

Assisting Young People aged 16 and 17 in Court

**A toolkit for Local Authorities, the Judiciary,
Court Staff, Police, Crown Office and Procurator
Fiscal Service**

**Young People Who Offend
(Managing High Risk and Transitions)**

September 2011

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This toolkit has been prepared by the Young People in Court workstream established by the Young People Who Offend project implementation board. Membership of the workstream is shown at [Appendix 1](#).

1. Introduction

Since 2008 there have been very significant developments in the way in which services for children and young people have been delivered in Scotland, and running in parallel with these have been considerable changes in criminal justice policy. Together these changes impact, in particular, around the area where young people start to enter the adult criminal justice system and much work has been done recently to improve the interaction between the youth and adult criminal justice systems.

The purpose of this toolkit is to share the best practice which has emerged, and to assist those who are involved with under 18s who are appearing in court, to develop efficient and effective local approaches to handling these cases. We believe that introducing these measures locally will make a significant contribution to the ongoing body of work which is aimed at reducing the frequency and seriousness of offending and re-offending by young people. This toolkit has been designed for use by decision makers, practitioners and service providers involved with young people going to court.

[Appendix 2](#) summarises the changes in policy and practice which are referred to above, and provides links to the relevant documents.

The key messages are:

- all justice agencies should use every opportunity to prevent young people entering adult criminal justice system.

However, where prosecution proves necessary:

- the outcomes for young people are enhanced when those involved work together and when there is effective information sharing and communication;
- sentences have a greater impact upon young people when imposed in close proximity to the offences, thus cases involving young people should be dealt with without delay;
- young people should be supported - failure to support young people through the criminal justice process, and failure to address their needs, can lock them into a cycle of reoffending; and
- courts should be provided with a range of robust alternatives to remand and custodial sentences as it is recognised that short custodial sentences provide limited opportunities for young people to engage in behavioural change or education programmes which can significantly reduce reoffending and a high proportion of young people released from custody will go on to reoffend.

Definitions

- 'Court' refers to criminal court
- 'Young people/person' refers to under 18 year olds being prosecuted.
- 'Implementation group' refers to a judicially led multi agency group – Appendix 6
- 'Single plan' is the term used to describe the plan for the young person which would include an assessment of their risk and needs and may be known in adult justice as case management or risk management plan. The lead professional is the term used to describe the lead worker/case manager for that young person – [appendix 2](#)

2. Objectives, Values and Principles

2.1. Drivers for change

Each year approximately 8,000 16 and 17 year olds end up in the criminal justice system and courts, with limited consideration given to the positive benefits of diversionary opportunities suited to their age and stage of development or whether young people can fully engage in the judicial process.

For under 16s, an extensive range of care and support services are provided to address offending behaviour but their availability and utilisation are inconsistent. Too many people who have been through the care system end up in the criminal justice system and prison. The Prison Commission Report Scotland's Choice¹ highlighted that:

- prisoners are 13 times more likely to have been in care as a child;
- 63% of young people have substance misuse issues on admission to prison;
- of all prisoners 80% have the writing skills, 65% the numeracy skills; and 50% the reading skills, no greater than those of an 11 year old;
- 25% of these young people have clinically significant communication impairment; and
- approximately 88% of 16 to 20 year olds released from custody are reconvicted within two years with 45% receiving further custodial sentences².

The Scottish Prisons Commission report, the United Nations Charter on the Rights of the Child and the Council of Europe recommend that young people under the age of 18 are dealt with outwith the adult court setting. Whilst this may not currently be possible in Scotland, we must ensure that both the child and adult systems meet the needs, and address the risks, of 16 and 17 year olds. Getting it Right for Every Child ([Appendix 2](#) refers) also sets out the principles for addressing the needs of children and young people. In this context children and young people are defined as all young people under the age of 18.

2.2. Objectives

Work to identify the most efficient and effective approaches to handling cases which involve young people who are appearing in court should be underpinned by the following objectives:

- to reduce the frequency and seriousness of offending by 16 and 17 year olds,
- to raise awareness and promote the robustness of non-custodial disposals;
- to ensure that children and young people appearing in court have access to proper support and information to assist their understanding and effective participation in the process;
- to promote the social inclusion, citizenship and personal responsibility of young people involved in court processes,
- to ensure that young people involved in offending get the help they need, when they need it, to ensure the best chance of achieving the above objectives, and
- to enhance community safety and reduce fear of youth offending by addressing the needs and risks of young people involved in offending.

¹ <http://www.scotland.gov.uk/Publications/2008/06/30162955/0>

² <http://www.scotland.gov.uk/Topics/Statistics/Browse/Crime-Justice/TrendPris>

2.3. Key principles and values underpinning this toolkit

Young people should only be prosecuted when necessary

In recent years, policy and practice in the area of youth offending has moved away from a concentration on persistence to a '[whole system approach](#)'. As a result of this evidenced based policy shift, responses to offending by young people now form part of a wider process aimed at reducing re-offending through a range of staged interventions. Greater use is being made of children's services to facilitate interventions at a variety of stages, to ensure that services are available to young people when they need them, and that children and young people are only prosecuted when it is necessary because of the nature and frequency of their offending.

In practice this involves intervention at the earliest point appropriate for each individual by:

- Flexible Approach to Offending³ and Early and Effective Intervention⁴, usually prior to any referral to the reporter;
- retaining vulnerable children in the children's hearing system beyond their 16th birthday for as long as appropriate, even if they continue to offend and their cooperation with agencies is poor. Non-cooperation weighs in favour of continuing, not terminating a supervision requirement.
- diverting young people from prosecution⁵;
- providing alternatives to secure care and custody⁶; and
- Ensuring a range of age appropriate services to address offending behaviour and needs.

Where appropriate and possible, young people involved in offending should be diverted from prosecution. In addition to the improved outcomes for young people, diversion from prosecution will also result in fewer young people going through the court process, allowing court resources and services to be used more efficiently.

Multi Agency Working and Judicial Involvement

Effectiveness and efficiency are markedly improved by agencies working together as a team and by ensuring good information sharing, liaison and communication in line with the principles of Getting it Right for Every Child⁷. Examples of how this currently operates for under 18s in court are provided at Appendix 4, together with an analysis of the roles and responsibilities of the principal players at Appendix 3.

At the point at which young people who offend enter the court system, judges and defence agents also have roles to play. Judges can help to ensure the effective co-ordination of key delivery agencies involved in the court process, establishing the most appropriate approach to handling cases involving young people locally, overseeing the drafting of operational protocols, ensuring regular meetings, joint training, and the evaluation of the effectiveness of the approach adopted.

Defence agents have an obligation to support decisions taken about the programming of court business involving young people, but they also have an important role in ensuring that non-custodial disposals are promoted and that young people they represent are supported

³ <http://www.acpos.police.uk/Policies.html>

⁴ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/young-people>

⁵ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁶ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁷ www.scotland.gov.uk/Topics/People/.../childrenservices/girfec

and have an understanding of the court process. This is considered in more detail at section 3.4 below.

Co-ordination of procedures and protocols

Procedures and services must be co-ordinated to ensure that a timely and effective multi-agency response is provided. A co-ordinated response should be developed and agreed with the key court players i.e. judiciary, prosecution, police, court service, and social work and then reach outwards to include education, health, anti-social behaviour, housing, and voluntary and charitable intervention bodies.

We recommend that the Sheriff Principal, in his/her capacity as chairman of the Local Criminal Justice Board seek to have the Board consider how to take forward, at a local level, the implementation of the best practice commended in this report. It might be considered appropriate, for example, to set up a short term working group to ensure effective co-ordination through regular meetings and joint training. We refer to such co-ordinating machinery as an Implementation Group in this report. It is important that the Implementation Group report to the local Criminal Justice Board and could consider:

- What methods can be adopted to get cases into court quickly (section 3.2);
- Whether the undertaking procedure can be used for all appropriate summary cases involving 16 and 17 year olds (section 3.3.2.1);
- Within what timescale police reports will be submitted to the Procurator Fiscal (section 3.3.2.1);
- Within what timescale cases will first call in court (section 3.3.2.1);
- What the formal procedure should be for ensuring that all outstanding charges are rolled up (section 3.2.2.2)
- What is the appropriate period between assigning a trial diet and the date assigned (section 3.3.2.3)
- How early trial diets can be accommodated within the court programme (section 3.3.2.3)
- How progress will be measured (section 3.3.2.3)
- What procedures will be put in place to ensure that young people have support when attending court (section 3.3)
- How awareness can be raised amongst defence agents of sentencing and support options available locally (section 3.4)
- Whether a local protocol can be developed aimed at ensuring the speedy provision of address for bail purposes (section 4.4.2)
- Whether a protocol can be developed with local schools aimed at ensuring the speedy provision of information for bail information reports (section 4.4.2)
- What procedure should be put in place for the provision of bail information reports, including those for petition cases (section 4.4.2)
- How awareness can be raised of the sentencing options available locally (section 4.6).

Cases progressed as quickly as possible

Cases should be dealt with as quickly as possible to allow the young person to link the disposal with their offending behaviour. The ways in which delay can be avoided are considered at section 3.

3. Prior to Court

3.1. Cases to come to court quickly

In order for young people to associate the sentence with their offending behaviour, it is particularly important that prosecutions of under 18s are dealt with as quickly as possible.⁸

In solemn criminal cases, because of the serious nature of the charges involved, and often their complexity, it is not possible to make blanket recommendations on how quickly cases should be processed. However, where possible, the same priority should be given to these cases.

For summary cases, the Summary Justice System Model⁹ which was developed and agreed by the main criminal justice organisations in 2007, provides the national framework for the handling of summary cases, following on the package of summary justice reforms including the Criminal Proceedings etc (Reform) Scotland Act 2007.

It set standards for cases being reported by the police, for the procurator fiscal marking the case, and for the case's first calling in court. Although, the table below outlines the standards set, it is recommended that these reports are made sooner where possible. The time limits, which depend upon whether the accused is liberated or released on undertaking, are:

	Police report to Procurator Fiscal	Procurator Fiscal marks papers	Case first calls in court
Liberated	28 days from caution and charge 14 days for under 16s	28 days from receipt of police report	28 days from marking of papers by Fiscal
Undertaking	14 days from caution and charge	14 days from receipt of police report	28 days from caution and charge

The Youth Courts in Hamilton and Airdrie were able to provide a fast track procedure into court, and 'fast-tracking of young people into and through the court was the aspect of the Youth Court that was perceived by various professionals as having been most effective. Ensuring that police make all necessary paperwork available to the Procurator Fiscal as quickly as possible, including items of disclosure. Where this information is not made available it can result in the case being adjourned. Fast-tracking was viewed by Sheriffs and other professionals as making the connection between the offence and the resulting sentence more meaningful and was regarded as something to be aspired to in all summary court business.¹⁰ Information on the Hamilton and Airdrie Youth Courts can be found at Appendix 7.

It is recognised that other courts may not be able to resource such fast tracking, but it is recommended that the Implementation Group should explore what methods can be adopted locally to get cases into court quickly. For example, in Aberdeen all cases involving 16 and

⁸ Maruna and Farrall (2004) indicate "primary desistance" (initial offence-free period) requires active participation or agency from individual. Also GIRFEC states importance of addressing initial concerns by single agency. In addition, McNeil (2009) adapts Sutton's ASPIRE (1999) model emphasising the importance of preparation, relationship – building and engagement in the desistance process. Court appearance can provide early opportunity for this, if the young person is supported appropriately.

⁹ Summary Justice System Model- <http://www.scotland.gov.uk/Publications/2007/09/06092618/0>

¹⁰ Evaluation of the Airdrie and Hamilton Youth Court (June 2006)
<http://www.scotland.gov.uk/Publications/2006/06/13155406/1>

17 year olds are being dealt with by way of undertaking, unless the circumstances of the case require remand, and work is in hand to reduce the reporting period for undertaking cases from 28 to 14 days (see Appendix 7).

Legal Aid

It is recognised that fast tracking cases for 16 and 17 year olds will, in some cases, have implications for legal aid applications. It is recommended that this is considered quickly and applications submitted as soon as possible.

3.2. An agreed model of programming court cases involving 16 and 17 year olds

Solemn cases

Indictments for those in custody are served within 80 days of appearance in court. Otherwise, the expectation is that indictments will be served within 8 months. The lengthy timescales are related to the complexity of jury cases. However, the defence agent of a young person placed on petition will receive most statements within 28 days which ensures that the young person knows what the nature and strength of the case against them is at an early stage.

Summary cases

Undertakings

This toolkit recommends the use of the undertaking procedure to bring cases to court, and the Summary Justice System Model recommends that where an accused has been liberated on undertaking, their case should call in court within 28 days of the undertaking being issued.

Where the young person is under the age of 16, the undertaking is signed by the parent or guardian.¹¹ Cases involving children should be held in a closed court, in a different building or room from those dealing with adult cases.¹²

Rolling up outstanding charges

One of the greatest obstacles to working effectively with young people who offend is the knowledge that they are due to appear again in court during their sentence in respect of other charges which were outstanding at the time of sentence. The difficulties were discussed in the Summary Justice Review Committee: Report to Ministers Chapter 16: Dealing with multiple cases against an accused.¹³ We therefore recommend that procedures be put in place to ensure that wherever possible and practicable all known, outstanding charges requiring prosecution should be rolled up and taken together. Details of outstanding cases can be found on the Scottish Criminal History system.

COPFS electronic system also has the ability to identify cases of repeat offences. When the police report a case the system performs a check against the name of the accused and his/her SCRO number. If the police have reported more than a defined number of cases for that accused during a defined period, the case will be flagged up as a Priority Case due to the presence of a Persistent Offender. The Procurator Fiscal will seek to roll up any

¹¹ Criminal Procedure (Scotland) Act 1995 s.43

¹² Criminal Procedure (Scotland) Act 1995 s.142

¹³ <http://www.scotland.gov.uk/Publications/2004/03/19042/34193>

outstanding charges. Where the cases are all live within the one court this can be done by using the process for accelerating diets.¹⁴ This may be done on the motion of the Procurator Fiscal, or the defence, or on joint motion. The procurator fiscal can also apply to have cases pending in different courts within the sheriffdom moved using the provision for transferring cases.¹⁵

Further where two or more complaints against the same accused are calling on the same day in the same court, the court can, on application by the prosecutor, try the complaints together as one trial under section 152A of the 1995 Act. There are no notice requirements for the prosecutor to make any application under this section and the court is to grant such an application where it appears that it is expedient to do so.¹⁶ The two complaints will be treated as separate complaints for the purposes of sentencing.

Defence agents have a responsibility to assist in identifying outstanding cases, as may a social worker who has knowledge of the young person. If rolling up outstanding charges the benefits of doing so should be explained to the young person.¹⁷ On occasions, concern is expressed that an agent may be doing his/her client a disservice by drawing the court's attention to other outstanding charges. The young person, however, is much more likely to derive benefit from any sentence imposed if it is known that there are no further cases pending.

Trial diets

Where a young person pleads not guilty and their case is, therefore, proceeding to trial, cases should be allocated the earliest available trial diet.

Whilst the Youth Courts in Hamilton and Airdrie were able to allocate early trial diets, it may be that other courts anticipate difficulty in resourcing this. It should be borne in mind, however, that in the longer term, by making best use of diversion and retaining young people within the Children's Hearings system, fewer 16 and 17 year olds will be coming to court and court resources will accordingly be freed up, and can be redeployed to ensure that those young people appearing in the court can proceed through the court process with appropriate efficiency.

An example of how this works in practice can be seen in Aberdeen. Here it has been agreed that cases involving 16 or 17 year olds should be allocated unused diets which had been held in reserve for custody trials.

The implementation group may wish to set standards for court waiting periods and measure progress towards achievement.

3.3. Identifying young people prior to court

There is value in having a process in place which identifies young people who are suitable for diversion from prosecution. Where the young person is not suitable for diversion, a dedicated court worker should be informed that the young person is going to be prosecuted. This allows them to make contact with the young person prior to their appearance in court, to offer support and information. Community based social workers should also let the court support worker know if one of their young people is going to court, to ensure the young

¹⁴ Criminal Procedure (Scotland) Act 1995 section 137

¹⁵ Criminal Procedure (Scotland) Act 1995 section 137A

¹⁶ s152A(2)

¹⁷ http://www.cjscotland.org.uk/index.php/cjscotland/dynamic_page/?title=reducing_reoffending – Bernadette Monahan – Some Thoughts on Reducing Reoffending.

person is supported. The custody list provided at the beginning of the day also allows the court support worker to identify 16 and 17 year olds who will be appearing from custody. The essential element is for the police/social worker to flag up in the police report to the Procurator Fiscal that a young person may be suitable for diversion and for the multi-agency discussions to be held. If the Procurator Fiscal is not able to attend multiagency meetings, it is recommended that the Procurator Fiscal should provide to court social work a list of young people aged 17 and below where the decision to prosecute has been taken.

