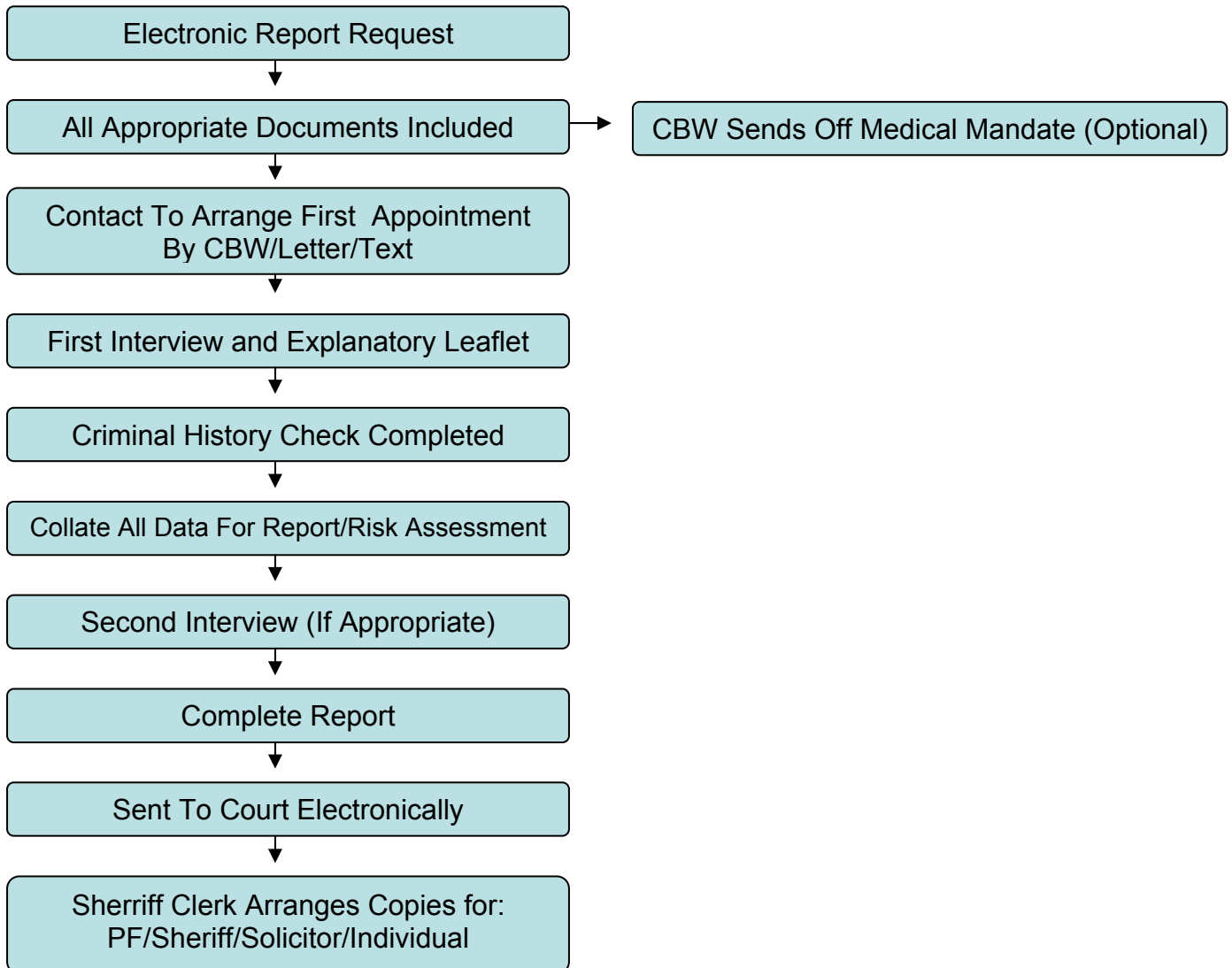
ADDRESS:

SOCIAL WORKER:

