

Justice Social Work Reports

and

Court-based Justice Social Work Services

Practice Guidance

October 2023

Version	Comments	Publishing Date
1.0		2010
2.0	Entire document revision	2023

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1. Introduction

The purpose of this guidance is to provide social workers and para-professionals working within justice social work (JSW) settings with guidance to carry out their duties at this crucial point of a person's entry into the justice system. Whether this is the person's first appearance in court or not, their contact with the court based justice worker or the social worker preparing their court report represents an opportunity to consider the circumstances leading up to their appearance and what they could do differently to avoid it happening in the future. This guidance will be relevant whether within the court setting or in the preparation of justice social work reports for the court and will address developments in current practice, changes in legislation and reflections on service delivery.

The information provided by a justice social work practitioner in court or within a court report can provide information to assist the court in identifying issues relevant to disposal of a case. The skills and knowledge offered by justice social work practitioners can assist the court to identify potential risks to victims and highlight the need to promote victim safety. In turn this enables consideration of disposals that can reduce risks of recidivism, promote social inclusion and may lead those impacted by the behaviour to feel safer whether that be individuals or communities. This guidance will cross reference to other pieces of JSW practice guidance held on the Scottish Government website with links provided.

Within the guidance there is an amended template for the preparation of justice social work reports (JSWRs). This was updated following a pilot in four local authority areas which concluded in March 2023 and should be adopted by all local authorities. It is intended that the revised template will reduce duplication of information and offer a more analytical presentation of the information required. This will contribute to a level of quality and consistency of assessments contained within the reports. Additional annexes also offer suggested pro-forma which can be utilised or amended to suit local practices.

The guidance has been produced in collaboration with a reference group consisting of justice social work managers, sheriffs and other key stakeholders such as Community Justice Scotland, Social Work Scotland, Care Inspectorate, Risk Management Authority, and Children and Young People's Centre for Justice. There has also been consultation with groups representing victims and the third sector to ensure the guidance reflects the experience of those impacted by the justice system. The contribution from all those who have given their time to consider the content of this guidance has been invaluable.

It is noted that there are a number of relevant legislative changes currently subject to parliamentary process which might have a potential impact on the JSW role but are not yet enacted. This guidance will therefore be updated in due course in order to reflect those changes as they are implemented. The most up to date version will be available on the Scottish Government website which hosts all justice social work guidance and can be found at <https://www.gov.scot/collections/justice-social-work-guidance/>

2. Legal Framework

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

The Scottish Government document outlining the role of the registered social worker notes that in terms of justice social work provision, a registered social worker must retain accountability for provision of all reports to courts which could have an impact on an individual’s liberty.

The Criminal Procedure (Scotland) Act 1995 (the 1995 Act) outlines the circumstances under which the court is empowered to adjourn a case before sentence; “for the purpose of enabling enquiries to be made or of determining the most suitable method of dealing with a case” (s201(1)).

The 1995 Act sets out the circumstances whereby a court must obtain and consider a report from an officer of the local authority (s203(3)). In all circumstances, the court has the power to adjourn a case before sentencing to enable enquiries to be made or to determine the most suitable method of dealing with the case. An adjournment will not usually be for more than four weeks, although in certain circumstances under ‘cause shown’ can be for up to eight weeks (s201(3)). This can be particularly helpful at times when JSW is under specific staffing pressures such as over the festive period when public holidays lead to fewer working days. It is also helpful for more complex reports which may require more time to gather information, undertake risk assessments and address suitability for specific offence focussed programmes. Managers can liaise with the local sheriff clerk to make arrangements for longer deferrals to enable reports to be prepared thus avoiding unnecessary adjournments and saving court time.

The following list reflects the circumstances under which the court is required to obtain a report as is specified in section 27(1)(b)(i) to (vi) of the 1968 Act, in cases in which a person is:

- under the supervision of a court
- subject to supervision following release from prison or detention
- subject to a community payback order with an unpaid work or other activity requirement
- subject to a supervision and treatment order
- under 16 years of age and subject to a restriction of liberty order
- aged 16 or 17 years and subject to a Compulsory Supervision Order imposed by Children’s Hearing Scotland.