In addition, arrangements should be made with court staff to send a copy of the 'court sheets' to social work staff some days in advance of the diets. This allows identification of those young people due to appear in undertaking, cited, trial or remand courts in both the sheriff court and the justice of the peace courts. This list should be available from all courts. Court lists will not include those young people who appear in custody courts. Alternatively, court social workers should explore the scope for gaining access to the court's computer system to retrieve such information themselves.

Local arrangements can also be made for the Procurator Fiscal Office to identify young persons being prosecuted to the court social worker. This option may be more viable where there is a dedicated Procurator Fiscal marking cases for diversion from prosecution.

It may also be possible for court social workers to circulate postcards with these details to defence agents in the court to promote information sharing and provide an avenue for defence agents to support the young person making contact with court social work.

3.4. Defence agents

If a young person appearing at court is under 16 it is recommended that the defence agent (and other agencies see 3.7 and 3.8) ensure that social work are aware of the situation and have provided a single plan.¹⁸ Where cases are fast tracked this requires defences cases to be prepared within limited timescales. The Procurator Fiscal should inform defence agents when a case will be fast tracked and provide all necessary information as quickly as possible.

Defence agents should determine whether 16 and 17 year old clients are receiving any support from social work, voluntary sector or other service provider and contact these individuals, to obtain the young person's 'single plan'. GIRFEC¹⁹ requires every young person under age 18 working with service providers or local authorities to have a 'single plan' setting out how their risks and needs are being addressed. The 'single plan' should be provided to the court along with the criminal justice social work report for the young person to ensure the judge has all relevant information to inform their decision.

With the young person's consent, contact should also be made with professionals working with the young person to make them aware of the young person's appearance at court as they will be in a position to provide additional support to the young person. They will also have additional information, if they are already working with them, which may be relevant, for example, to a plea in mitigation, or in respect of the sentencing of the young person. Even where the young person is not already known to social work, there may be value in the defence agent discussing their client's circumstances with the court social worker. In particular there will be benefits in liaising with the court social worker when it is likely that an application for bail will require to be made, as the social worker is likely to have collated relevant information in preparation for a report to the court.

¹⁸ <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>
<http://www.scotland.gov.uk/Resource/Doc/1141/0109968.pdf>

¹⁹ <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

It should not be assumed that the young person will understand the court process because they have been to court before (see section 3.5 below). The implementation group should aim to raise awareness of their objectives locally with defence agents using events, written material or meetings.

Defence agents should also determine whether a 16 or 17 year old client is subject to a supervision requirement and ensure that this information is passed on to the court. A supervision requirement may be in force even when there has not been past offending, having been made for other reasons such as lack of parental care. A 16 or 17 year old who is subject to a supervision requirement falls within the legal definition of a child²⁰ and is accordingly subject to the procedures and sentencing provisions applicable to a child, including, the mandatory requirement upon the sheriff and justice of the peace to obtain the advice of a children's hearing.²¹

3.5. Ensuring young people have an understanding of the process

It is critical that young people understand what will happen when they attend court, including sentencing options, and what will be required of them. It should not be assumed that the young person will understand the court process and what is expected of them on the basis that they have attended court previously.

There is some evidence to suggest that, despite what they might say, some young people attending court do not have such an understanding.²² Where the decision is made to prosecute, young people should be assisted to understand the process involved in prosecution, including where they have to make decisions that will impact on their current situation and their future.²³ Information and support should also be made available for court attendance so that the young person knows where to go, who to see, and how to behave.

If, as discussed, it is in the young person's best interest for any outstanding cases to be heard together then this also needs to be explained to the young person.

Young people at court need to be aware if bail is being opposed and what options are available. This will include advising them of all consequences if they refuse to engage with an option.

With the young person's consent, due to their age, the young person's family should be included in discussions wherever appropriate. They should also be advised of the process and the potential options available. The parent(s) or guardian(s) of children under the age of 16 are required to attend all the court hearings if they reside within a reasonable distance of the court, unless the court is satisfied that it would be unreasonable to require their attendance.²⁴

Consideration should be given to how best to communicate this information to the young person in a form that would be accessible, attract their interest and facilitate their understanding.

²⁰ Criminal Procedure (Scotland) Act 1995 s.307, defines "child" as having the meaning assigned by Children (Scotland) Act 1995, s.93(2)(b)

²¹ Criminal Procedure (Scotland) Act 1995 s.49

²² Young People's questionnaires

²³ Scottish Courts website provides Information for Persons Attending a Criminal Court at <http://www.scotcourts.gov.uk/courtusers/crimcourtattenders/index.asp>

²⁴ Criminal Procedure (Scotland) Act 1995 s.42(2)

3.6. Local authorities

As set out at 3.3.1 social work and court social workers should identify young people prior to them attending court. This allows them to exchange additional information with the defence and court based social worker, which may be relevant, for example, to a plea in mitigation, or in respect of the sentencing of the young person. Even, where the young person is not currently working with social work or other professionals, every attempt should be made to support that young person by way of explaining the court process, exchanging information with relevant parties and encouraging the support of the young person's family.

Where local authorities identify that a young person they are actively working with is appearing at court consideration should be given to reassessing their single plan to ensure that it is still robust, taking into account the circumstances leading to them appearing at court. If the young person is unknown to services planning and assessment should take place to consider what support is required to address their needs and risks and a single plan subsequently devised. It is recommended that local operating procedures are put in place to ensure that emergency social workers advise the court social worker that a young person is due to appear at court, sharing all relevant information.

Consideration should be given to sharing information on vulnerabilities that may affect how the young person is prosecuted with the Procurator Fiscal, for example, it may be relevant to share that the young person has learning difficulties or a learning disability. The police should include in the standard prosecution report whether a young person is subject to a supervision requirement through the Children's Hearing system or is considered a vulnerable adult.

3.7. Other service providers

Information should also be exchanged with other relevant partners, for example, if the young person is receiving support from a youth justice or voluntary sector service. Evidence suggests that young people receive an in-depth level of support through the court process by workers providing these services²⁵, such as being accompanied to court, liaising with family members and having the process explained in an accessible manner. This also provides an opportunity for service providers to feed into the young person's single plan with regards to their progress and engagement in the service as well as any ongoing support that can be provided.

²⁵ Scottish Government questionnaires completed by young people in HMI Polmont, HMI Cornton Vale and young people working with Includem.

4. At Court

4.1. Court social worker

At section 3 above we identify the steps which should be taken to ensure that the court social worker or other involved professionals are made aware of the appearance of a young person in court.

The court social worker (definition includes the role of court support worker) has a role to offer the young people information on the court process to ensure they have some understanding of what will happen, the minimum requirements of court social workers is set out in the National Standards for Criminal Justice Social Work.²⁶ Information can be given on what disposals are available to the court and what that will mean for the young person. Once a disposal has been made the young person and their family, where appropriate, should be provided with more detailed information and links to the relevant social work department. (see Appendix 3 under Social Work).

We recommend that court social workers should provide support, guidance and assistance to young people going through the court process. For those who have been held in custody, they should visit the young person in the cells prior to court, and engage with the young person, allowing the court process to be explained and clarified, stressing the significance of attendance at court on all dates that are set by the court. Further to this, the court social worker will answer any questions that they may have and offer any assistance within the boundaries of the post.

Where possible the court social worker should obtain background information concerning their personal circumstances; with the view to identifying areas of need, signposting them to partner agencies and if required set up initial appointments. We would recommend that they are present in court when the young person appears before the judge to make a note of the disposal. This also allows them to be available should the judge require any further information. The court social worker, or other professional involved with the young person, should write to, or telephone them, reminding them to attend court on the given dates and the importance of good behaviour in an attempt to prevent breach of bail conditions, and reoffending. Where possible this should also be explained to the young person in person. Details of other services should be provided if deemed necessary to allow the young person to address the underlying causes of their behaviour.

The court social worker should act as an intermediary between social work and partners to assist young people to successfully attend all the various appointments required by the court or otherwise – i.e. court dates, court report appointments, job centre, interviews, housing, offending focussed services etc.

If a young person is under age 16 more support should be offered and community based social workers included in any discussions or planning, including a review of the their single plan .

²⁶ <http://www.scotland.gov.uk/Resource/Doc/925/0103556.pdf> - national standards

4.2. Use of language

Although research in this area is limited, evidence indicates that young people do not fully understand the court process and the language used.²⁷ Scotland's Choice²⁸, a report by the Scottish Prisons Commission also set out that:

- of all prisoners 80% have the writing skills, 65% the numeracy skills; and 50% the reading skills, no greater than those of an 11 year old; and
- 25% of these young people have clinically significant communication impairment.

For younger prisoners aged 18-20 these problems are even more intense; their basic skills, rates of unemployment and previous levels of school exclusion are a third worse even than those of older prisoners.

This toolkit therefore recommends that the judiciary and other professionals involved with young people in court take account of the additional needs that this group present, prior to, during, and after court. Care should be taken during all stages of the process to avoid legalistic terms. Where it is necessary to use legal terms, these should be explained, either before or afterward, in an accessible way to young people.

It is important that the conditions of any sentence or remand option are explained clearly to assist the young person's understanding of what these will mean for them in practice to help ensure that they do not go to breach conditions.^{29 30}

Consideration should be given by defence agents, social work and other professionals as to what additional support might be required for young people, paying particular attention to those with mental health problems, learning disabilities and learning difficulties.

4.3. Special measures for vulnerable young people

The Vulnerable Witnesses (Scotland) Act 2004 provides that any witness in the High Court or the Sheriff Court (whether an accused or not) aged under 16 when the complaint or indictment is served is automatically entitled to standard special measures (a live TV link, a screen in the courtroom and a supporter with either of the first two).

A young person aged 16 and over when the proceedings begin, would be classed as a vulnerable witness if the court considers the quality of their evidence will be affected by mental illness, personality disorder, learning disability, or fear or distress. An application can be made in respect of a vulnerable witness for what are called "further" special measures – a live TV link, prior statement, evidence by commissioner, use of a screen, use of a supporter. The use of a screen in the courtroom for a young person on trial is not thought to be appropriate given that the young person is visible to everybody for the rest of the trial. If, for example, a young person has a learning disability an application could be made to the court on their behalf to have an appropriate adult in attendance with them.

Defence agents should be alert to the need to apply for special measures. Also if a social worker or support worker considers that the use of special measures might be appropriate they should bring this to the attention of the defence agent in order that an application might be made to the court.

²⁷ Teenagers' difficulties with key words regarding the criminal court process - Emma Crawford & Ray Bull - 2006

²⁸ www.scotland.gov.uk/Resource/Doc/230180/0062359.pdf

²⁹ <http://www.scotland.gov.uk/Publications/2005/09/26103133/31342>

³⁰ <http://www.scotland.gov.uk/Resource/Doc/933/0113802.pdf> which

Irrespective of whether special measures are used, defence agents and the Procurator Fiscal should share information with regards to the young person's vulnerabilities, particularly when this will impact on how they are questioned when giving evidence.

4.4. Bail and remand

Unless a case is disposed of the first time it calls in court, one of the early judicial decisions will relate to whether the young person should be ordained to appear at the next calling of their case, whether they should be remanded in custody until their next court appearance, or whether they should be released on bail.

Evidence shows that young people are part of a vulnerable group who may suffer extreme difficulties if remanded to custody.³¹ It is essential to ensure that the courts have available to them alternatives to secure care and custody, including intensive support packages and bail supervision, as an alternative to remanding young people, that are evidence based, lead to positive outcomes and that decision makers have confidence in. It is anticipated that ensuring robust services are in place will ultimately reduce the use of custody, thereby supporting young people in their own community, leading to better outcomes for the young people and their communities.

There is a plethora of services for young people in the community and local initiatives should be undertaken to harness these into a cohesive and intensive package of support that can be offered to the court as a means of retaining the young person in the community when there is a risk of remand or custody. 'Community Alternative' programmes devised for those under 16 years of age can be adapted to be used for 16 and 17 year olds with the possible addition of group work programmes to address offending behaviour.³²

Identifying cases involving young people who are suitable for bail supervision will enable support services to be put in place at the earliest possible stage. Local agreements should be in place to ensure early identification of those for whom bail is opposed or where there is a high risk of remand. Assessments for bail supervision can be requested by judges, Procurators Fiscal and defence agents. Should Social Work identify possible candidates, a referral should be made through the young person's defence agent. Bail supervision is intended to have a monitoring and support role for the young person. The level of weekly contact can vary depending on whether the case is a summary or solemn matter and supervision aims to encourage and support the young person to keep any court appearances or meet other court requirements such as appointments for preparation of reports; signpost them to appropriate services to meet their assessed needs; and work with them to avoid breaching bail by further offending. In this way, young people will be offered supports at an early stage and successful completion of a period of bail supervision increases the young person's chance of being made subject to a community disposal if their case progresses to sentencing.

Bail supervision is particularly appropriate for young people to offer them support to adhere to their conditions. Experience has shown that reminding young people that breaching bail conditions could lead to custody may also be enough to deter breach.

³¹ Young people particularly vulnerable as per McNeil (2009) 18-20 year olds demonstrate criminogenic needs one third higher than the already limited abilities of older prisoners. See Monica Barry & Fergus McNeill, *Youth Offending and Youth Justice*, (2009)

³² www.northlanarkshire.gov.uk/index.aspx?articleid=4571

In order that judges can take appropriate decisions about young people pending trial and/or sentence they must be satisfied that:

- they have all relevant information about the young person
- appropriate bail supervision or support schemes are available

Bail opposition

It is recommended that the Procurator Fiscal make the court social worker aware of cases in which it is considered that there are risks associated with ordaining the young person or releasing him/her on bail. In order that the court has available to it all the relevant information when the case calls, it is recommended that all courts adopt the practice (see Appendix 8) whereby the Procurator Fiscal makes a bail opposition list available to the Court Support/Social Worker prior to the court day commencing. This will ensure that they can gather information to offer the courts on the suitability of the young person's circumstances in the community and any arrangements for alternatives to remand e.g. supervised bail.

Bail Information Reports

Bail should not be refused due to a lack of information about the young person's circumstances. Every effort should be made to identify young people due to appear at court to ensure all the required information is available. Where this has not happened it should still be possible for the court based social worker to obtain this information on the day, where the young person is known to services.

The Implementation Group should work to establish local protocols to ensure that no young person is remanded in custody solely because they have nowhere to live. Where a young person is known to be homeless, every effort should be made to secure an address before the young person appears in court. The court social worker being made aware of a young person appearing from custody (court custody lists, contact from the Procurator Fiscal or other professionals working with the young person) and where no alternative family address is available, should make a referral to the housing department. Care should be taken, in arranging an address, to ensure any concerns expressed by the Procurator Fiscal are taken into account, for example that it should not be close to the victim.

Occasionally it may not be possible to obtain an alternative address before the end of the court day, but every effort should be made to do this at the earliest possible opportunity.

The court social worker should ensure that as much relevant information as possible is available about the young person before their appearance in court. The Implementation Group should seek to establish protocols with the local schools or Education Department to enable quick feedback about the young person. The Implementation Group should also establish the procedure to be followed in making bail information reports available to both summary and solemn courts.

Where the young person is already known to social work it will be necessary to obtain information from the lead professional for that young person and obtain a copy of their 'single plan'.³³

There is a statutory requirement on the Chief Constable to notify the Local Authority for the area in which the court sits, of any child under the age of 16 who is to appear in court, and provide details of when they will appear and the offence with which they are being charged. The Local Authority then have a statutory duty to provide the court with a report on any child

³³ <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

under the age of 16, covering their home surroundings, their school record, and their health and character.³⁴

Bail Options

As mentioned at 4.2 above, the court will also wish to be satisfied that appropriate bail supervision schemes are in place.³⁵

The Implementation Group may wish to ensure that the judiciary are made aware of the options available locally as part of the awareness raising, and that procedures are established to ensure the needs of the young people are brought to attention of the judiciary before decisions affecting their liberty are taken.

A wide range of bail supervision schemes which are specifically targeted at young people are now available, as outlined in Appendix 8.

Remand Options

Appendix 8 sets out some examples of alternatives to remand.