Signed _____
Court-worker

Annex G: Flowchart on report request process

.....Council CRIMINAL JUSTICE SOCIAL WORK SERVICES REPORT REQUEST PROCESS



Annex H: Contacts and Useful Links

APEX	http://www.cjscotland.org.uk/index.php/cjscotland/dynamic_page/www.apexscotland.org.uk/
FAMILIES OUTSIDE	http://www.familiesoutside.org.uk/
HUMAN RIGHTS SCOTLAND	http://www.humanrightsscotland.org/
RESTORATIVE JUSTICE SCOTLAND	http://www.restorativejusticescotland.org.uk/
SACRO	http://www.sacro.org.uk/
SCOTTISH DRUG FORUM	http://www.sdf.org.uk/
VICTIM SUPPORT	http://www.victimsupportsco.org.uk/page/index.cfm
CENTRE FOR CRIME AND JUSTICE STUDIES	http://www.crimeandjustice.org.uk/
SCOTTISH INSTITUTE FOR EXCELLENCE SOCIAL WORK EDUCATION CRIMINAL JUSTICE SOCIAL WORK PORTAL	http://www.cjsw.ac.uk/servlet/page?_pageid=51&_dad=portal30&_schema=PORTAL30
SCOTTISH SENTENCING COMMISSION	http://www.scottishsentencingcommission.gov.uk/index.asp
PAROLE BOARD	http://www.scottishparoleboard.gov.uk/index.asp
RMA	http://www.rmascotland.org/home.aspx
SCOTTISH COURTS	http://www.scotcourts.gov.uk/
OFFICE OF QUEENS PRINTER	http://www.oqps.gov.uk/
SCOTTISH GOVERNMENT – JUSTICE	http://www.scotland.gov.uk/Topics/Justice
SCOTTISH CENTRE FOR CRIMINAL JUSTICE RESEARCH	http://www.sccjr.ac.uk/index.php
DRUG MISUSE INFORMATION	http://www.drugmisuse.isdscotland.org/index.htm
ALCOHOL MISUSE INFORMATION	http://www.alcoholinformation.isdscotland.org/alcohol_misuse/Al_HomePage.jsp;jsessionid=00827D69469DE1D3241BACB4194AAE07?p_applic=CC&p_service=Content.show&pContentID=1393&
SKILLS FOR JUSTICE	http://www.skillsforjustice.com/template01.asp?PageID=95
GETTING IT RIGHT FOR EVERY CHILD (GIRFEC)	http://www.scotland.gov.uk/Topics/People/Young-People/childrensservices/girfec/programme-overview
MAPPA	http://www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/offender/protection
ICM	http://www.scotland.gov.uk/Publications/2007/09/ICM
SPS	http://www.sps.gov.uk/default.aspx
SWIA	http://www.swia.gov.uk/swia/566.html
CALEDONIAN PROGRAMME	http://www.scotland.gov.uk/Topics/People/Equality/violence-women/CaledonianSystem
MENTAL WELFARE COMMISSION	http://www.mwscot.org.uk/mwc_home/home.asp
SSSC	http://www.sssc.uk.com/
ACPOS	http://www.acpos.police.uk/Documents/Annual%20Reports/ACPOS%20REPORT%2007-08.pdf
HMIP REPORTS	http://www.scotland.gov.uk/Publications/2009/05/05104027/0

CHILDRENS HEARING PANEL	http://www.childrens-hearings.co.uk/youthjustice.asp
SCOTLAND'S COMMISSIONER FOR CHILDREN AND YOUNG PEOPLE	http://www.sccyp.org.uk/index.php
SCOTLAND'S DRUG ENFORCEMENT AGENCY	http://www.sdea.police.uk/
VICTIMS OF CRIME SCOTLAND	http://www.victimsofcrimeinscotland.org.uk/
NCH	http://www.actionforchildren.org.uk/
WISE GROUP – ROUTES OUT OF PRISON	http://www.thewisegroup.co.uk/content/default.asp?page=s5_2_1
ADSW	http://www.adsw.org.uk/Home/
COSLA	http://www.cosla.gov.uk/
NAPO	http://www.napo.org.uk/
NOMS	http://www.noms.homeoffice.gov.uk/
CARE PROGRAMME APPROACH (CPA)	http://cpaa.co.uk/thecareprogrammeapproach
SCOTTISH INDEPENDENT ADVOCACY	http://www.siaa.org.uk/

Annex I: Glossary of Terms

CBSWS	Court based social work service
CBW	Court based worker
CBSW	Community based social worker
CJA	Community Justice Authority
CJSW	Criminal Justice Social Work
CJSWR	Criminal Justice Social Work Report
CSO	Community Service Order
CSOGP	Community Sexual Offenders Groupwork Programme
EO	Enforcement Order
ES	Extended Sentence
FEO	Fines Enforcement Officer
GIRFEC	Getting it right for every child
HLR 1- 3	Home Leave Report (Part 1 – SPS, Part 2 – CBSW report, Part 3 – review)
ICM	Integrated Case Management
LS/CMI	Level of Service / Case Management Inventory
MAPPA	Multi-Agency Public Protection Arrangements
MHO	Mental Health Officer
NOS	National Outcomes and Standards
PER	Personal Escort Record
PBSW	Prison Based Social Work
PQD	Parole Qualifying Date
RAO	Risk Assessment Order
RMA	Risk Management Authority

RMT	Risk Management Meeting (within Scottish Prison Service)
SCS	Scottish Court Service
SMART	Specific, Measureable, Achievable, Realistic and Time bound
SPS	Scottish Prison Service
SPSA	Scottish Police Services Authority
SRO	Supervised Release Order
SWIA	Social Work Inspection Agency
URN	Unique Reference Number