A report is required when the court is:

- passing an extended sentence
- making a supervised release order
- making a community payback order (an exception to this is a CPO with a Level 1 unpaid work requirement only)

- making a drug treatment and testing order
- considering a custodial sentence for those aged between 16 and 21 years of age
- considering a custodial sentence for those aged over 21 years of age who have not previously been sentenced to imprisonment or detention in the UK

Where a child under 16 years of age is brought before the court, a report must be obtained on the home surroundings of the child and the education authority must supply information on the school record, health and character of the child (s 42(8) of the 1995 Act).

Report writers should be aware that offences committed before the commencement date for the Community Payback Order (February 2011) will be subject to the previous provisions of the 1995 Act, i.e. assessment for suitability for a Probation Order and/or Community Service Order.

3. Data Protection

3.1 Data / information sharing principles

The following is offered as general guidance for those preparing court reports, but it should be read in conjunction with agreed procedures within the local authority.

There are overarching concepts and legislation which regulate the sharing of information and the rules around secondary processing of information as outlined in the Data Protection Act 2018 which implemented General Data Protection Regulation. Each local authority should be working with their data protection team to set policies and take decisions on processing personal data. The local authorities and Scottish Courts and Tribunal Service must have a Privacy Notice which would be supplied to those using their services and this, along with their Data Protection Impact Assessment will give good insight and understanding of the lawful basis used.

You may find it useful to consider the information contained in the following when thinking about information sharing: [A guide to lawful basis | ICO](#) specifically [Public task | ICO](#) which is most relevant for provision of information to the court within JSWRs

The purpose of any information sharing activity should be considered in advance. In this context, the legislation that underpins JSWRs is section 27(1)(a) of the 1968 Act which requires the local authority to make:

“...available to any court such social background reports and other reports relating to persons appearing before the court which the court may require for the disposal of a case”.

This establishes the necessity of any information-sharing as the local authority must comply with this legal obligation. As this is a ‘public duty’, the consent of the data subject (the person on whom the report is being compiled) is not required before data is shared. However, in some particular circumstances, the issue of consent can be more complex – see section five of this guidance on information gathering for further information on this.

In order for the information sharing to be lawful, the information shared must demonstrate proportionality in terms of its content. It is not possible to fully define what information should be provided to the court in a JSWR as the circumstances of each case is unique. However, a broad measure would be that if the information is directly related to the person’s circumstances (including factors of risk and need), and that information may impact on the outcome of the case, then it would be lawful to share this with the court.

In most cases of information sharing, the ‘how’ of doing so is, usually, a standardised process facilitated by the use of ‘Single Points of Contact’ or electronically secure email addresses. In this particular case, completed and signed JSWRs are returned to the requesting court through established and secure electronic means.

If the person is sentenced to a period in custody, then Scottish Courts and Tribunal Service(SCTS) will forward the JSWR to the appropriate prison. The information in the report can be made available for both risk assessment purposes and to raise awareness of any on-going issues. It has been established that both the local authority and SCTS are joint data controllers of the information within the court report and as such, if there is any issue with SCTS forwarding the court report to the prison then the local authority can do so instead.

4. Role of the Court-Based Worker

4.1 Overview

The justice social work staff in court provide a critical social work function within the court setting. They are often the first point of contact with the justice social work service for many individuals and their families and will be skilled in balancing the demands from busy courts and the varied needs associated with the people they assist. In some courts, the court-based worker (CBW) will be a social worker, while in others they will be a para-professional.

The CBW needs to operate in a proactive way by providing information as required but also offering advice when requested to do so by the court. For example, if a sentencer requests a report to be delivered in three weeks' time but the CBW is aware that this information could be ascertained prior to the end of the court business, the CBW could offer to provide the information by the end of the day.

Other ways of providing a proactive service to the court could also be employed. For example, the CBW will be aware of when the last report was prepared on a person appearing. They could therefore advise the court that if a recent report (i.e. prepared within the past six months) was available then a shorter deferment for a supplementary report to address the current circumstances may suffice.

The ability to work well within a multi-professional setting is important to the liaison and partnership approach required in order to deliver this service effectively. It is recognised that it is not always practical or necessary for every court or court hearing to have the services of a CBW each day. However, in order to fulfil the requirement of S27(3) of the 1968 Act, which places a responsibility on the local authority to provide officers to the court, arrangements for attendance should be agreed with courts which makes best use of JSW resources. It is suggested that it would be good practice to ensure that cover is available at critical times such as for remand courts, or if a child or vulnerable adult is appearing from custody. If it is not possible to be based in the court building, staff can be on call from a local office and make themselves available to the court as required.