Where a decision has been made to remand a young person to secure care or custody they should be interviewed by the court social worker before leaving court.³⁶ This will be particularly relevant where it has not been possible to identify that the young person was appearing at court in advance to obtain further information which may be relevant for future court appearances. It may, for example, be possible to identify information which may support a review of the decision to remand.

The interview should include support to the young person, for example, the offer to make contact with family if unaccompanied. An assessment of the vulnerability of the young person and of the risks to self and others should be undertaken. Where risks or vulnerabilities are identified this should be communicated to the prison or secure care estate and the allocated worker or appropriate social work office.

If a young person is subject to a supervision requirement through the Children's Hearing system, a secure placement should always be sought and where appropriate/available, offered to the court as an alternative to a Young Offenders Institute (YOI).

When a young person subject to a supervision requirement is remanded, as part of good practice, a 72 hour Looked After Review should be arranged by the local authority to take place in the YOI or secure unit. This will allow continued support to the young person during their remand as well as planning to take place for robust community alternatives to be put in place if necessary, and for their effective reintegration back into the community.

4.5. Completion of criminal justice social work court reports

When a young person pleads guilty or is found guilty, the judge may request social work to prepare a criminal justice social work report. The court social worker should contact the relevant Social Work service to get an appointment which can be passed on to the young person before they leave court that day. The requirements for writing court reports are set out in the National Objectives for Social Work Services in the Criminal Justice System:

³⁴ Criminal Procedure (Scotland) Act 1995 s.42(7) and (8)

³⁵ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

³⁶ <http://www.scotland.gov.uk/Resource/Doc/925/0103556.pdf>

Standards³⁷ and the requirements for the young person's single plan are set out in the Getting it Right for Every Child Framework³⁸.

Where appropriate, court reports should consider community alternatives as a disposal; in particular a remit to the children's hearing even where the young person is not subject to a supervision requirement. They should include the young person's single plan, in line with the requirements of GIRFEC. Plans should be tailored to meet the needs of the young person as should the disposal options included within the report. In order to ensure that information for the court is as comprehensive as possible, liaison should take place between all social work services, and where appropriate other partners who have been working with the young person.

It may be helpful to contact the young person's solicitor to discuss the proposed disposals and explain how they would address the risks and needs of the young person.

All risk assessments used to inform court reports and the young person's single plan should be informed by a structured risk assessment tool. The selection of appropriate risk instruments is the responsibility of the practitioner and the agency, and may be guided by criteria outlined by the RMA.³⁹ The assessment tool should be appropriate for the age and developmental stage of the child or young person. Assessments need to be grounded in research and evidence in relation to children rather than a knowledge base exclusively relating to adult offending.

There is recognition that some young people cannot always be managed in their communities and custodial sentences are the only option. Where this is the case the following options can be considered:

- a young person is appearing at court on indictment who is a Looked After Child at risk of a custodial sentence, section 208 of the Criminal Procedures (Scotland) Act 1995 where the young person could be sentenced to a secure unit, should be considered and written within the court report; and
- if a young person is not subject to a supervision requirement but is under 17 years and 6 months, remit to a children's hearing for disposal remains an option under section 49(6) of the Criminal Procedure (Scotland) Act 1995. In making a supervision requirement the hearing can authorise that the young person be kept in secure accommodation if the young person meets the criteria in section 70(10) of the Children (Scotland) Act 1995; Children's Hearing (Scotland) Act 2011, section 97(5)(c). (See section 4.6 below, 'Advice of and Remit to a Children's Hearing'.)

As with remand, good practice includes a 72 hour Looked After Review being arranged by the local authority to take place in the YOI or secure unit for those who are Looked After Children, or post sentence meeting for those who are not. This will allow continued support to the young person during their sentence as well as planning to take place for effective reintegration back into their communities.⁴⁰

If a young person is subject to a supervision requirement, this should not be terminated due to the fact that they have been given a custodial sentence. Any decision to terminate should be based on a need and risk assessment.

³⁷ <http://www.scotland.gov.uk/Publications/2011/03/07124635/0>

³⁸ <http://www.scotland.gov.uk/Topics/People/Young-People/childrenservices/girfec>

³⁹ RMA (2007c)

⁴⁰ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

4.6. Sentencing Options

Whilst recognising that for some young people a custodial sentence may be an appropriate disposal, this toolkit, seeks to raise awareness and promote the robustness of the following sentencing options:

- Remit to the Children's Hearing;
- Structured/deferred sentences to include a package of support tailored to meet the needs of young people;
- Community sentences, including, Community Payback Orders and their predecessors, Probation and Community Service Orders (see Appendix 9).

This Toolkit should be read in conjunction with the Guidance on Community Alternatives to Secure Care and Custody.⁴¹

Locally the implementation group could raise awareness of the options available amongst the judiciary, procurator fiscals, court staff and other relevant professionals using events, meetings or written materials.

Informing sentencing decisions

Reference has been made above to the need to ensure that alternative to secure care and custody packages are available for young people who commit the most serious offences. Decision makers and other professionals involved with the young person need to have confidence that these are robust evidenced based services that lead to positive outcomes; this is of most importance when new packages of support have been developed. This may be done through awareness raising events, briefings and/or leaflets. Care must be taken to ensure that the same information is made available to visiting (part-time) judges.

Lead professionals and other agencies must ensure that appropriate risk assessment and risk management is in place for the critical few young people who pose a significant risk of harm to others.⁴²

Advice of and Remit to a Children's Hearing

When a child or young person who is aged 17 ½ years or less pleads guilty to, or is found guilty of an offence the court may dispose of the case by remitting it to the children's hearing. The court can seek the advice of the children's hearing prior to disposing of the case. Where the child is subject to a supervision requirement the Sheriff court must obtain the advice of the children's hearing before disposing of the case.

Where the court remits a case to a children's hearing for disposal, in some cases it may be necessary that robust risk management protocols⁴³ are in place for young people and the young person's social worker should seek to evidence this to panel members in order to build confidence in the ability to manage young people within the children's hearing system.

The rules that apply to advice and remit to a children's hearing are set out below.

⁴¹ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁴² <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁴³ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

*Child on a supervision requirement (under 18 years)*⁴⁴

- The Sheriff or Justice of the Peace Court must obtain the advice of a children's hearing before disposing of the case;
- The High Court may obtain the advice of the children's hearing before disposing of the case;
- After considering the advice of the children's hearing the sentencing court either disposes of the case itself or remits it to the children's hearing for disposal.

*Child not subject to a supervision requirement (under 16 years)*⁴⁵

- The Court may remit the case to a children's hearing for disposal without first seeking the advice of a children's hearing;
- The Court may obtain the advice of a children's hearing and then dispose of the case itself or remit it to a children's hearing for disposal.

*Young Person not subject to a supervision requirement (16 -17½ years)*⁴⁶

- Applies only when a young person is charged summarily;
- The Court may obtain the advice of a children's hearing before disposing of the case;
- After considering the advice the Court may either dispose of the case itself or, if the children's hearing has so advised, remit it to a children's hearing for disposal.

Appendix 10 provides 2 flow charts setting out the advice and remit process for young people under 16 and those over 16 years.

It is important for report writers to bear in mind that remit to a children's hearing may be an appropriate disposal even in cases where the offence is serious and a custodial sentence would be a consideration were the court disposing of the case. If the case is remitted to the children's hearing the hearing will decide whether to make a supervision requirement, or if there is a supervision requirement in place, whether to continue or vary that supervision requirement. In making, continuing or varying a supervision requirement the hearing can authorise that the young person be kept in secure accommodation or impose a movement restriction condition if the young person meets the criteria in section 70(10) of the Children (Scotland) Act 1995 and the hearing is satisfied that such measures are necessary. This may be a more appropriate and effective intervention than custody because such measures are primarily directed towards meeting the needs of the child, they last for as long as is necessary to promote the welfare of the child and are the subject of regular review. In particular, a child or young person cannot be kept in secure accommodation for longer than 3 months unless the children's hearing, on review of the case, continue that authorisation. In this way, the length of the young person's detention is based on their level of need and risk rather than on a pre-determined 'sentence', which better supports their reintegration to the community.

Structured Deferred Sentence

Although not strictly a sentence, we include the Structured Deferred Sentence (SDS) in this category, because it falls to be considered at the same time as other sentencing options. The SDS provides a structured social work intervention for individuals post conviction but prior to sentencing. It is intended for those with underlying problems such as drug or alcohol dependency, mental health or learning difficulties or unemployment that might be addressed

⁴⁴ S.49(3) Criminal Procedure (Scotland) Act 1995

⁴⁵ S.49(1) Criminal Procedure (Scotland) Act 1995

⁴⁶ S.49(6) Criminal Procedure (Scotland) Act 1995

through social work intervention. Details of the scheme can be found in the Evaluation of the Structured Deferred Sentence Pilots.⁴⁷

From these pilots, evidence suggested that compliance was higher than for community service or probation, with one fifth or less of orders in Angus and Highland incomplete or 'defaulted', moderate to high attendance levels, or participants who were motivated, engaged, benefiting or participating well in SDS. A lesser sentence after SDS was achieved in a notable number of cases, with admonishment common. Around a third of high tariff SDS orders resulted in the desired outcome of a non-custodial sentence. The majority of practitioners were positive about SDS, feeling that it filled a gap in the current court options, and benefited offenders. There is evidence to suggest that offenders did address their needs, but this is not comprehensive and may not apply to all given SDS. In terms of cost, the pilot sites were funded on the basis of expected numbers of cases. Depending upon uptake, the cost of SDS overall can be comparable with a community service order, or probation.

Community sentences (see Appendix 11)

Local authorities should ensure the provision of robust alternatives services to secure care, custody and remand, to minimise the occasions on which young people require to be detained in the prison estate.^{48 49}

Young people frequently fail to adhere to the conditions associated with bail orders and community sentences, but there is evidence that these high rates of non-compliance are associated with a failure to provide programmes etc. which recognise the specific needs of these young people. This is one of the reasons why a supervision requirement⁵⁰ has been made mandatory for all under 18 as part of a Community Payback Order. This means that they will have an allocated worker who will provide support to fulfil the requirements of their Order. The allocated worker can also provide support on personal motivation, behaviour change, anger management, substance misuse, engagement with education, training or employment, support with accommodation issues and individual counselling. There are nine requirements which can be imposed as part of a Community Payback Order and, depending on the circumstances of the case, there may in limited situations be other requirements attached, for example a mental health treatment requirement. These could also contribute additional support to the young person (see appendix 11).

As with Bail Supervision schemes, judges require to be satisfied that robust community sentences offer appropriate alternatives to custodial sentences, and we found evidence of a wide range of options across a number of local authorities (Appendix 9).

There is provision for continuing regular judicial oversight of the response of the young person to the Community Payback Order or Drug Treatment and Testing Order, and a number of the previous community sentences including Probation Orders, and Deferred Sentences. This periodic return to court could be undertaken by means of regular Court Review hearings where non compliance can be addressed or fast track breach process instigated. The regularity of such hearings is at the discretion of the presiding judge, taking into account the circumstances presented in each individual case. It is recommended that review hearings are kept to a minimum as this places extra stress on court programming, social work and procurator fiscal time.

⁴⁷ <http://www.scotland.gov.uk/Publications/2008/04/09134401/0>

⁴⁸ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁴⁹ Scotland's Choice <http://www.scotland.gov.uk/Publications/2008/06/30162955/0>

⁵⁰ This supervision requirement is specific to Community Payback Orders and should not be confused with a supervision requirement from a children's hearing.

One means of ensuring a timely response to a breach of Probation for a further offence is to establish local arrangements for breaching from the bench (Criminal Procedure (Scotland) Act 1995 Sections 233) and dealing with the breach at the same time as the offence that constitutes the breach (Criminal Procedure (Scotland) Act 1995 Sections 232). Thus, there would be no time lapse while awaiting a breach report to be submitted and the matter dealt with in court and the young person would avoid further court appearances with regard to the breach. This does not apply to Community Payback Orders where a further offence is not a breach of the Order.

Where young people are subject to court orders, the judge who imposed the order should where possible deal with any reviews or breaches of the order or any new offences.

5. After Court

5.1. Where community sentence imposed

Young people should be seen by the court social worker and their defence agents to ensure that:

- their disposal is explained to them and the requirements it will place on them;
- where possible, initial appointments to see their allocated worker are made and the importance of attending these meetings explained; and
- an explanation of any conditions placed on them by the judge is given, along with the consequences of breaching the conditions. Given the serious consequences of breaching conditions, it is important to ensure that the young people understand the explanation provided.

5.2. Where custodial sentence imposed (including secure care)

If the young person has been sentenced to secure care or custody, court social workers should ensure that an interview takes place before the young person leaves court to:

- explain the disposal and what will happen next;
- establish whether there are any vulnerabilities which should be conveyed to the prison estate or secure care unit; and
- offer other support such as contacting family members.

Whether the young person has been given a community alternative or sentenced to secure care or custody, the court social worker should make their lead professional or appropriate social work office aware of the disposal. This allows for a 72 hour Looked After and Accommodated review to take place.⁵¹ The court social worker should also ensure that the young person's single plan follows them from court.

5.3. Sharing information contained in background reports

In the event of a sentence of detention being imposed, court staff should ensure that the criminal justice social work report and any other background reports obtained on the young person go with them to the establishment.

5.4. Outstanding charges

In the event of a sentence of detention being imposed, defence agents should ascertain whether there are any outstanding cases in relation to the young person and liaise with the Procurator Fiscal to have these accelerated as quickly as possible (section 3.2.2 refers). Defence agents should likewise arrange with the Responsible Officer to have any pending community sentence breached or reviewed and brought back to court for sentence. Similarly defence agents should ascertain whether there are any outstanding fines, and if so liaise with the appropriate Fines Enforcement Officer with a view to having the alternative imposed. In exceptional circumstances, e.g. where there is no defence agent, social work can write to the Procurator Fiscal or the court, as appropriate, to follow these up.

⁵¹ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

5.5. Continuing supervision requirements

Where a young person has been given a custodial sentence by the court, this is not a reason to seek termination of supervision requirements at a children's hearing. The young person will have a complex transition to make back into their community that may require an extensive support package; this will be particularly relevant for short sentences that will end before the young person reaches age 18. Where a young person is subject to a supervision requirement and released following a short sentence, offences can be jointly reported allowing a children's hearing to deal with these, continuing a welfare based approach, where appropriate. Responsibility for the decision to terminate lies with children's panel members; a comprehensive need and risk assessment should therefore be provided to assist their decision making process.

5.6. Breaches of community sentence

Appendix 11 provides a summary of the community sentences available in Scotland. The specific penalties for breaching a community sentence vary in relation to the type of sentence, but in all cases the decision about what sanction to impose for breach rests with the court. These sanctions could include, for example, imposing a fine, varying the original order, revoking the original order and imposing any alternative disposal, including custody, which could have been imposed for the original offence, or revoking the original order and imposing a sentence of imprisonment for a term within statutory timescales.

As such the importance of complying with a community sentence should be communicated to a young person both at the time of sentence and during the lifetime of the order imposed. And, as at the point of sentence, it is also important that the court is in possession of as much information about the young person as possible, and is aware of all the options available to them bearing in mind the desire, where possible, to avoid custodial sentences for young people aged 16 and 17.

Appendix 1

Membership of the Young People in Court Workstream

Scottish Court Service (Chair)
Association of Chief Police Officers in Scotland
Crown Office and Procurator Fiscal Service
Includem
Lanarkshire Youth Court
Scottish Government, Youth Justice
Youth Justice, North Ayrshire Council
Lanarkshire Community Justice Authority
Scottish Government, Community Justice
Scottish Prison Service
Scottish Children's Reporter Administration
Judicial Studies Committee
Youth Justice, Aberdeen

Appendix 2

Policy and practice developments in respect of young people

As was observed in section 1 of this report, since 2008 there have been a number of significant developments in the way in which services for children and young people have been delivered in Scotland, and running in parallel with these have been considerable changes in criminal justice policy. The purpose of this Appendix is to provide a summary of those changes, and to provide the reader with links to the policy documents referred to.

The Scottish Government is committed to giving children the best start in life and to improving the life chances of children, young people and families at risk. Tackling the causes and effects of offending by young people is key to building safe and strong communities, within which Scotland's future generation can fulfil its enormous potential.