There are a range of tasks associated with providing information and advice to the court. These can include:

- providing information for the court when requested; including same day, oral or written reports.
- assessments of suitability for supervision and/or electronic monitoring (EM) whilst subject to bail. It is noted that in some areas these assessments are conducted by a separate team. Further guidance on supervised and EM bail assessments can be found at: <https://www.gov.scot/collections/justice-social-work-guidance/>
- explaining reasons to sentencers when reports are not available as requested. The court will receive reports electronically from the justice social work team, no later than midday on the day before the court hearing or earlier if specifically requested to do so, e.g. High Court may require report submission earlier. In many areas it will be business support staff who assist with this administrative function rather than the CBW, however, the latter

ensures that the timescales are adhered to and can provide context to the court when this has not happened.

- liaising closely with report writers in more complex cases to ensure any further information required by the court is obtained from the social worker who compiled the report. The liaison role from the CBW is therefore crucial to the smooth running of the court in these circumstances. It should be noted that in exceptional circumstances the court can request that the social worker who prepared the report attend if specific information requires clarification.
- follow-up on any queries and feed-back any comments made by the court within one working day.

4.2 Post Appearance Interview – Deferment for JSWR/Community Based Disposal

Court based workers should, wherever possible, undertake an interview:

- where a JSWR has been requested, in order to ensure the person understands the court's decision and any actions they require to take.
- when the court outcome is a disposal involving justice social work services such as community-based supervision or unpaid work.

The purpose of this contact is to confirm the person's contact details and availability for interview, their consent to use of that information and to provide the contact details of the JSW office to which they should report for interview – in some areas it may be possible for the CBW to provide details of the first appointment with the social worker, information about any other appointments that have been arranged and provide the person with an information leaflet, if available.

Details of the interview should be recorded on the person's case record in order that these can be shared with the allocated worker. It is important that details are recorded such as comments from the sheriff, defence solicitor or additional observations from the CBW that suggest potential barriers to compliance such as the person having communication difficulties or severe anxiety, for example.

4.3 Post Appearance Interview – Remand or Custodial Sentence

There is a duty on local authorities in Scotland to ensure the provision of "advice, guidance and assistance for persons who are in prison or subject to any other form of detention" (s27(1)(ac) of the 1968 Act).

In this case, it extends to people who have appeared at court and are awaiting transfer to an onward custodial location.

Remand or a custodial sentence may be distressing for the person concerned. In addition, they may not have had an opportunity to deal with practical matters which require attention. It is therefore important to offer an immediate interview if possible, which aims to:

- clarify, if necessary, the decision of the court
- establish if any pressing problems should be dealt with immediately e.g. child-care arrangements or prescribed medication etc.

- ascertain if the person wishes anyone advised of the court decision, particularly where custody had not been anticipated
- advise of the voluntary through-care service (in the case of a short-term prison sentence under four years or where there is no post-custodial supervision)
- provide information about the prison-based social work service and how this can be accessed

The volume of cases in some courts may mean that it is impossible to interview every person remanded or sentenced to custody. The following should therefore be considered as a priority for interview:

- those considered likely to be a risk to themselves or others
- those with carer responsibilities
- young people under 18 years who are not accompanied by a social worker
- those for whom custody is likely to be particularly distressing
- persons facing their first experience of custody
- individuals receiving a life sentence or an order for lifelong restriction
- individuals convicted of offences involving children

4.4 Information Sharing Process in cases of potential self-harm or welfare/well-being issues

In this specific context, following interview if information of concern is disclosed there are broadly two situations where this can be shared with other agencies:

1. where there is an assessed level of immediate risk to the person (e.g. risk of suicide) or to others (e.g. where a specific threat against another has been made). Information should always be shared with relevant agencies under the auspices of protection and does not require the person's consent to share.
2. where there are concerns about the welfare and/or well-being of the person. In these cases where the concerns are of a broader, welfare based nature then the lawful basis of "legitimate interest" might be available so consent is not always required. For a fuller explanation and to assist decision making the following provides additional information: [Legitimate interests | ICO](#). It may be agreed within the local authority that best practice would be to obtain consent to share the information from the person. However, JSW should take advice from their local authority's data protection team on whether they can rely on legitimate interest to share information which is not about an imminent risk to life and which the person does not consent to being shared.

Both types of information would be shared with the purpose of ensuring that, for example, on reception to custody, Scottish Prison Service (SPS) staff have the most accurate and relevant information when making their own assessments for the safety and well-being of those received into the prison estate. As a result, this meets the test outlined on the necessity for sharing information.

In order for the information sharing to be lawful, the content must demonstrate proportionality. This means the data controller sharing the minimum amount of relevant information which allows partner agencies to undertake their legal requirements. As this situation relates to the individual circumstances of people leaving court, it would be impossible to define every aspect or potential impact as

each person has unique needs and risks. It will be a matter of professional judgement about the nature and content of the information that is shared, however this will be based on the principles outlined above. In most cases, this will be 'risk-relevant' information and/or critical information about the well-being of the person.

It can be the case that in the course of completing a post sentence interview a person will disclose certain information of concern and social work staff are skilled at assessing and determining the appropriate response in such a situation. When addressed properly and effectively, this will make the sharing of the information proportionate to the purpose for which it is intended.

In the case of people leaving court to be conveyed to prison, given the speed of the process and sensitivity of the information, the use of a single form which incorporates both the risks and needs information that then travels with the person from court to the place of custody would be suggested.

The information is collated by justice social work staff (and appropriate consent obtained where required) and recorded on the agreed [pro-forma](#) see annex 6, passed to custody care service staff and then conveyed to SPS staff in the receiving establishment

This would also address the issue of information being shared beyond any standard working day cut-off (e.g. 5 pm).

Custody care staff will provide justice social work staff at court with a copy of the completed form which can be scanned into the person's social work file to provide a record of the information shared should this be required for evidential purposes at a later date.

In some cases, it may be considered that the person is suffering from a mental disorder. It is vital to establish good liaison processes and procedures with local mental health services and to draw on the skills of staff qualified as accredited mental health officers. If concerns have been raised about the mental health of a person (perhaps due to behaviour while in the cells) it may be that the CBW in consultation with the Procurator Fiscal and defence solicitor can bring options involving alternative statutory measures to remand/sentence to the court's attention. This will potentially require liaison with local Forensic Mental Health Services (where available), Adults social work teams and local third sector support services in order to assess and check the mental health history and ascertain whether the person may be more appropriately detained within a hospital setting.

In complex situations such as this, early identification of potential issues is crucial, i.e. in the morning of the court hearing rather than later in the day. This will enable the CBW to have time to meet with the person and liaise with other agencies as appropriate. A plan can then be put in place to ensure the person can be supported and the court is properly informed with regard to any potential safeguarding issues and an informed decision taken by the court on appropriate action to be taken.

4.5 Additional court-based social work assistance

There are a number of other tasks which the CBW may provide associated with

offering a social work service to a wide range of people where it is appropriate and lawful to do so. This can include:

- providing practical information and advice to families and friends of individuals who have been sentenced. Individuals frequently attend court and are often under stress as well as being distressed by the outcome of court proceedings. CBW should try to be as accessible as possible and responsive to their needs. There will be limitations to the direct work which can be undertaken by the CBW. They are, however, likely to have knowledge of local third sector support organisations and are best placed to offer advice to families and friends on where and how to seek support.
- the provision of information and advice to witnesses and/or victims where no victim service is available in court. Referrals can be made to victim support services as appropriate. In cases involving domestic abuse, the Crown Office Procurator Fiscal Service (COPFS) Victim Information Advice (VIA) service can also be contacted.
- being in a good position to identify particular problems faced by individuals and their families particularly in situations where, for example, the person has been released from custody unexpectedly. In these situations, and if advised of the person's imminent release and potential issues they can signpost individuals and their families on to appropriate services e.g. substance misuse, mental health, housing, welfare rights organisations etc. In cases of domestic abuse or other offences where there is an identifiable victim, it is important that Scottish Courts and Tribunals Service (SCTS)/COPFS/JSW have information sharing protocols in place so that the CBW is aware of who to contact to ensure victim safety when a person is unexpectedly released from custody.
- having a quality assurance role when representing their service in court. They should advise JSW managers of any relevant comments made by the court in relation to reports or other aspects of the service.