Preventing Offending by Young People – A Framework for Action⁵²

The partnership framework Preventing Offending by Young People – A Framework for Action was published in June 2008. The Framework outlines a shared vision of what national and local agencies working with children and young people who offend, or are at risk of offending, should do to prevent, divert, manage and change that behaviour. In driving forward this work the Framework focuses on the key areas of:

- Prevention;
- Early and Effective Intervention;
- Managing High Risk;
- Victims and Community Confidence;
- Planning and Performance Improvement.

The framework is formally owned by the SG, COSLA, ACPOS, SCRA and COPFS as the key delivery agencies, and is endorsed by relevant inspectorates and professional organisations (ADSW, ADES) and a range of third sector organisations.

The framework is broad in scope – spanning prevention, early intervention and risk management, with reference to the individual, the family and the wider community. While the framework focuses effort on young people between the ages of 8 and 16 it recognises the need to start prevention work earlier and sustain effort on the transition to adulthood. The over-arching purpose of the framework is to deliver real improvements on the ground – to identify and develop good practice and embed this as standard practice, to support the development of effective interventions and improve the range, quality and effectiveness of provision. This approach is based on the belief that demonstrating what works and how, and proving the benefits to both children and young people and the agencies involved, is the most compelling way to secure practice change and improvement.

The framework reflects a joint commitment to setting shared objectives. Work to tackle offending by young people contributes to the Governments national outcomes:⁵³

- Our children have the best start in life and are ready to succeed.
- Our young people are successful learners, confident individuals, effective contributors and responsible citizens.

⁵² <http://www.scotland.gov.uk/Publications/2008/06/17093513/0>

⁵³ <http://www.scotland.gov.uk/About/scotPerforms/outcomes>

- We have improved life chances for children, young people and families at risk.
- We live our lives safe from crime, disorder and danger.

Details of the work which has been done in the five key areas can be found at <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice>.

Scottish Prisons Commission report Scotland's Choice⁵⁴

In July 2008 the Scottish Prisons Commission published their report Scotland's Choice which observed that “unlike in most other countries, at the age of 16, many young people who commit offences face a very abrupt transition from the Hearings System, where the emphasis is on helping them to develop and change, to the adult courts, where the emphasis is on punishing them. The suddenness of that transition makes no sense; young people judged not fit to decide what films they can watch or what drinks they can buy are nonetheless held fully accountable for their actions in adult court.”

The report noted that young people can have series of unmet needs on entry to the criminal justice system, for example, communication impairments, and observed that while they may present a risk their communities, failing to support them through the criminal justice process and failing to address their risks and needs can lock them into a cycle of reoffending.

The report went on to recommend that the Scottish Government re-examine how 16 and 17 year olds who offend were dealt with.

Protecting Scotland’s Communities: Fair, Fast and Flexible Justice⁵⁵

Protecting Scotland’s Communities: Fair, Fast and Flexible Justice, published in December 2008 built on the Scottish Prisons Commission’s report, reinforced the case for early intervention to prevent offending, and committed the Scottish Government “to reducing the flow into the criminal justice system by:

- Committing with COSLA to transform Scotland's approach to Early Years, the next milestone being the publication of the Early Years Framework in December 2008.
- Continuing to work with COSLA and other partners to deliver Preventing Offending by Young People: A Framework for Action and embed the principles and practice of Getting It Right For Every Child in all our work with vulnerable children and young people.
- Strengthening the sharing of information and joint working across the transition from the Children's Hearings system into adult services and, where necessary, to the criminal justice system.
- Ensuring that the needs of young people are met and their risks effectively managed, with a focus on preventing re-offending, whichever system they are in, including by learning lessons from the youth court pilot evaluation.
- Ending the practice of sending under 16s to prison, and strengthening the regime for under 18s in custody to prevent offending and get young people back into productive lives.”

⁵⁴ <http://www.scotland.gov.uk/Publications/2008/06/30162955/0>

⁵⁵ <http://www.scotland.gov.uk/Publications/2008/12/16132605/0>

Reducing Reoffending programme⁵⁶

The Reducing Reoffending programme was established shortly thereafter to take this work forward. The programme aims to reduce offending and reoffending, as well as Scotland's prison population, and enhance public safety. Effective Community Disposals; Pre-Disposal; Community Integration; and Young People Who Offend projects were commenced.

The Young People Who Offend strand of the programme is reviewing the current systems, processes and practices in place for dealing with the offending behaviour of 16 and 17 year olds and those presenting a risk of serious harm.

Following upon successive breaches of court orders, the judiciary sometimes feel they have no option but to impose a custodial sentence, but short custodial sentences provide limited opportunities for young people to engage in behavioural change or education programmes which are critical in reducing reoffending. Approximately 70% of 16 to 20 year olds released from custody are reconvicted within two years with 45% receiving further custodial sentences. It is hoped that the work of the Young People Who Offend project will make a contribution to the reduction in offending and reoffending by 16 and 17 year olds.

The aim of the project is to reduce the number of young people (under 18) being dealt with in the criminal justice system and receiving custodial sentences. This is being achieved by working with all stakeholders to:

- develop integrated processes and services across children's and adults systems;
- increase opportunities for diversion from formal measures targeted at young people; and
- increase opportunities for community alternatives to custodial sentences designed for young people.

This work will contribute to the 4 main overarching national outcomes detailed above, and also to the following 2 outcomes:

- We live our lives safe from crime, disorder and danger; and
- We have strong, resilient and supportive communities where people take responsibility for their own actions and how they affect others.

This toolkit is one element of the work of the Young People Who Offend project. Other documents issued by the Project Implementation Board include:

- Diversion from prosecution toolkit⁵⁷,
- Alternatives to secure care and custody guidance⁵⁸,
- Reintegration and transitions guidance⁵⁹,
- Information Sharing in relation to risk assessment and risk management, Guidance for Local Authorities.⁶⁰

⁵⁶ <http://www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/about/rr-programme>

⁵⁷ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending> - Diversion from Prosecution toolkit

⁵⁸ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending> - Alternatives to secure care and custody guidance

⁵⁹ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending> - Reintegration and transitions guidance

⁶⁰ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending> - FRAME

Getting it Right for Every Child

Getting it Right for Every Child (GIRFEC) underpins the principles of the Young People Who Offend project and Young People in Court toolkit. GIRFEC is a programme which aims to improve outcomes for all children and young people.

Getting it right places children's and young people's needs first, ensures that they are listened to and understand decisions which affect them, and that they get more co-ordinated help where this is required for their well-being, health and development. It requires that all services for children and young people - social work, health, education, police, housing and voluntary organisations - adapt and streamline their systems and practices to improve how they work together to support children and young people, including strengthening information sharing.

The approach helps those facing the greatest social or health inequalities. It also encourages earlier intervention by professionals to avoid crisis situations at a later date so that children and young people get the help they need when they need it.

Of particular relevance is the work which has been done by Scottish Government and partner organisations on Getting it right for young people who offend, and the guidance issued on Multi agency early and effective intervention⁶¹ which is designed to ensure that children get the help they need when they need it and do not enter the children's hearing system unnecessarily.

Other developments - International Context

Scotland is internationally renowned for its welfare based response to children and young people who offend, but stands alone as the only western European country to routinely deal with 16 and 17 year olds in the criminal justice system, and Scottish Courts imprison this age group at a higher rate than elsewhere in Europe.

In June 2008 the Council of Europe, recognising the United Nations Convention on the Rights of the Child⁶², ratified recommendations on the European Rules for juvenile offenders subject to sanctions or measures⁶³. The 142 recommendations include:

Definition

21.1. "juvenile offender" means any person below the age of 18 who is alleged to have or who has committed an offence.

Alternatives to remand and custody

10. Deprivation of liberty of a juvenile shall be a measure of last resort and imposed and implemented for the shortest period possible. Special efforts must be undertaken to avoid pre-trial detention.

23.1. A wide range of community sanctions and measures, adjusted to the different stages of development of juveniles, shall be provided at all stages of the process.

⁶¹ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/young-people/EvaluationReport>

⁶² <http://www2.ohchr.org/english/law/crc.htm>

⁶³ <https://wcd.coe.int/wcd/ViewDoc.jsp?id=1367113&Site=CM>

Ensuring young people have an understanding of the process

13. Any justice system dealing with juveniles shall ensure their effective participation in the proceedings concerning the imposition as well as the implementation of sanctions or measures. Juveniles shall not have fewer legal rights and safeguards than those provided to adult offenders by the general rules of criminal procedure.

33.1. Juveniles shall be informed, in a manner and language they understand, as to how the community sanction or measure imposed on them will be implemented and about their rights and duties in regard to its implementation.

Multi agency working

15. Any justice system dealing with juveniles shall follow a multi-disciplinary and multi-agency approach and be integrated with wider social initiatives for juveniles in order to ensure a holistic approach to and continuity of the care of such juveniles (principles of community involvement and continuous care).

Appendix 3

Roles and Responsibilities

Police

The police have a duty to uphold and enforce the law and maintain the peace in Scotland. In particular where an offence has been committed, the police have a duty to investigate it and report to the Procurator Fiscal and/or the Reporter.^{64 65}

The police have powers to impose fixed penalties and use the formal adult warning system for those young people who are involved in minor offending or have offended for the first time to prevent or delay their entry into Hearing or Court system.

There is also an opportunity for cases to come to court more quickly by increasing the number of accused who appear at court on undertakings.

Establishing systems for communicating with other agencies (schools, social work, voluntary agencies) where the young person's behaviour was not of a serious nature, but there were concerns about their level of vulnerability or adverse personal circumstances, may contribute to the prevention of offending or the avoidance of the young person requiring formal court and children's hearing measures.

The roles of the Police and Procurator Fiscal are complementary and regular dialogue and co-operation enables problems and issues to be dealt with efficiently and effectively. Close liaison between these agencies is essential.

Procurator Fiscal

The Procurator Fiscal Service provides the sole public prosecution service in Scotland, and the Procurator Fiscal has a duty to ensure, in the public interest, that all crimes made known to him or her are investigated, and that effective and consistent use is made of the range of prosecution options, and alternatives to prosecution. The criteria for decision making and the range of options available to prosecutors dealing with reports of crime are set out in the Prosecution Code.⁶⁶ The Code specifically recognises that the UN Convention on the Rights of the Child is relevant in cases involving children accused of crime and that in all actions concerning children, the best interests of the child shall be a primary consideration. This is supplemented by the Crown Office and Procurator Fiscal Service Book of Regulations.⁶⁷

The Fiscal Service has protocols for dealing with certain priority groups (e.g. those with mental health problems) and it may be of advantage to young people for the Fiscal service to established service requirements for dealing with 16-17 year olds.

For those age 16 years or over, there is a presumption that the Procurator Fiscal will deal with the cases but there is a power to over ride this when the young person's needs and behaviour might be best addressed through the Children's Hearing system. Referral to the Children's Hearing can be made until the young person is 6 months away from their eighteenth birthday.

⁶⁴ Police (Scotland) Act 1967 section 17

⁶⁵ <http://www.crownoffice.gov.uk/sites/default/files/Publications/Resource/Doc/13547/0000614.pdf>

⁶⁶ Prosecution Code <http://www.copfs.gov.uk/Resource/Doc/13423/0000034.pdf>

⁶⁷ <http://www.copfs.gov.uk/FOI/Regulations>

There are other direct measures a Procurator Fiscal can utilise to respond to alleged offending behaviour by young people. Where appropriate, options such as diversion, fiscal fines and warnings should be more widely considered before the decision is made to instigate Court proceedings.

Once the decision has been made to prosecute, the Procurator Fiscal should endeavour to have cases dealt with at the earliest possible stage in the proceedings. Examples of good practice are, for example, the Procurator Fiscal providing a summary of evidence to enable early investigation by the defence; the roll-up of outstanding cases where appropriate; early, effective preparation enabling full preparation by prosecution and defence prior to the intermediate diet and availability of Procurators Fiscal to discuss the case with the defence.

Judiciary

The Judiciary may be involved at a number of levels. The Sheriff Principal, in his/her capacity as chairman of the Local Criminal Justice Board may seek to have the Board consider how to take forward, at a local level, the implementation of the best practice commended in this report. It might, for example, be considered appropriate to set up a short term working group to ensure effective co-ordination through regular meetings and joint training.

The Sheriff Principal may also have a role in instructing alterations to court programmes where it is considered appropriate to facilitate the prioritisation of cases involving young people. Court programmes should also be monitored to ensure that the time intervals between hearings afford the preparation time recommended in the Summary Justice System Model.

There is a role for individual members of the judiciary, as was observed in the Summary Justice System Model – “A pro-active judicial approach to case management from lay justices and sheriffs, conducting intermediate diets robustly to check on the parties' state of preparation, querying any delays, and vigorously questioning the reasons for any continuations requested is likely to be critical to the success of these reforms. The independent evaluation of High Court reform highlighted that the long-term success of the new High Court procedures was in the hands of the judges as they are in the best position by far to manage cases effectively and are largely responsible for setting the "culture" of the court. Justices of the peace and sheriffs can play a similar role in the summary courts.” The judiciary also have a role to play both within the court system and in the wider community, by using their authority to ensure that issues regarding young people at Court are taken seriously.

Social Work

The role of the Criminal Justice Social Worker at Court is laid out in National Outcomes and Standards, Practice Guidance.⁶⁸ There is no legal requirement for a social worker to be in Court but local arrangements should be in place to ensure that cover is available at critical times and that staff can make themselves available when required.

The tasks of the court based social worker pertain to all those who appear in court but are highly relevant to under 18 year olds and include:

- Dealing with requests for reports, ensuring that the reports are available within locally agreed timescales and speaking to them in Court when necessary. Social Work should arrange to interview the young person immediately after the Court has asked for a report

⁶⁸ <http://www.scotland.gov.uk/Topics/Justice/public-safety/offender-management/offender/community/16910/Standards/Guidance>

to ensure that the he/she understands the Court's decision and its implications; to confirm contact details and availability for interviews and pass on the information to the worker preparing the report; to provide information leaflets about Court reports; to complete medical mandates where significant medical issues have been highlighted; and in some cases, arrange a first appointment to prepare the report.

- Providing information for sentencers including same day oral/written reports to help expedite dealing with cases and therefore cutting down the number of times a young person needs to attend Court. This is in line with the statement in 'Scotland's Choice: The Report of the Prison Commission'⁶⁹ paragraph 3.31 that 'In many cases better resourced, court-based social work units, working day in and day out alongside the judges, would be able to get the information that judges need there and then, reducing delays and the need for bail or remand'.
- Interviewing young people immediately after the Court has passed a custodial sentence or a remand. Young people under 18 years who are not accompanied by a social worker are named as one of the priority groups. This interview is to clarify the decision of the Court; establish if the person has any pressing problems which require urgent attention; and advising of prison based social work services and how the service can be accessed and the availability of voluntary throughcare in the case of those who have been given short term sentences.
- Forwarding relevant information to prisons in the event of a custodial sentence being imposed including details of those who may pose a risk to themselves or others.
- Highlight 16 and 17 year olds who receive a custodial sentence to a central point/person), who could then allocate a worker or advise an allocated worker to share information with the prison/support agencies if no worker is allocated. This should ensure that the young person has someone to attend post sentence meetings (Scottish Prison Service are aiming to have these meetings for all under 18s), and to contribute to their plans (Child's Plan).
- Helping to divert persons suffering from a mental disorder who may be at risk to themselves from a custodial remand to hospital (in conjunction with medical, forensic or psychiatric services) or appropriate bail accommodation.
- Providing advice to family and friends of individuals who have been sentenced.
- Highlighting those young people who have a high risk of being remanded and initiating an assessment for bail supervision where young people are one of the priority groups.

There is benefit in having a worker at court to support young people. Where the young person is known to statutory or voluntary services, he/she should have the choice of whether he/she is accompanied by a case worker or support worker.

Local arrangements should be made to identify those young people appearing in Court who are not known to any services, to establish a means of supporting them through the Court process if they require it. Consideration should be given to utilising the Court Case Enquiry System for those who have planned appearances in Court and making arrangements for information sharing with the Police, Fiscal Service or court and prison escort service provider to identify those appearing from custody. Examples of how this is managed include having a young people's worker based in the Court, support workers from teams dealing with young people attending Court on a duty rota basis and/or cooperative arrangements between Child Care and Court Social Work teams to identify the young people and support them through

⁶⁹ <http://www.scotland.gov.uk/Publications/2008/06/30162955>

the Court process as well as collating any information about them which might be used to help the Court deal with them more quickly and appropriately.

Young people involved in the Court process will have access to the complete range of services available to young people from each Local Authority and their contracted provider agencies.