5. Justice Social Work Report (JSWR)

5.1 Overview

The purpose of the JSWR is to assist in the sentencing process, provide a risk and needs assessment, which will complement the range of other information available to the court. Social workers are skilled at assessment, problem solving and devising person centred plans and require to draw on all of these skills when compiling a JSWR. In particular, the report provides information on the context of the person's circumstances and focuses on social work interventions and how these may impact positively upon recidivism and the identified risk and need factors.

[Annex 1](#) contains the template to be used for a JSWR and guidance notes for completion.

[Annex 2](#) contains the template for a supplementary or abbreviated report template to be used when a full report has previously been prepared and a briefer update is all that is required by the court.

As noted previously, in order to comply with legislation, information must be lawfully sought to provide the court with the most appropriate, accurate report content as circumstances allow.

Information gathering is not a prescriptive exercise due to the unique nature of every person on whom a report is written and the particular circumstances of why they are in the justice system at the time.

5.2 Key Areas to be addressed

- personal and social circumstances, such as poverty, being homeless or living in unstable, insecure accommodation. The presence or absence of meaningful relationships should also be highlighted.
- employment, education or training and potential barriers to this such as literacy issues. Speech, language or communication needs should also be identified and explored and links to offending behaviour identified.
- the person's understanding of how they have come to be in this situation – the context of their offence-related behaviour (which will lead to an analysis of this), their view on the impact of this on those who have been harmed by their behaviour and any reflection from them on this while also considering the age and developmental stage if this is a child or young person.
- response to previous interactions with support agencies or social work interventions – particularly any previous community disposals / custodial episodes.

- exploration of any risks present (particularly where there is evidence of imminent risk of serious harm) – and any protective factors that could mitigate these risks.
- exploration of unmet need – this can include communication or neuro-diversity issues which can present a barrier to effective engagement and understanding of the often complex processes involved in a court appearance.
- does the person have protected characteristics as defined under s 4 of the Equality Act 2010, and do these need highlighted in terms of any impact for them in relation to the offence(s) and disposal?
- the context of trauma in their life – including the presence and impact of mental health issues, substance misuse and any current treatment plan.
- potential court outcomes and impact of these on the person and those in their life – particularly any impact on partners, children or people for whom they have caring responsibility.

Prior to the first point of contact, a leaflet explaining the purpose of the report could be given to the person. This leaflet can set out both the responsibilities of the report writer and the responsibilities and rights of the individual. It should also explain the limits to confidentiality. [Annex Five](#) which was co-produced with a service user group offers a possible template which can be adapted to suit local needs

5.3 Consent

Whilst the person's consent is not required in terms of sharing information, it is important that they are advised of their right not to consent to the information-gathering process. Where a person communicates that they do not consent to sharing information for the court report purposes, then this must be respected. They should be advised to seek legal advice on not complying - their solicitor (if they have chosen to engage one) will be best placed to explain the potential consequences should it not be possible for a court report to be prepared. Consent can also be withdrawn at any point in the report compilation process.

5.4 Third-party Information

In compiling the report, information may become known that is not from the person directly (e.g. a third-party source such as a GP, addiction service etc.). Where this is the case, each source and the information they have supplied, must be considered in terms of both its relevance and/or the sensitivity of inclusion in the report.

Where inclusion is considered to be necessary for the report, the third-party must be advised – and their consent sought – that the information will be incorporated due to the possible impact on the outcome of the case. Similar to the point made earlier, a third-party can give, not give and/or withdraw consent. Where it is the latter two options, the court must be advised that consent was sought but refused / withdrawn. Whilst it is preferable to have the consent of all parties when it comes to data sharing, there are some cases where there may be an over-riding concern to include

the information in the report, e.g. public protection. In such circumstances, the third-party must always be advised of this prior to the report being returned to court.

5.5 Information of particular sensitivity

There will be situations during a report compilation where the nature of some information is highly sensitive in nature. This could be in relation to the person being harmed in a previous crime, complex and challenging aspects of their early life, issues related to adult, child or public protection. Where this is the case, the report writer must give particular consideration to the following:

- the accuracy of the information, e.g. has it / can it be verified?
- is the credibility of the report compromised by either the inclusion or omission of it?
 - a. if it is omitted would that leave a deficit in the required information for the court? How would the report writer advise the court of this information being known but explain why it is not included in the report?
 - b. if it is included, what information, specifically, should be included and what are the potential impacts of this being included in the report?