In order to enhance assessment and planning of services that young people are involved in, every young person receiving intervention as part of diversion, bail supervision, structured deferment, court orders and post-custody supervision will have an allocated Social Worker or support worker. This worker will:

- Monitor progress through programmed work
- Monitor compliance and report non-compliance in accordance with breach procedures
- Evaluate effectiveness of the services offered to each young person and modify approaches where necessary.

Children's Hearings

Children's hearings consider the cases of children referred to them by the Reporter because of concerns about the child's welfare. The children's hearing is comprised of lay decision-makers, called panel members. When the children's hearing decide that compulsory measures of supervision are necessary in order to protect and promote the welfare of the child it makes a supervision requirement for the child. A child can be subject to a supervision requirement until they turn 18.

Although children's hearings are not directly involved in criminal court proceedings there is an important interface between courts and children's hearings. This arises when a child or young person pleads guilty to, or is found guilty of, an offence, and the court considers disposing of the case by remitting it to a children's hearing. The law and procedure for remitting a case to a children's hearing is explained in detail in section 4.7 of the Toolkit on 'sentencing options'.

Appendix 4

Multi-Agency working: Examples of good practice

Youth Courts

The Evaluation of Hamilton and Airdrie Youth Court⁷⁰ identified as an area of good practice 'effective teamwork among the relevant agencies and professionals concerned. Good information sharing, liaison and communication appeared to exist across agencies and the procedures that were in place to facilitate the sharing of information seemed to be working well.' It is also noted as advantageous to have a lead co-ordinator who can pull together information from various agencies and take forward planning for the young person.

Other Multi Agency examples

Examples of current good practice include the establishment of local multi agency groups to agree and drive local initiatives – Grampian Youth Justice Development Programme, Lanarkshire Youth Offending Forum and Fife Youth Offender Management Groups. The latter two deal with under 16s but may provide models that could be extended to 16-17 year olds.

It is also an advantage to have a named person⁷¹ from each agency to deal with issues relating to young people and their offending behaviour thereby facilitating joint discussions and planning, good communications and possibilities for joint development. There are opportunities at every point where decisions are made about young people's offending/alleged offending in the Hearing and/or Justice Systems to think creatively about joint working to improve the way young people are dealt with. For example, the areas in which Youth Courts operate have designated fiscals to mark the papers for young people and there is a nominated fiscal involved in the Grampian Youth Justice Programme.

Livingston – Civic Centre

All service providers are working in the same building; therefore, there is a multi-agency approach to working. Each young person is assigned a social worker and a support worker throughout the process and a Criminal Justice Assistant is permanently in court. If background information is required then information can be sought while the court is sitting – this usually involves someone from the relevant department, attending the court and speaking directly to the sheriff. This means the information is obtained immediately and there are no additional adjournments prior to sentencing.

Court Support Worker (Aberdeen Council)

As part of the Aberdeen 'Whole Systems' approach, a Court Support Worker is available to support young people and their family through the court process and to provide a link with other agencies including social work as required. This post is currently hosted by Sacro.

The Court Support Service provides an independent worker, maintaining a visible presence within the courts. Essentially their role is to provide support, guidance and assistance to young people going through the court process. The worker also acts as an intermediary

⁷⁰ Evaluation of the Airdrie and Hamilton Youth Court Pilots - Chapter 6 Main Findings and Conclusions <http://www.Scotland.gov.uk/Publications/2006/06/13155406/7>

⁷¹ <http://www.scotland.gov.uk/Topics/People/Young-People/childre services/girfec>

between the Youth Justice Social Work team, Procurator Fiscal, defence agents, Sheriff Clerk and any other relevant court personnel.

For those who have been held in custody, the Court Support Worker visits the young person in the court in the morning, attempting to engage with them. This allows the court process to be explained and clarified, stressing the significance of attendance at all dates that are set by the court. Further to this, the Court Support Worker will answer any questions that they may have and offer any assistance required.

If the young person engages, the Court Support Worker will obtain background information concerning their personal circumstances; with the view to identifying areas of need and signpost them to partner agencies and setting up initial appointments, if appropriate.

The Court Support Worker would then attempt to be present in court when they appear before the Sheriff making note of the disposal. They will subsequently write to them, as a reminder to attend court on the given dates, reminding them of the importance of good behaviour in an attempt to prevent reoffending. Finally, providing contact details and offering any further assistance.

If the Sherriff requests a Criminal Justice Social Work Report the Court Support Worker will contact the relevant Social Work service and try to get an appointment which can be passed on to the young person before they leave court that day. This is of benefit to the young person, court officials and social work staff. The Court Support Worker can also meet with any young person already working with social work if they know that they are due to appear in court. This provides them with an opportunity to build a relationship with the young person before they attend court which helps to provide the right support required on the day.

Once the 'alternative to remand' service is operational the Court Support worker will work alongside the Social Worker in court to assess young people's suitability for supervised bail and an alternative to remand package.

The setting up and oversight of the post is undertaken through regular reference group meetings with appropriate agencies including Sacro, Youth Justice Social Work, Criminal Justice Social Work, Procurator Fiscal, Sheriff Clerk and police. The service seeks feedback from young people and partner agencies to ensure that it is able to adapt to meet need and ensure that information is shared in the best way at the right time.

Support to Young Person

It is felt that the Court Support Service ensures that support is offered continually to every young person that comes into contact with the service.

A summary of the services offered:

- Information about the court process, answering any questions that may arise;
- Support and guidance through the court process;
- Identifying areas of concern and signposting to relevant services;
- Providing a reminder of court dates and attempting to convey the severity of attendance;
- Assistance in between court dates in order to prevent re offending.

Appendix 5

Youth justice/criminal justice liaison: Example of good practice

North Ayrshire Pre appearance/ disposal practice

The Children & Families Area Resource Group will consider/ assist with criminal justice social work report disposals for all 16/17 year olds. When a report request is received by the Criminal Justice team for 16 and 17 year olds, arrangements are made to attend the local Area Resource Group. This is made up of staff from youth services, children and families and Action for Children. The purpose of this is to share knowledge of the young person and assist the report author in making an informed recommendation to the court about the disposal. If a community disposal is considered, an action plan can be devised and agreed at this meeting, with designated tasks being assigned.

A list of all known (to C&F Social Work) 16/17 year olds bailed is maintained, allowing support to be offered formally or informally depending on young person's status. A daily list of all custodies and disposals from reports (Kilmarnock sheriff) are circulated to Youth Justice staff, who check 16/17 year olds on bail and offer support where required. This can be advising of the court process or more practical support.

A support worker specifically targeting 16/17 year old is based in Kilmarnock Sheriff court. When a 16/17 year old is held in custody to appear at court the next day, the support worker is notified in the morning and coordinates the information flow between professionals. This worker is also available to support the young person at subsequent diets and compile any reports required.

A Court Social Worker completes a template with the 16/17 year old at the point the Sheriff asks for a criminal justice social work report. The process is explained and their consent is given. The template completed by court social worker is a dual process. It gives additional information to report author, such as contact details and availability and also explains process to young person, stressing the importance of cooperating.

At appearance the court note is produced. The court note allows all relevant information to be collated and facilitates an informed decision by the Sheriff, especially in cases where there has been much social work involvement. This process allows for central coordination, with strong links between Criminal Justice and Youth Justice Practitioners.

A Criminal Justice admin/ Children & families admin process has been developed to inform the Youth Justice lead officer when a criminal justice social work report has been requested. The report is completed and a copy sent to children & families admin/ youth justice lead officer to record onto their database.

If young people are known to youth justice workers, they are accompanied to all court appearances, this allows liaison with defence solicitors and assists in bail compliance being reviewed at the Area Resource Group. Having a professional worker in court provides an opportunity to share information with their solicitor and ensure that up to date and relevant information is passed to Sheriff. It can also stop young people behaving inappropriately in court, which can adversely effect the Sheriff's decision.

Other groups of young people are targeted in terms of a preventative support. For example the youth justice worker attends Throughcare/ Aftercare groups and local Children's Units to offer general advice/guidance regarding court processes. Having a point of contact for various areas of social services leads to a standardised practice.

Youth Justice workers proactively follow-up on self-referrals for young people, for example, where 16/17 year olds are not currently receiving formal inputs. These young people can be offered at the point of court appearances or other pick up points e.g. older accused when charged with a juvenile. The daily list of court disposals helps to target interventions where appropriate.

A range of awareness raising presentations have been undertaken with facility of faculty Advocator: district court: PF regarding support and interventions available to young people. The presentations aimed to raise awareness of resources available to court for young people. It was felt that solicitors are the people who need to understand what is available for that age group and a presentation seemed the best way to achieve this.

Police/ SCRA liaison procedures identify most concerning and or jointly reported young people speedily. Regular liaison meetings allow for the pooling of information and quick response to the most concerning young people.

Appendix 6

Judicially Led Implementation Group

Where one does not exist, a multi agency group should be established under the governance of a sheriff, which falls within the remit of local criminal justice board, i.e. judiciary, prosecution, police, court service, and community justice authority / social work. The implementation group should be responsible for ensuring effective co-ordination of key players through regular meetings, awareness raising, and the drafting of operational protocols where required. Operational aspects may be taken forward by sub-groups reporting to the implementation group, and it may be appropriate to co-opt on to such sub-groups representatives from Education, Health, Anti-social Behaviour, Reporter to the Children's Hearing, SACRO, other relevant voluntary and charitable intervention bodies, and the local Bar Association. It may be considered appropriate to use an existing Summary Justice Reform Implementation Group for these purposes.

The implementation group should set agreed objectives, which are owned by all those involved in working with young people involved in court processes, in order to ensure a firm foundation for operational arrangements. These objectives should include those listed at section 2 above. The group should also put in place procedures for evaluating the effectiveness of the approach adopted. Such evaluation should monitor whether key stakeholders are meeting agreed protocols and procedures, and identify reasons for any failures. In doing so it may be necessary to examine whether all necessary steps are being taken to ensure that appropriate early interventions are being made (section 2.2 refers).

It is necessary to ensure that any agreed local procedures for handling cases are consistent with the developing field of youth justice practice, changing legislation, and government policy. In order to take forward these features in light of changing approaches to young people's services and to justice, the group will wish to ensure that a distinctive range of services are developed and made available to young people. These will include:

- bail support (including intensive bail support packages) as an alternative to remand in Custody,
- services provided to young people subject to structured deferred sentences;
- services provided to young people subject to Court Orders (e.g. Probation or Community Payback Orders); and
- The group will also wish to examine the scope for promotion of the disposal to remit to the Children's Hearing for young people under 18 (see section 4.7)

In the case of all these service packages the leading principle is that services are made available when needed, not delayed due to process having to be completed to put the service in place.

The implementation group or local criminal justice board may wish to consider how best to take forward the issues identified in the report, including:

- Whether the undertaking procedure can be used for all appropriate summary cases involving 16 and 17 year olds (section 3.3.2.1);
- Within what timescale police reports will be submitted to the Procurator Fiscal (section 3.3.2.1);
- Within what timescale cases will first call in court (section 3.3.2.1);
- Whether there is a need for a formal procedure for ensuring that all outstanding charges are rolled up (section 3.2.2.2)

- What is the appropriate period between assigning a trial diet and the date assigned (section 3.3.2.3)
- How early trial diets can be accommodated within the court programme (section 3.3.2.3)
- How progress will be measured (section 3.3.2.3)
- What procedures will be put in place to ensure that young people have support when attending court (section 3.3)
- How awareness can be raised amongst defence agents of their role (section 3.4)
- Whether a local protocol can be developed aimed at ensuring the speedy provision of address for bail purposes (section 4.4.2)
- Whether a protocol can be developed with local schools aimed at ensuring the speedy provision of information for bail information reports (section 4.4.2)
- What procedure should be put in place for the provision of bail information reports, including those for petition cases (section 4.4.2)
- How awareness can be raised of the sentencing options available locally (section 4.6)

Appendix 7

Court Programming: Examples of good practice

Dedicated Youth Courts

Youth Courts were established in Hamilton (2003) and Airdrie (2004) with the objectives of:

- reducing the frequency and seriousness of re-offending by 16 and 17 year olds, particularly persistent offenders;
- promoting the social inclusion, citizenship and personal responsibility of these young offenders while maximising their potential;
- establishing fast track procedures for those young persons appearing before the Youth Court;
- enhancing community safety, by reducing the harm caused to individual victims of crime and providing respite to those communities which are experiencing high levels of crime; and
- testing the viability and usefulness of a Youth Court using existing legislation and to demonstrate whether legislative and practical improvements might be appropriate.⁷²
- Key features of the Youth Courts included:
 - supervision by multi-disciplinary teams and the availability of a range of additional programmes;
 - fast tracking of young people to and through the courts and fast track breach procedures (The target was for trials to start within 42 days and for those offenders sentenced to community disposals to be on supervision within 2 months of the commission of the offence or date of detection);
 - the ability to electronically monitor as a condition of bail;
 - dedicated staff to support and service the Youth Courts (Procurator Fiscal, clerk, social work);
 - additional resources across agencies to enable provision of a consistent, high quality service;
 - the formation of multi-agency Youth Court Advisory Fora in Hamilton and Airdrie, each chaired by a Sheriff, to review the working and operation of the courts; and
 - appointment of a Youth Court Co-ordinator and Deputy Co-ordinator to service the forum and co-ordinate practice.

The 2006 evaluation of the Hamilton and Airdrie pilots reported that:

“Professionals associated with the pilot Youth Courts were, on the whole, cautiously optimistic that it would help to reduce re-offending among at least some of those who participated in it, so long as they were able to access the necessary resources to address problems such as drug and alcohol misuse, unemployment and housing issues [...]”

“In Airdrie, police respondents were particularly positive about the effectiveness of the Youth Court. They felt that the fast tracking process and knowledge amongst those being brought to court that they would go to trial without delay was having an impact. They also felt that options available to the Youth Court prior to and following sentencing, most noticeably the curfews, were having a positive impact on communities. They reported that there had been a noticeable decline in public

⁷² Evaluation of the Airdrie and Hamilton Youth Court (April 2006)
<http://www.scotland.gov.uk/Publications/2006/06/13155406/1>

disorder in particular areas, which they attributed to a small number of young people having been in custody and to the use of bail curfews.”

“Factors that professionals regarded as having contributed to the effectiveness of the Youth Courts included the fast-tracking of cases, the availability of a wider range of appropriate resources and services and the option of shrieval review. Inter-agency commitment and co-operation was also regarded as having helped make the Youth Courts more effective.”

The 2006 evaluation was conducted too early to gauge the extent to which the pilots had met their objective of reducing offending behaviour, and a further analysis of this was undertaken, and published in April 2010.⁷³ That report of that analysis concluded that:

“[...] in both Hamilton and Airdrie, cases sentenced in the Youth Courts were less likely to be reconvicted than those sentenced in the Sheriff Summary Court. It appears that in Hamilton and in Airdrie this cannot simply be accounted for by differences in the criminal histories of those sentenced in each court, since the differences in 2 year reconviction rates persist when comparisons are drawn only between cases involving young people offending for the first time. ... On the other hand, the fact that reconviction among cases from both Youth Courts was no lower than in the comparator court with the most similar cases (Ayr) raises questions about the impact of the Youth Court on recidivism: given similar cases, if the Youth Courts were reducing recidivism then reconviction rates among Youth Court cases should have been significantly lower than among cases from Ayr.”

However the author of the report cautioned against drawing firm conclusions because of the low numbers of cases involved.

Scottish Government’s covering paper recognised that all involved with the Youth Courts commended the use of dedicated fiscals, shrieval reviews, intensive social work interventions, and good working relationships between agencies, and most agreed on the benefits of fast tracking cases through court, and the provision of a separate court for young people. However, it was noted that “The average additional processing cost per Youth Court case prior to imposition of sentence is therefore £2,090” and that the average cost for community disposals was “an average of £14,641 per person in addition to the basic cost of standard community interventions”, and concluded that the Youth Court was thus a very expensive option.

The publication of that report prompted a review of the youth courts in Hamilton and Airdrie, and Ministers decided to continue to fund both courts for a further two years until 31 March 2012. During that period Scottish Government is working with local stakeholders to draw on the experience gained so far to ensure that the youth courts are as effective as they can be and to learn the lessons of problem solving practice in a way which can be applied more widely. Further development includes work to:

- realign the youth courts to ensure their focus is narrowed to ensure that net widening does not occur;
- produce an evidenced breakdown of costs, clearly identifying what interventions add value;
- achieve cost savings where possible, and divert resources into more effective interventions; and draw on the best practice and lessons from specialist courts to develop a toolkit for other courts.