Both the omission and inclusion of information of this nature must be carefully considered and, where necessary, advice be sought from appropriate sources in respect of this, for example, a line manager. In each case, there must be a clear account of the decision on the inclusion or not of the information kept in social work records.

Where highly sensitive information is to be included in the report, the report writer must seek to mitigate possible impact on anyone affected by that inclusion. For example, in cases that relate to domestic abuse, the paramount concern is the safety of the person who has been harmed and/or those around that person (children, other family members, etc.). Where required, victim safety planning should be undertaken to ensure a multi-agency response centred around the protection of those who may be vulnerable following information disclosure.

The court's attention should be drawn to the sensitive nature of the information within the JSWR. It is suggested that there should be a preceding statement within the body of the report in bold print requesting that the information not be divulged in open court.

5.6 Managing medical information

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

- when it is in the public interest to do so;
- where disclosure is necessary to prevent serious damage to health of a third party; and
- where disclosure is in the best interests of the patient.

There is NHS guidance on information sharing available at:
[Intra-NHSS Information Sharing Accord 2020 \(scot.nhs.uk\)](https://www.scot.nhs.uk/intra-nhss-information-sharing-accord-2020/)

In the course of completing a report, it may be necessary for the context of the report to make further enquiries about a person's physical or mental health. A medical mandate should be completed in order to obtain the individual's informed consent in order that medical information can be lawfully accessed: [Annex Four](#) provides an example of this which can be adapted for local needs

6. Specific Areas for Consideration

6.1 Women in the Justice System

Since the Angiolini report, [Commission on Women Offenders Final Report](#) was published in 2012 services for women within the justice system have been developed to address their needs in a more holistic way. Many areas now have specialist Women's Justice Teams often involving a multi-disciplinary approach co-locating with colleagues from mental health, addictions services and the third sector. It is recognised that women within the justice system often have a background of trauma involving loss, abuse, poor mental and physical health and addiction issues. It is those factors that can underlie their involvement in the justice system with violent or acquisitive offences being common. There is also recent research [The lifetime prevalence of hospitalised head injury in Scottish prisons: A population study | PLOS ONE](#) noting a high number of women with acquired brain injury within custodial settings often as a result of experiencing head injury in domestic abuse situations.

Report writers therefore need to keep these factors at the forefront of their thinking when meeting with women to complete a JSWR. Questions should be tailored to gather as much information as possible about the woman's background, whilst being aware of the potential sensitivity of the situation. This will enable an assessment to be made regarding the circumstances surrounding the index offence and whether there is scope for supports to be made available that could mitigate against further offending.

The complex nature of the trauma experienced by women involved in the justice system often results in them displaying trauma symptoms. It is not uncommon for people who have experienced a number of traumatic events to struggle with emotional dysregulation and re-experiencing of trauma in the form of flashbacks and nightmares. Whilst this can mean that they can present as overwhelmed and struggling with coping strategies for day-to-day living leading the social worker compiling the court report to feel disempowered in terms of how to address the issues being presented. However, it is suggested that specialised reports (i.e. a psychiatric or psychological report) should only be sought if it is clear that the woman is experiencing acute mental health issues or psychological distress which has a direct bearing on the court case.

Further Information which may be useful for consideration can be found at:

- [Equally Safe- Scotland's strategy for preventing and eradicating violence against women and girls](#)
- [Safer. Scot](#) – signposts to support for individuals/ practitioners on areas of violence against women- including domestic abuse and commercial sexual exploitation.

6.2 Children and Young People in the Justice System

Tackling the cause and impact of offending behaviour through addressing the wider needs of the child or young person and keeping them out of formal criminal justice systems, wherever possible, is a key objective of the [Scottish Government's Youth Justice Vision and Priorities \(2021\)](#)

The Promise reiterates the need for care and protection instead of punishment for children in conflict with the law, with many entering the criminal justice system having a range of unmet needs that can lock them into a cycle of reoffending. However, from the age of 12 years, children can be involved in the adult criminal justice system, irrespective of whether they are involved in the Children's Hearing System.