⁷³ Review of Youth Courts in Hamilton and Airdrie Sheriff Courts conducted by the Community Justice Services Division of the Scottish Government
<http://www.scotland.gov.uk/Publications/2009/12/09093018/0>

Appendix 8

Alternatives to Remand: Examples of good practice

(See also Guidance on Alternatives to Secure Care and Custody⁷⁴)

Intensive Support and Monitoring Service: Alternative to Remand

Intensive Support and Monitoring Service (ISMS): Alternative to Remand (ATR) was designed to tackle the ever increasing numbers of young people remanded to secure accommodation. The service works with young people under 18 for whom the Procurator Fiscal is opposing Bail. An Interim Evaluation⁷⁵ published by Glasgow City Council Youth Justice team in April 2010 looked at the throughput, processes and early outcomes from the service in order to provide decision-makers with as much information as possible about ISMS ATR in Glasgow to date. The report found that “the ISMS ATR scheme has made demonstrable progress in relation to costs efficiencies and reduced offending and has achieved considerable success in a short period of time.

Supervised Bail Service

SACRO’s Bail Supervision Services operate in Glasgow⁷⁶ to prevent unnecessary custodial remands and re-offending on bail by providing supervision and monitoring (including tagging in some areas) as well as support and accommodation (as necessary). These services provide courts with an effective alternative to remand, allowing the young person to remain in the community while undertaking offending behaviour work, and having access to other services at an early stage.

The Glasgow Court Bail Information and Supervision Service provides a range of information including information on accommodation and supervision to enable the courts to provide the widest choice of sentencing options in order that the appropriate use of bail is maximised. The bail service is provided through designated bail officers attached to the court social work unit.

Bail Information: Information is gathered and verified which may assist the court in reaching a decision to grant bail. The type of information the bail officer can verify includes:

- Address
- Employment
- Health issues
- Response to current social work supervision
- Community and family support

Where immediate assistance can be provided to address a positive obstacle to bail – such as homelessness, or an alternative address being required – staff provide this service. The bail officer provides a brief report of verified information to the procurator fiscal, with copies for the sheriff/magistrate and the defence agent.

Bail Supervision: This element of the service provides an alternative to custodial remand in appropriate cases by providing monitoring and supervision in the community. This involves

⁷⁴ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

⁷⁵ http://www.glasgow.gov.uk/en/Residents/Care_Support/Families_Children/YouthJustice/UpdatesInformation/

⁷⁶ http://www.sacro.org.uk/html/bail_supervised_bail_service.html

supervision interviews three times per week. Compliance expectations are high, with immediate breach without warning for any incident of non-compliance. In many cases, bail supervision allows the opportunity to provide support and information in a range of areas that may have contributed to the bailee's offending behaviour, for example:

- Addiction
- Housing
- Debt
- Employment/training
- Educational opportunities

Bail Accommodation: In suitably assessed cases, bail accommodation can be offered to the court as an alternative to remand. This includes accommodation in a 24 hour staffed registered hostel, as well as bed-sit accommodation (priority target: women and young offenders). Visiting support and supervision can also be offered to individuals in their own home, with random visits as part of a curfew arrangement.

Bail Review and Appeal: As part of this extension of service, packages of support and supervision can be offered in respect of persons who have been remanded in custody, to enable the court to review whether bail could be substituted.

Bail Curfew Service

The Bail Curfew Service⁷⁷ reduces the likelihood of individuals being held on remand by allowing them to remain in the community, subject to controlled conditions. The service provides the courts with an additional safeguard to the Supervised Bail Service. It places a restriction on the young person whereby they must be in their identified accommodation within times specified by the court.

Alternative Options to Secure/Remand

In North Ayrshire, Court Social Work liaise with various agencies, including statutory Social Work Teams, to obtain as much information as possible for bail/remand decisions and Court Notes have proved to be an excellent way of doing this. See Guidance Note and pro formas [annexed](#). In relation to Criminal Justice Social Work Reports, these are now compiled in conjunction with all professionals involved in the young person's life. This includes discussion at the local 'Area Resource Group' where the action plan is agreed. Action Plans are an integral part of the report and should always reflect the risk of harm and re-offending. In relation to sentencing options, Action Plans can be tailored to interventions in all sentences including remit to panel, SDS and Probation. High risk action plans can be incorporated into Supervised Release Orders etc. a multi-agency approach with strong communication has proved to have good outcome for young people in the Criminal Justice System.

'Alternative to Care' (West Dunbartonshire Council)

This is an informal arrangement which includes more than just alternatives to secure, for example alternatives to remand. Usually they have a worker based in court or the young person social worker will alert the team to the fact that the young person will be in court. They contact the Procurator Fiscal to check whether bail will be opposed. If so, they will then contact the reporter to check whether they have any background information (welfare,

⁷⁷ http://www.sacro.org.uk/SacroBluebook_March2009.pdf

family dynamics). Depending on the case, with the reporter, they will meet with the PF with all relevant information and offer to put a support package (similar to ISMS – they link to Up-2-Us to provide this) in place. This is sometimes enough to persuade the PF and court that Bail can be granted. Quite a bit of the co-operation has been based on relationship building.

Turnaround

Turnaround is a Criminal Justice Service offering a unique service to young men aged 16 – 30 whose offending is persistent, high volume, low tariff and who are failing in other community based alternatives, or who have had multiple remand or short term prison sentences. Priority is given to those individuals who may be vulnerable due to substance misuse, mental health issues, homelessness, lack of coping/social skills etc.

The Service has 4 community bases and a short stay unit serving north Strathclyde and South West Scotland Community Justice Authority areas. They can offer supervised bail, alternatives to custody, or interventions complementary to court- imposed orders such as probation or the community payback order.

The service offers a needs-led mix of flexible support and structured programmes designed to local need in a multi-area service.

North and South Lanarkshire Bail Service

The Bail Supervision Scheme in Scotland is designed to minimise the numbers of accused held on remand pending trial or for reports after conviction who, given due regard to issues of community safety, could be released on bail pending a further Court hearing.

Aims of the Lanarkshire service

- To provide Supervised Bail Services to Hamilton, Lanark and Airdrie Sheriff Courts for people living in the North and South Lanarkshire area.
- To extend the bail options open to the Court by offering a Supervised Bail Service.
- To contribute to the Community Safety Agenda by constructively addressing the risk of re-offending by people on bail.

Objectives

- To provide assessment and case management services to all Lanarkshire Courts.
- To provide the Court with an assessment of suitability for supervised bail within one working day.
- To provide the Court with an initial appointment for the first working day after the imposition of a Bail Supervision Order
- To monitor the bailee's adherence to the conditions of the Supervised Bail Order
- To offer one to one support and/or referral to relevant agencies in order to reduce the likelihood of further offending
- To offer support to the bailee to attend all Court appearances and interviews to prepare reports.
- To provide the Court with a progress report detailing the bailee's adherence to the Order and their uptake of support
- To inform the police and submit a report within 24 hours if the conditions of bail are breached.
- To contribute towards community safety and child protection through inter-agency collaboration.

Criteria

Bail Supervision Service will be made available to individuals appearing on both summary and solemn procedures who are resident in the Lanarkshire area. Whilst the Bail Supervision Service is available to any accused person who meets the criteria, priority will be given to the following groups:

- Those with mental health problems
- All female accused
- Single parents
- Individuals affected by substance misuse
- Young people, aged between 16 and 21
- All those of no fixed abode
- Individuals who would suffer extreme difficulties if remanded to custody

It is further recognised that there may be accused who, due to the nature of the offences and public safety issues, would not be considered appropriate candidates for bail supervision.

Length

Those who are dealt with under solemn procedure can be subject to supervision for up to one year. In summary cases this period is reduced to three to six months approximately. For those bailed for the preparation of criminal justice social work reports, the period can be as short as three weeks. All time periods are subject to the discretion of the Court.

Referrals

The processing of referrals, assessments and case management services will be the responsibility of the Court Social Work Team.

Referrals for assessment for the Bail Supervision Service can be made by judges, Procurators Fiscal, defence agents and Social Work via defence agents. It is important that referrals to the Court Social Work Team are made as early as possible in the day to ensure that assessment can be completed prior to the beginning of the Custody Court. There may be occasions, due to time constraints, when the case may require to be continued overnight for a comprehensive assessment to be completed. It is envisaged that all referrals will be dealt with within one working day. The Court Social Work Team will provide a Bail Supervision Assessment Report to the Fiscal, defence agent and Sheriff Clerk. If the person is assessed as a suitable candidate for bail supervision, a provisional first appointment for the next working day will be attached to the report along with a copy of the bail supervision conditions, signed by the accused.

Assessments

It is envisaged that suitability assessments for a Bail Supervision Order will be compiled by all staff members of the Court Social Work Team. When a referral has been received by the Court Social Work Team, the accused person will be interviewed in the cell as a matter of urgency. In all cases the assessment will include the following if known:

- Nature of the charges
- Any outstanding matters, including breaches of bail
- Previous failure to appear/absconding
- Previous offending
- Previous response to supervision
- Public safety
- Witness safety

- Accommodation
- A clear recommendation with regards to suitability for a Bail Supervision Order or otherwise.

Bail Supervision

Once granted bail supervision by the Court, the bailee is seen by the Court Social Work staff who will confirm the reporting instructions and the service delivery agreement, copies of which will be given to the accused. The consequences of any form of non-compliance will also be explained during this meeting.

Thereafter the bailee is expected to keep required contact with the Bail Officer in accordance with the conditions of his/ her Bail Order. Contact for summary matters will be at least twice weekly and, for those who are dealt with under solemn procedure, the contact will be at least three times per week. One of the weekly contacts will be a home visit undertaken by the bail officer and another witness.

Some flexibility in respect of appointment times and location is shown when arranging appointments for clients who are employed or where geographical location makes office reporting impractical. Similar flexibility is shown in the latter stages of solemn cases.

Support to Accused / Case Management

Each person made subject to a Bail Supervision Order will have a designated Bail Officer for the extent of an Order and this worker will be responsible for case management duties and individual work to address the identified needs of the client. The Bail Officer will offer assessment of the client's needs in relation to:

- Health
- Housing
- Finance
- Education and training
- Employment
- Family and peer support
- Use of leisure time
- Avoiding further trouble

Although some of these needs may be met by one to one work with the supervising Bail Officer, the bailee will usually be offered assistance to access the appropriate community resources.

Case Records

Case records are kept on every client contain the following information:

- Referral
- Assessment
- Supporting documentation
- Signed conditions of bail supervision stating the approved address
- Witnessed contact sheets for each visit (at the office or client's home)
- Supervising Bail Officer session notes
- Court reports
- Correspondence
- Non compliance documentation

Case records will be:

- Legible
- Up to date in line with departmental electronic case recording policies and procedures
- Signed by worker.

Progress Reports

The client must adhere to the conditions until the Bail Order is removed by the Court. A Progress Report will be prepared by the Court Social Work staff for the intermediate diet/trial diet and will be provided to the Court as and when requested. A Completion Report will also be provided by a Bail Officer at the point of sentencing.

Non-Compliance with Bail Conditions

As the Bail Supervision Scheme has to be shown as a direct alternative to a custodial remand, action regarding discipline is consistent and robust. Failure to meet the reporting conditions of the Order will result in a Breach Report being prepared by the Bail Officer and sent to the police with copies to Procurator Fiscal. The only reason for non compliance which is considered acceptable by the Lanarkshire Bail Supervision Service is a medical certificate, issued for the day of the missed appointment, providing the illness is considered an emergency. Repeated submission of medical certificates for ill health will not be deemed acceptable.

Capacity

The Bail Supervision Service aims to supervise 50 orders per year. The number of open cases at any one time should not exceed 18.

Service Delivery Procedures

At the start of each day, the Bail Officer has available a copy of the custody list, which will give information regarding the nature of the offence and some information of the accused. The Procurator Fiscal makes contact with Court Social Work to advise which cases are bail-opposed but might be suitable for release on supervised bail.

Social Work undertakes checks in the SWIS system to identify whether the accused is known and are currently an open case. Where there is already a Social Work service offered, the allocated worker is contacted and, where possible, the case is discussed with them. Housing Services may also be contacted for checks on the person's position with regard to accommodation.

When an accused person has been identified as fitting the criteria for bail supervision, an initial assessment is carried out by personal interview and follows the procedure laid down in the Assessment Proforma. The terms and requirements of a Bail Supervision Order are also explained as well as the procedures that are followed and the consequences for the person in the event of non-compliance. The accused is also asked to sign a Consent to Share Information form.

Following the initial assessment, the Court Social Worker compiles a Bail Supervision Assessment Report (template js201), copies of which are given to the Fiscal, defence agent and Sheriff Clerk, and this indicates whether the accused is suitable for Bail Supervision and whether a place on the Bail Supervision Scheme can be offered.

If the Assessment Report indicates the person is suitable for supervised bail, a copy of reporting instructions (template js203) for the next day signed by the assessor and the

accused is attached to the assessment report and a signed copy of the conditions of the bail order indicating that the accused has understood and agrees to keep to the requirements of an such an order (template js202).

The above assessment procedures also apply where a request for a bail supervision assessment has been requested by the Sheriff or defence agents.

For every Bail Supervision assessment completed, the Bail Supervision worker submits a signed copy of the report and a completed monitoring form (template js218) to the Court Admin.

Should the accused be placed on a Bail Supervision Order, an additional condition is added to the Bail Order that "The accused must conform to the directions of the Bail Supervision Officer" The understanding is that, unless this is added to the Bail Order, then it is incomplete and would be incompetent in terms of a breach.

Contacts

The first contact after the accused is placed on Bail Supervision is within one working day. At this meeting, a fuller assessment is undertaken and issues affecting the accused are identified. From this, an individual plan is established and referrals made to other agencies, where appropriate, to address specific issues.

Thereafter, office meetings and home visits will be established in line with the requirements of the Order and contact made with any agencies involved to check on the person's progress. At the end of each meeting, the next appointment will be arranged and the date, time and place of the meeting agreed with the supervisee and noted on a contact sheet (template js217) which is signed by the both parties and a witness if a third party is present. This is kept in the case file. The bailee will then be given an appointment card detailing this information.

The content of supervision will follow the agreed action plan and regular and consistent contact will be made with other professionals involved in the case either to keep them informed of progress or to check on the bailee's level of cooperation with their service.

Every bail supervision case which is of three months duration or longer will be subject to an internal review involving the bailee, the Bail Supervision officer and the Team Leader unless other formal reviews (e.g. Probation) take place which the bail officer attends and for which a minute is circulated.

In the event that the bailee fails to keep an appointment, a letter (template js216) is hand delivered to his/her home the same day advising that contact must be made within 24 hours of the time of the failed appointment to explain the absence otherwise breach proceedings will be instigated.

If the bailee makes contact and gives a reasonable and acceptable excuse for non-attendance, a further appointment is issued. It is emphasised that further non-compliance will result in breach. If the reason for absence is not acceptable the person is advised that the Order will be breached.

Progress Reports

For every Court appearance after the imposition of a bail supervision order, a Progress Report is submitted. This should be a concise and accurate overview of the person's response to the services in place and an indication of the benefits of continuing the bail supervision order. Should the bailee appear from custody, a progress report is submitted

where possible or, alternatively, a verbal report is made to the Court by a member of the Court Social Work Team.

Where there is a further hearing for the matter for which the person was given bail supervision, it is appropriate to indicate to the Court that, since all the necessary services are in place and being utilised by the bailee, a standard bail requirement might be considered.

Progress reports are submitted the Court the day before the Court appearance.

A signed copy of the Progress Report is submitted to Court Admin along with a completed monitoring form (template j218)

Breach Procedures

As Bail Supervision is a direct alternative to a custodial remand, it is necessary to build the confidence of the public and of the courts by ensuring that procedures are in place to effect speedy action regarding breaches of the Bail Supervision Order.

A procedure of breach procedures has been agreed between the Procurator Fiscal and Police regarding the non compliance of the accused whilst on Bail Supervision.

When the accused fails to attend an appointment a Breach Report (Template js213) is completed and taken directly to the local police office. Attached to the report are copies of the Bail Order, Reporting Instructions (js203) and Appointment Sheet (js217).

A copy of the breach of bail paperwork is also sent with a letter to the Fiscal so that they can retain this with the paperwork of the accused.