The Children and Young People's Centre for Justice has a number of articles and practice related papers that can assist when considering issues particularly relating to young people within the justice system: [Children and Young People's Centre for Justice \(cycj.org.uk\)](#).

In addition, the Scottish Sentencing Council issued a sentencing guideline for children and young people under the age of 25 in 2022, available at: [sentencing-young-people-guideline-for-publication.pdf \(scottishsentencingcouncil.org.uk\)](#)

Every child aged under 18 years referred to a Children's Hearing on offence grounds or court should undergo a comprehensive assessment, guided by [GIRFEC](#) principles. Assessments and subsequent reports to the court or Children's Hearing should be completed by practitioners who have undergone the relevant risk assessment training as they will require to take a holistic, developmental, trauma and systems informed approach to establish whether there are other relevant factors for consideration that could impact on the child's capacity to engage with interventions - for example mental health difficulties, learning or communication needs. Depending on the service structure, these practitioners may be located in Children's Services, adult JSW or specialist teams such as youth justice or throughcare/aftercare. The views of the child or young person should always be sought, and a home visit should always be undertaken to fully assess any developmental and cognitive needs, systems around them to support intervention plans and if there is the need for independent advocacy. The social worker will need to be mindful that the child may, in addition to having committed an offence, experience other forms of vulnerability or victimisation as well and the National Guidance for Child Protection in Scotland may need to be followed.

Assessments in respect of offending behaviour should include a structured risk assessment completed using recognised tools and other specialist structured risk assessments as appropriate. Risk assessments accredited for use for adults or young people over 18 will not be appropriate for use with children. There is a move towards a more structured professional judgement (SPJ) approach, such as the use of the Short-Term Assessment of Risk and Treatability: Adolescent Version (START: AV). Details of different risk assessment tools can be found in the Risk Management Authority's (RMA) [Risk Assessment Tools Evaluation Directory \(RATED\)](#).

Risk assessment forms a central function for practitioners when supporting children and young people who may pose a risk of harm to others, or themselves and is not only relevant when producing reports for the court and Children's Hearing System, but also in scenario planning for children and young people as their circumstances and environment change. All children and young people involved in Children's Hearings or court should have a Single Plan which incorporates any current single agency plans and should directly address strengths, needs, vulnerabilities and risks, including criminogenic needs. The Lead Professional will be responsible for ensuring an agreed multi-agency Single Plan is produced and that agencies have specific roles in respect of this plan.

In respect of Children's Hearings, the practitioner's role will also include preparing and supporting the child, attending Children's Hearings and implementing decisions, including any compulsory measures of supervision. In terms of court, this role will include supporting children and young people to understand processes and expectations, implementing disposals and supporting the child/young person at court.

Should a child aged 16 and 17 who is not subject to a Compulsory Supervision Order (CSO) be remanded or sentenced to a period of custody, they may be held in a Young Offender Institution rather than secure care. Decisions about where a child is placed should take full account of their needs and circumstances, with secure care being the most appropriate therapeutic and trauma informed environment should community-based alternatives be exhausted ([The Promise](#), 2021). Information regarding the process of sharing reports and other relevant information, alongside review timescales when a child/young person is remanded or receives a custodial sentence is located [here](#).

6.3 Mental Health in the Justice System

Many people involved in the justice system experience mental health issues. For example, the Mental Welfare Commission found in 2022 that 76% of prisoners had a history of mental ill health which was identified at reception screening. 60% had been receiving support for mental illness before arriving in prison. [PrisonReport-April2022.pdf \(mwscot.org.uk\)](#).

This can be wide ranging and cover anything from acute emotional distress to diagnosed mental illness, learning disabilities to neuro-divergent conditions and often undiagnosed personality disorder. Given the broad range of potential issues presented, this can lead to heightened concerns from the court in terms of how best to support people whilst also addressing the behaviours which have led to the court appearance.

The role of the JSWR is crucial in highlighting concerns and offering suggestions on how best to address these. The main source of information to assist in sentencing for the court is the JSWR which has three main purposes in cases involving mental health or welfare issues:

- to address the extent to which mental health issues may be treated as a mitigating factor in the sentencing process (based on the level of insight that the

person had when they committed the offence, and therefore their level of culpability);

- to assess the likelihood and impact of further offending, and the risk of harm being caused to others or to themselves; and
- to suggest a plan involving relevant health professionals that could address the person's mental health needs.