If mitigating circumstances become known, these can be taken into account and the breach of bail rescinded. Should there be the need to rescind the breach of bail, the Bail Officer writes to the appropriate police division informing them that the breach of bail has been rescinded. This happens in very exceptional circumstances and only if it is warranted.

The police inform Social Work by telephone when a breached person has been apprehended and this information is recorded on social work records (for SLC) and by letter to the appropriate senior social worker in NLC.

Further Offences

Where a further offence is committed and the person is remanded in custody, this is automatically a breach of bail and, therefore, no breach report is required. A letter (template js214) is submitted to the Sheriff Clerk's office advising of the offence and asking the Court to rescind the Bail Supervision Order.

Where the person commits a further offence and remains in the community, bail supervision continues and no formal action is required.

GUIDANCE NOTE

YOUNG PEOPLE APPEARING IN THE SHERIFF COURT FROM CUSTODY



1. There are a growing number of young people who are already subject to Supervision Requirement, appearing in the Sheriff Court from custody on summary and indictment level proceedings, where the Procurator Fiscal opposes bail and has agreed with the Reporter that they and not the Reporter will pursue proceedings.
2. In these cases the Case Manager should complete the attached template providing brief (i.e. bullet point) details in relation to each section. This should outline the present and anticipated level of service delivery of an offence focused nature. Language should be 'formal' i.e. appropriate to the Sheriff Court requirements as opposed to Children's Hearing e.g. The young person should be referred to by their forename and surname or title. Examples of services e.g. SACRO; Crossover; Programmes Approach Team; Young Persons Drugs Worker should be provided, both in terms of **actual** and **anticipated** required supports (see part 4).

When a service is not in place at the time of court appearance, a verbal agreement with the required service Team Leader/Manager will be sufficient. An ARG can be agreed for a later date (to provide detail). The note can also be made available to the young persons solicitor

3. The Case Manager should liaise with the Court Social Worker and fax the completed template to the Court Social Worker, they will provide an indication of the time the young person will appear before the Sheriff.
4. The Case Manager should arrange to be present in the court (in their absence, worker from a support service i.e. Programmes Team, Rosemount, Youth Support can substitute) to 'speak to' the report.

The worker should prepare to emphasise the availability of comprehensive and robust community supports, which are available as an alternative to prison or secure remand. Examples should be given as above of **level** of service, frequency and review.

5. In the absence of direct presentation of the comprehensive supports available from Social Services and their partners, young people are vulnerable to prison/secure remands. This is particularly the case for those young people who are accommodated, as there maybe a view that the accommodating resource is failing to impact on the offending behaviours.
6. Following the young persons appearance at court workers should complete and email both action note and the disposal template to ####, APO Youth Justice. The details will be compiled to inform a monitoring database.

ACTION NOTE
YOUNG PERSON APPEARING FROM CUSTODY



Name

D.O.B

Address

Statutory Status

Present Charge

Synopsis of Current Circumstances

Care and Intervention Plan

Bail Support Plan

Workers Name	
Title	
Date	

COURT DISPOSAL AND OUTCOME

Court Appeared in

Solicitor Details

Confirm Offence Details

	Comment
Bail	
Curfew	
Other Bail Condition	
Remand	
Date of Next Court Appearance	
Other Comments	

Appendix 9

Alternatives to Custodial Sentences: Examples of good practice

(See also Guidance on Alternatives to Secure Care and Custody⁷⁸)

Opportunities For Change, Young offenders – a problem or an opportunity? Evaluation Report May 2010.⁷⁹

A Community Justice Authority pilot project developed to better meet the needs of young people who offend, many of whom will have been or may still be subject to Children's Hearing 'supervision' and have experienced secure accommodation, when they appear before the Sheriff Court. The project was developed in partnership with City of Edinburgh Council, Scottish Borders Council, West Lothian Council, Midlothian Council, East Lothian Council, SCRA, SPS, Includem and Venture Trust.

Youth Structured Deferred Sentence (North Ayrshire Council)

The Structured deferred sentence was piloted in Arbroath, Forfar, Inverness, Ayr and Kilmarnock for three years commencing in 2005, and an evaluation report published in April 2008.⁸⁰ It was found that compliance was higher than for community service or probation and a third of high tariff SDS orders resulted in the desired outcome of a non-custodial sentence. The scheme was subsequently rolled out to Glasgow and Tayside in 2008.

Isle of Lewis (Western Isles Council)

When compiling a Criminal Justice Social Work Report a deferred sentence of a young person for a period of 6 months was suggested. The young person was then accommodated in a Close Support unit. This proved beneficial, seeing the young person avoiding further offending for 2 years. The fact that the Court and the Hearing System operated in tandem in this case worked well. Liaison with the young person's solicitor was also vital.

Other Services Available

Arrest Referral Service

The Arrest Referral Service⁸¹ engages with people at the point of arrest whose offending is linked to drug or alcohol misuse. By seeing the individuals as soon as they are arrested, SACRO can offer them a pathway into harm reduction, treatment and rehabilitation services.

⁷⁸ <http://www.scotland.gov.uk/Topics/Justice/crimes/youth-justice/reoffending>

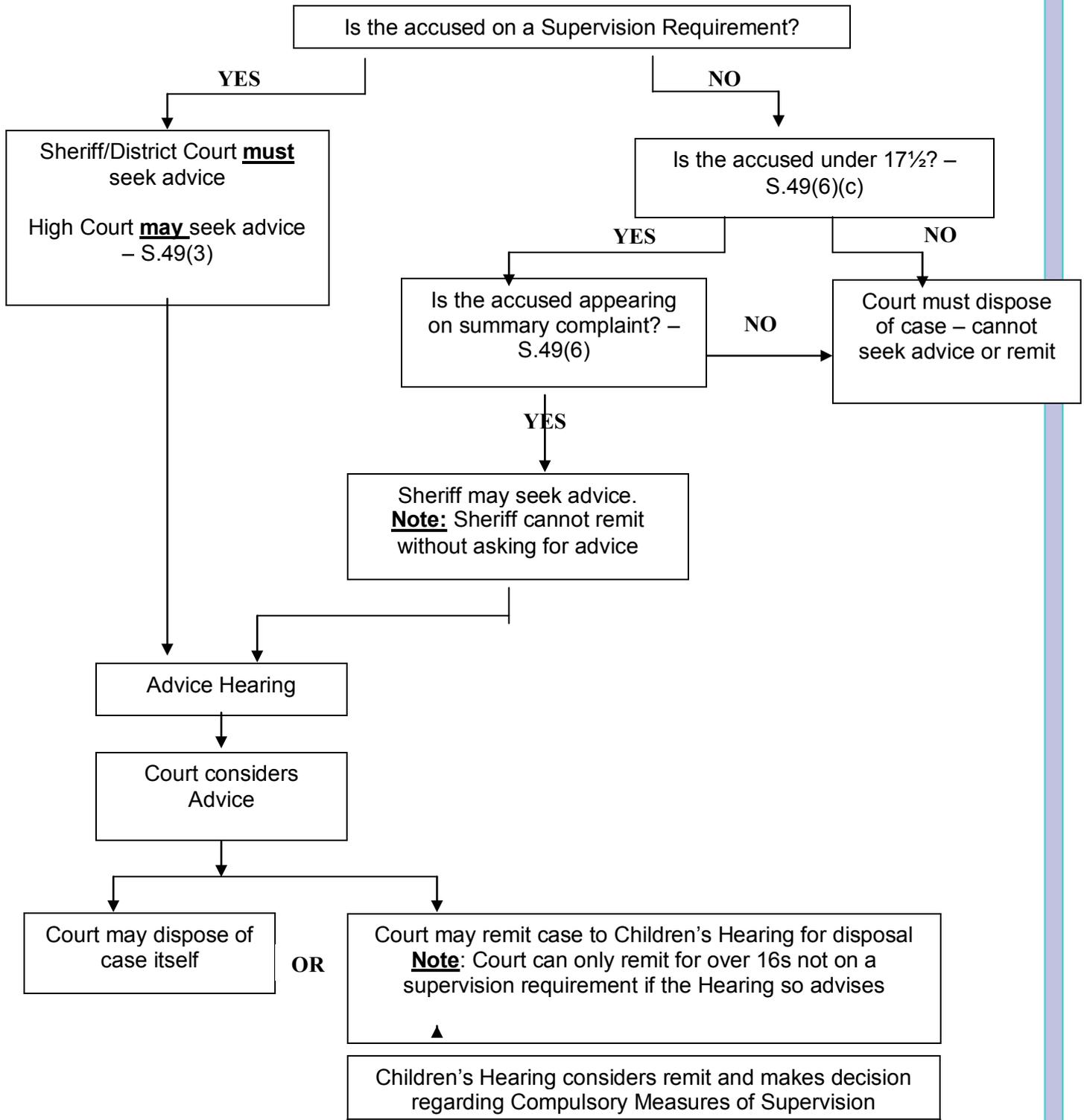
⁷⁹ www.cjalb.co.uk/docs/OfCEvaluationreportMay2010.pdf

⁸⁰ <http://www.scotland.gov.uk/Publications/2008/04/09134401/0>

⁸¹ http://www.sacro.org.uk/html/arrest_referral_service.html

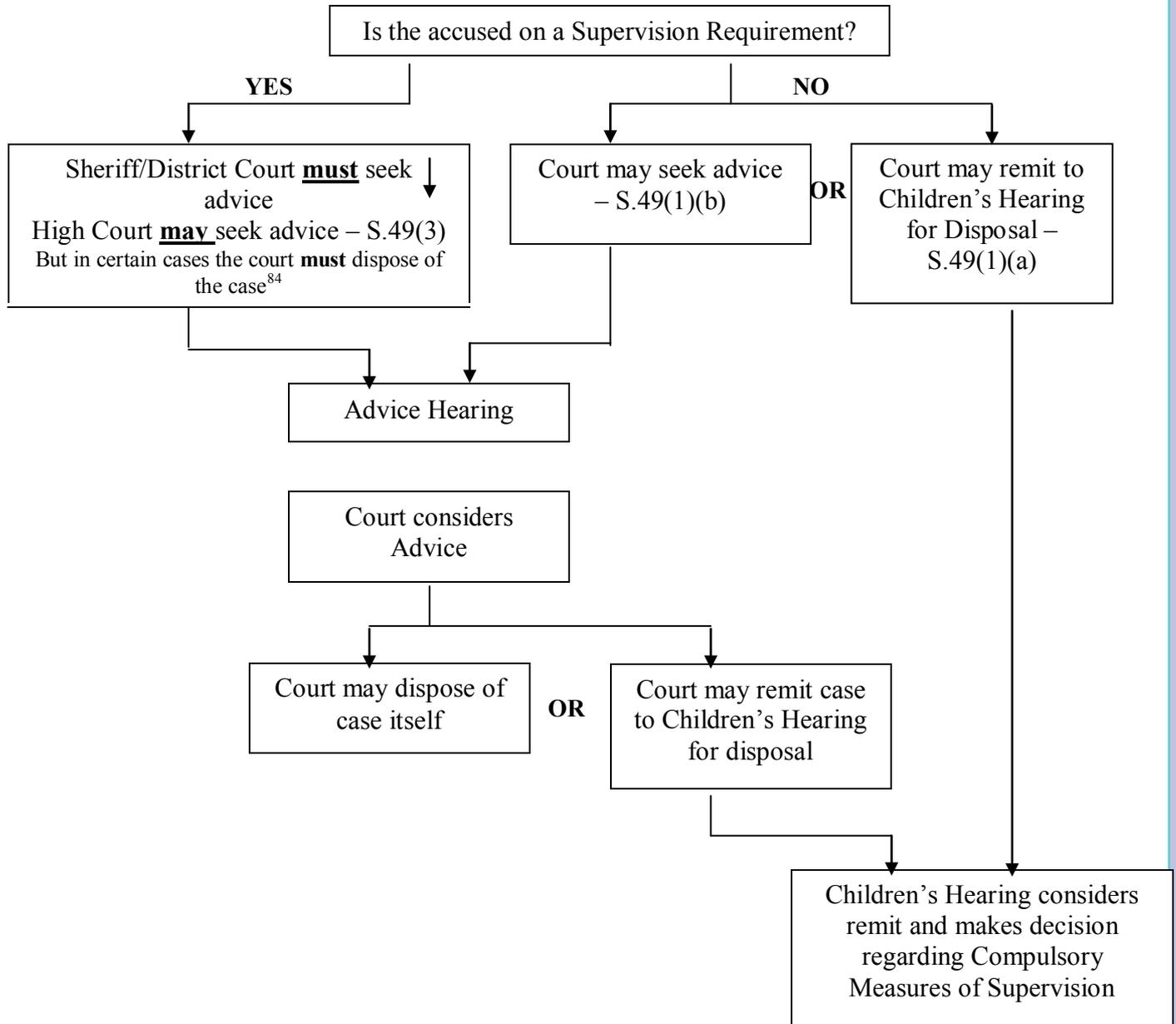
Appendix 10 – Flowcharts

Responsibilities and Options in relation to Children’s Hearings for accused persons over 16 in terms of S.49 of the Criminal Procedure (Scotland) Act 1995⁸²



⁸² If the sentence is fixed by law the procedure in the flow chart will not be followed. If section 51A of the Firearms Act 1968 or section 29 of the Violent Crime Reduction Act 2006 applies
If But only if the children’s hearing has recommended that the case be remitted for disposal

Responsibilities and Options in relation to Children’s Hearings for accused persons under 16 in terms of S.49 of the Criminal Procedure (Scotland) Act 1995⁸³



⁸³ If the sentence is fixed by law the procedure in the flow chart will not be followed.

⁸⁴ If section 51A of the Firearms Act 1968 or section 29 of the Violent Crime Reduction Act 2006 applies

Appendix 11

Summary of Community Penalties available in Scotland

For offences committed on or after 1 February 2011

Community Payback Orders (CPOs)

The provisions relating to the Community Payback Order (CPO) can be found in section 14 of the Criminal Justice and Licensing (Scotland) Act 2010. CPOs replaced Probation Orders, Community Service Orders and Supervised Attendance Orders for offences committed on or after 1 February 2011. The Order also allows for further nine requirements which could be included should this be appropriate and assessed as suitable for the individual concerned:

- Compensation
- Supervision
- Unpaid Work or Other activity
- Programme
- Residence
- Mental Health
- Drug Treatment
- Alcohol Treatment
- Conduct
-

In bringing together the options for sentencers the Scottish Government are highlighting the scope for courts to punish offenders in a way which also addresses the areas of their lives which need to change.

A court can impose a CPO on an individual of any age. Where a CPO containing an unpaid work or other activity requirement is imposed on an individual aged 16/17 at the date of sentence, the Court must also make an offender supervision requirement. This recognises that for those under 18, where there may be immaturity and developmental issues, further support may be needed to complete CPOs and indeed in their lives in general. Additionally, with added support, early intervention could provide the basis under which a young person could be diverted from further offending.

Where an offender supervision requirement is imposed with a level 1 unpaid work or other activity requirement, the supervision requirement is likely to be of short duration with the aim largely consisting of supporting the young person to complete their period of unpaid work. Other identified needs may also be addressed, e.g. victim awareness, as part of the Order. In managing this, whilst the case manager would retain overall responsibility, the unpaid work case manager may undertake some of this work.

Justice of the Peace Courts: Justice of the Peace Courts are able to impose a CPO with an offender supervision requirement, a residence requirement, a conduct requirement, a compensation requirement, and a level 1 unpaid work or other activity requirement (20 – 100 hours). A CPO with a level 1 unpaid work and other activity requirement does not require a criminal justice social work report to be called for but such a report should be requested when JPs are imposing a CPO with the other requirements. It will also be required when JPs are imposing a level 1 unpaid work requirement on a 16 or 17 year old as under legislation courts are required to impose a supervision requirement with the unpaid work requirement when it is imposed on a 16 or 17 year old.

Further information on the CPO may be found at:
<http://www.scotland.gov.uk/Publications/2011/03/07124635/0>

For offences committed prior to 1 February 2011

Probation

The main purpose of probation is to work with individuals to prevent or reduce their reoffending by combining oversight and control with help to learn new behaviours and to deal with problems associated with offending. Probation orders can be used flexibly by the courts and additional conditions can be attached to them, for example: requiring them to undertake unpaid work; requiring financial recompense to the victim or attendance at a specialist programme such as alcohol or drug treatment. An offender can be placed on probation for a period of between 6 months and 3 years. 8,840 probation orders were commenced in 2009/10.

Community Service Orders (CSOs)

Legislation currently restricts the use of CSOs to cases which would otherwise have resulted in imprisonment or detention. An offender given a CSO is required to carry out unpaid work of benefit to the community for 80-240 hours in summary cases and up to 300 hours in solemn cases. Work placements, are organised/supervised by local authority staff, and take many forms. 6,430 CSOs were imposed by courts in 2009/10.

Supervised Attendance Orders (SAOs)

SAOs are an alternative to custody for fine defaulters which provide a "fine on time". The participant is required to undertake a programme of activities to make constructive use of time. These can include educational elements or involve unpaid work in the community. An SAO can range length from 10 to 100 hours. In 2009/10, 3,900 SAOs were commenced.

Other Community Sentences (not dependent on date of offence)

Drug Treatment and Testing Orders (DTTOs)

DTTOs offer an intensive regime of drug treatment and testing with regular review by the courts. They target those whose offending is linked to a drug problem, e.g. stealing to fund a drug habit. DTTOs aim to help individuals overcome drug addiction and reduce/eliminate the need to offend. Those placed on a DTTO are required to undertake regular testing and treatment. They also reappear before a sheriff every month to account for their behaviour. DTTOs are available in the High Court and sheriff courts. 740 DTTOs were commenced in 2009/10.

DTTO II

The DTTO II pilot scheme is running in the Lothian and Borders Sheriffdom and is aimed at lower tariff offenders who are less entrenched in their drug misuse and offending. A DTTO II is available as a disposal to both Sheriffs and Justices of the Peace. Orders made under the DTTO II pilot are typically shorter in length and with less frequent Court reviews than full DTTOs. The initial pilot ran for 2 years from June 2008 to June 2010 and, following the publication of a process evaluation in July 2010, was subsequently extended until March 2012. During the period December 2008 to November 2009 49 orders were commenced.

Restriction of Liberty Orders (RLOs or “Tagging”)

A RLO can be imposed on a young person of any age (but in cases where the young person is under the age of 16 years, the court may only impose a RLO when, having obtained a report from the relevant local authority, it is satisfied with the services that the authority will provide for the young person’s support and rehabilitation). The young person may be restricted to a particular place (or places) for up to 12 hours per day for up to 12 months. Compliance with the order is electronically monitored by a commercial contractor by means of a transmitter (tag) worn by the offender on his or her ankle. 1109 RLOs were commenced in 2009/10.

Structured deferred sentences (SDS)

A court will frequently defer sentence to allow an individual the opportunity to demonstrate they can be of good behaviour. Structured Deferred Sentence schemes can offer the court an enhanced option to defer sentence and require the individual to engage with a short period of intensive intervention work to address the causes of their offending behaviour. This can include behavioural issues such as anger management, or the use of alcohol and drugs. As a general rule SDS would be for a period of up to three months. Currently SDS is only available in a small number of local authority areas. In the case of young offenders, where available SDS could offer the court a means of constructive intervention without the need to impose a potentially higher tariff penalty such as a CPO or Probation

Appendix 12 – Court Postcards

Court Support Service

For Young People

Are you under the age of 18 and attending Court?

Do you need help with...

- Understanding the Court process?
- Information/help/assistance with your Court matter and attending Court?
- Access to further services?

If yes, please call <insert> and speak to the Court Support Worker.

<Insert individual contact details>

Court Support Service

For Defence Agents

There is now a Court Support Worker for Youth Justice, providing ...

- A visible presence within the Courts to support Young People who are under the age of 18
- Assistance and guidance for Young People in Custody or going through the Court Process
- Signposting Young People to access appropriate services

If yes, please call <insert> and speak to the Court Support Worker

<Insert individual contact details>

Appendix 13

Glossary of Terms

ACPOS	Association of Chief Police Officers in Scotland
ADES	Association of Directors of Education in Scotland
ADSW	Association of Directors of Social Work
Breach	Failure to fulfil the requirements of a court order
Case Management	The professional task that involves engaging an individual in the process of change, through supervision and monitoring progress, delivering and / or brokering the necessary interventions to support that change, and promoting compliance
Child	A child is a person under 16 years or a person over 16 years and under 18 years who is subject to a supervision requirement.
Child's Plan / Child Protection Plan	Where those working with the child and family have evidence that suggests a co-ordinated plan involving two or more agencies will be necessary, then a 'Child's Plan' should be drawn up - a single plan of action, managed and reviewed through a single meeting structure even if the child is involved in several processes. Where a child protection intervention is required, the Child's Plan is known as a 'Child Protection Plan'.
Child protection	Child protection is when a child requires protection from child abuse or neglect. For a child to require protection, it is not required that child abuse or neglect has taken place, but rather a risk assessment has identified a likelihood or risk of significant harm from abuse or neglect.
CJA	Community Justice Authority: Eight are established in Scotland to co-ordinate offender management and rehabilitation services.
CJSW	Criminal Justice Social Work
Compliance	Involves monitoring of adherence to conditions, but moreover is an explicit contract between practitioner and client, based on a clear understanding of roles and expectations of each other.
CMS	'compulsory measures of supervision' are those measures of supervision contained within a Supervision Requirement.
COPFS	Crown Office Procurator Fiscal Service – Decides whether there is enough evidence to take a case to court, and whether it would be in the public interest. Also prosecute most cases once in the courts.
COSLA	Convention of Scottish Local Authorities

CPO	Community Payback Order (new community disposal introduced from 2010) in Scotland; also (in England and Wales) Community Punishment Orders where offenders perform unpaid work in the community.
Criminal Justice Social Work Report	Submitted by local authority SW staff to the courts on request. The purpose of the Criminal Justice Social Work Report (CJSWR) is to assist in the sentencing process and it should complement the range of other information available to Sentencers. In particular, it provides information on social work interventions and how these may impact upon offending behaviour
Diet	The date for hearing of a case for any one of a variety of purposes, fixed by the court
Direct Measure	A police or procurators fiscal disposal as an alternative to prosecution in the courts.
DTTO	Drug Treatment and Testing Order. A sentence for drug users who receive treatment for their drug use and have to give regular urine tests.
Effectiveness	The extent to which an activity, intervention or case management plan produces the intended outcomes.
Evidence Based Practice	Effective working practices which have been demonstrated to be effective by rigorous evaluations within the research literature.
FRAME	<p>Framework for Risk Assessment, Management and Evaluation - The objectives of FRAME are:</p> <ul style="list-style-type: none"> • To develop an agreed risk assessment and management framework that supports multi-agency practice through a shared understanding of roles and responsibilities, process and language of risk; • To establish agreed standards of practice, guidelines, and evaluation in support of consistent, meaningful and proportionate risk assessment and management practice which supports the principles of defensible decision making and which spans agencies, systems and offender groups; • To ensure that workforce data is available relating to each agencies roles and responsibilities within risk assessment/risk management to inform training plans; • To inform Policy decisions relating to risk assessment and management with learning from national and international research and practice; • To promote implementation integrity by incorporating agreed quality assurance and evaluation mechanisms; • To provide age and stage appropriate guidance on the development of approaches, processes and procedures for risk assessment and management practice of young people under 18, in accordance with the FRAME, UN Convention and GIRFEC principles; • To engage with relevant stakeholders in developing their understanding of the framework for risk assessment and management approach; • To ensure risk assessment is performed in a manner that

evidences defensible decision making and the efficient use of resources.

- This work is led by the Risk Management Authority as part of the Reducing Reoffending Programme.

Getting it right for every child (GIRFEC)

The GIRFEC approach is a Scotland-wide programme of action to improve the well-being of all children and young people. Its primary components include: a common approach to gaining consent and sharing information where appropriate; an integral role for children, young people and families in assessment, planning and intervention; a co-ordinated and unified approach to identifying concerns, assessing needs, agreeing actions and outcomes, based on the Well-being Indicators; a Named Person in universal services; a Lead Professional to co-ordinate and monitor multi-agency activity where necessary; and a skilled workforce within universal services that can address needs and risks at the earliest possible point.

Harm

Loss, damage or personal injury

HDC

Home Detention Curfew – The early release from prison, where the prisoner is curfewed to their address on an electronic tag for between 9 and 12 hours per day. HDC can be imposed for between 14 days and 6 months.

ICM

Standard ICM is for all prisoners not subject to post-release supervision (mainly short-term prisoners). This process is delivered primarily by specialist providers who will assess and action plan within their area of expertise, but consistently updating the Community Integration Plan (CI P) as the main prisoner file. Prison Link Centre or residential staff will provide the administrative overview to ensure effective application of the Standard ICM process.

Enhanced ICM is for all prisoners who are subject to post release statutory supervision. This process utilises full risk and needs assessment and a Case Conference model for action planning. This approach brings together the prisoner, key internal and external staff, and where appropriate the family, to examine the prisoner's progress through custody. The Case Conference will also examine the prisoner's assessed risk of reoffending and risk of harm. The Case Conference will decide on appropriate interventions which are aimed at reducing those risks post release. This particular approach should prove useful in (a) keeping the prisoner at the centre of the ICM process, (b) maintaining a focus on issues which are external to the prison as well as internal, (c) the sharing of relevant information across agencies and (d) assessing and managing risk.

Imminence

Considered when linking a risk assessment to a risk management plan in cases where 'risk of serious harm' is the consideration, and involves identifying early warning signs. It is an important aspect of contingency planning.

Includem

Voluntary organisation providing a range of tailored support and supervision services including intensive community based one-to-

one support, short term crisis support in the community, specialist foster care, tapered transitional relapse prevention support and restorative justice approaches.

Indicators	A measure of performance against the intended outcome.
Intervention	A discrete piece of work with a clear intended outcome and delivered in a repeatable way. An intervention may include a rehabilitation programme, a reparation placement, or an employment placement.
Lead Professional	Under the GIRFEC approach, the Lead Professional is responsible for ensuring an agreed multi-agency Child's Plan is produced to support a child. The Lead Professional's tasks include: being the usual point of contact with the child and family to discuss the plan, how it is working and any changes in circumstances that may affect the plan; being the main point of contact for all practitioners who are delivering services to the child; and ensuring that the help provided is consistent with the Child's Plan and that services are not duplicated.
LCJB	Local Criminal Justice Board: There are eight in Scotland, each chaired by a Sheriff Principal.
LS/CMI	Level of Service/Case Management Inventory is a comprehensive offender assessment instrument which will provide a consistent framework for case planning and management of offenders for Criminal Justice Social Work Services and the Scottish Prison Service.
Likelihood of offending	Forms part of a clear statement of risk in terms of the seriousness, pattern and likelihood of offending, that can then be evaluated against the relevant risk criteria – it is understood as the current balance of risk and protective factors. It is not expressed as a statistical probability.
MAPPA	Multi Agency Public Protection Arrangements is the framework which joins up the agencies who manage offenders. The fundamental purpose of MAPPA is public safety and the reduction of serious harm. MAPPA was introduced across Scotland in April 2007 gave a consistent approach to the management of offenders across all local authority and police force areas, providing a framework for assessing and managing the risk posed by some of those offenders.
Measures	Define the activity or outcome a service or organisation wishes to measure and why, using this information to make decisions and improve delivery or performance.
Named Person	Under the GIRFEC approach, where a child only requires support from a single agency or service (and consequently, not requiring Lead Professional support), the Named Person is designated to be the contact for the child and involved in supporting those who are in regular contact with the child.
Nature of offending	Forms part of a clear statement of risk in terms of the seriousness, pattern and likelihood of offending, that can then be evaluated

against the relevant risk criteria - the type of offence and the target.

NOS

National Outcomes and Standards.

Outcomes

The impacts or consequences for the individual, service, community etc of the activities. Outcomes are normally what is trying to be achieved and can be a process outcome or focused on an individual.

High-level: community or population-level outcomes, may be equivalent to "local outcomes" in Single Outcome Agreements.

Intermediate: impacts which are more specific to local areas. Also, many outcomes will be long-term aspirations which will take a number of years to achieve. Intermediate outcomes can be the changes which can be achieved in the medium term.

Service-delivery: impacts which are more specific to service-users, which if combined demonstrate the achievements of services.

Pattern of offending

Forms part of a clear statement of risk in terms of the nature, seriousness and likelihood of offending, that can then be evaluated against the relevant risk criteria - consists of the onset, duration and frequency of offending.

Programme

A programme is defined as a planned series of activities, delivered over a specified period on an individual or group basis, which, typically, will form an element of a framework of integrated casework management and has the following characteristics:

- it uses specific and measurable methods that can be demonstrated to produce positive change in order to reduce offending;
- it is normally characterised by a systematic and structured sequence of activities, designed to achieve clearly defined objectives that have been demonstrated to be effective in reducing offending;
- it can be replicated with other people who have similar patterns of offending;
- it has a specified and evidence-based design.

Risk

The potential for an adverse event to lead to a negative outcome; The likelihood or probability of a particular outcome given the presence of factors in a child's or young person's life.

Risk Assessment

The process by which risk is understood with a view to reducing the likelihood and / or impact of future offending; it entails three phases: identification; analysis and evaluation.

Risk Criteria

The measures against which risk is evaluated to inform decision making in varying processes and systems. Risk criteria are important as they serve as gate-keepers for particular sentences and procedures, promoting fairness, transparency and integrity. Risk criteria are central to the sound functioning of MAPPAs and the OLR, and revolve around the consideration of 'risk of serious harm'. However, there are no set criteria for the commonly used

term 'risk of harm'.

Risk of Serious Harm

One of the risk criteria: it sets a measure against which risk can be evaluated to guide decision making in various systems:

'There is a risk of harmful behaviour which is life threatening and/or traumatic and from which the victim's recovery, whether physical or psychological, can be expected to be difficult or impossible'. (draft MAPPA Guidance, 2010)

Clarity about this definition is vitally important. It is known that difficulties occur in applying the definition, in clearly identifying the necessary elements of seriousness and likelihood. There is value in recalling the evolution of the definition and identifying the original key aspects.

"There is a risk of harmful behaviour which is life threatening and/or traumatic and from which the victim's recovery, whether physical or psychological, can be expected to be difficult or impossible. That is, sexual and violent behaviours, for example murder, serious assault, rape, all sexual offences against children, all violent robbery, kidnapping, holding hostage, terrorism and fire raising (where there was a clear intent to harm persons). The likelihood of this occurring is just as important as the fact that the person has caused such serious harm in the past. They must be regarded as having the potential to inflict such harm again." (Adapted from OASys Manual, Home Office 2002).

Risk Management

The professional task of applying a range of activities with the aim of reducing the risk of serious harm to others. It is co-ordinated through the development of a risk management plan. It involves all of the activities associated with case management and in addition the activity of victim safety planning, detailed in a preventative action plan. In risk management monitoring assumes a greater focus as it is the activity by which imminence is detected by the identification of early warning signs, and actions in a contingency action plan are triggered.

Risk Management Plan

A working shared and dynamic document, based on a risk formulation in which preventative and contingency action plans show a clear link between identified risks and necessary action, those responsible for those actions, and the required communications. It is responsive to change and so details review procedures.

SACRO

Safeguarding Communities Reducing Offending, charity promoting rehabilitation of offenders and justice for communities.

SCRA

Scottish Children's Reporter Administration

SCS

Scottish Court Service

Seriousness of offending

Forms part of a clear statement of risk in terms of the nature, pattern and likelihood of offending, that can then be evaluated against the relevant risk criteria - combines the degree of harm done, the degree of harm intended and the extent of planning in an episode of offending.

SG

Scottish Government

Single Plan

An integrated assessment and needs report compiled by the 'lead

professional' with multi agency input in line with the requirements of GIRFEC.

SJR

Summary Justice Reform

Social exclusion

The exclusion of individuals from the opportunities and resources required to meet needs and to participate actively in society.

Social inclusion

Action to change the circumstances that lead to, or have led to, social exclusion.

Solemn crime

Serious criminal offence(s). Proceedings commence by way of a petition and may proceed to an indictment. Under common law there are limits to penalties but legislation may set higher penalties for certain statutory offences. Less serious crimes are dealt with by summary proceedings.

SPS

Scottish Prison Service (in relation to this report, this also refers to private prisons)

Statement of Risk

A clear expression of risk in terms of the nature, seriousness, pattern and likelihood of offending, that can then be evaluated against the relevant risk criteria.

Supervision

The activity of overseeing an order or sentence in a manner consistent with legislation and procedures. However, it is also the means by which a relationship is established with the individual, and that individual engaged through dialogue in a process of change and compliance.

Supervision Requirement

A requirement made by a children's hearing under s. 70(1) of the Children's (Scotland) Act 1995 in respect of a child including any conditions contained in the requirement.



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