The JSWR should review potential disposals, consider the role of social work intervention and outline the available resources for the implementation of any disposals.

It is recognised that availability of resources can be an issue but that should not prevent social work staff based in courts or preparing court reports from highlighting a need and identifying what could be done to address this.

If, in the course of meeting to gather information for a court report, it appears to the report writer that a specialised report addressing particular issues identified would be beneficial then this should be highlighted. For example, if it is clear that the person is experiencing acute mental health issues or psychological distress which has a direct bearing on the court case then this should be brought to the court's attention and a deferment sought for psychiatric or psychological reports to be obtained. It would be helpful to the court if the report writer identified which would be most beneficial or if both are required.

However, this should be weighed up in terms of the value that this would bring to the sentencing process. The report writer needs to consider the potential impact for the person of having their case further deferred often for several weeks until the required report can be obtained and having to recount distressing life events again with no discernible impact on the eventual court outcome.

In some areas, courts have access to forensic community mental health teams or specialist health staff which enables assessment and support to be accessed more readily. Justice social work staff should have access to a mental health officer (MHO) within their local authority if not within their specific service. These social workers have specialist knowledge of mental illness, the law in relation to mental health and criminal proceedings and local resources that could be utilised to ensure the person is best supported. It may be that a discussion with the duty MHO regarding the specific issues or concerns about the person would assist the justice worker when considering information to share with the court regarding possible disposal of the case.

In order to address both the needs of the court and the person appearing, justice social work staff have a pivotal role in providing advice and assistance. Court based staff can ensure that they meet with the person and offer any immediate support or practical assistance. Report writers can identify any supports that could be put into place as part of community supervision. It is recognised that the mental health treatment requirement of a Community Payback Order is not commonly used and mental health disposals such as Guardianship or Compulsion Orders are relatively rare in day to day court proceedings. However, social workers compiling JSWRs

should consider whether a mental health disposal may be appropriate to consider and take advice accordingly.

When someone is acquitted of an offence on the grounds of lack of criminal responsibility - or is found unfit for trial and an examination of facts decides that the person committed the offence - the court may make a supervision and treatment order. Such an order can only be imposed after a partial acquittal (i.e. a finding that a person is unfit to stand trial or not guilty by reason of mental disorder). A supervision and treatment order requires a person to accept supervision from a social worker and submit to medical treatment. There are no sanctions for non-compliance. This order cannot be made if it would be appropriate to impose a compulsion order. As such, this is clearly to be seen as a lesser intervention than a compulsion order.

It is crucial that when cases involving a mental health issue arise, justice social work staff link in with health colleagues to seek advice. This will help to ensure the best outcome for the court and the person who is appearing, to ensure they are better supported to access appropriate treatment and reduce risks of further offending and promote victim safety.

6.4 Hate Crime

Hate crime is 'a crime motivated by malice or ill will towards a social group', with five current protected characteristics in Scotland:

- Race
- Religion
- Sexual orientation
- Disability
- Transgender identity(which at present includes protection for those with variations in sex characteristics).

Any offence type can feature an aggravation in relation to one or more of the above protected characteristics, for example 'Assault to Injury (aggravated: sexual orientation)'. Section 50A of the Criminal Law (Consolidation) (Scotland) Act 1995 provides for the offence of 'racially aggravated harassment'. Sections 18, 19 and 23(1)(a) of the Public Order Act 1980 and section 96 of the Crime and Disorder Act 1998 also cover racially aggravated harassment and behaviour.

Report authors should note any specific pattern of these types of offences, and potential risk factors when considering Likelihood. These may include:

A distorted idea about the victim and perceived differences

This might involve placing responsibility on the victim for the offence(s) and making counter-accusations or a distorted sense of having been 'provoked' into the behaviour. An absence of victim empathy – failing to accept or acknowledge the realities of victims' experiences or the consequences of their own actions and minimising their actions. A tendency to dehumanise victims in order to justify the offending.

Conflict with/a poor sense of their own identity

The person may resent the perceived stronger identity of other cultures (this may also be in relation to the erosion of traditional notions of 'masculinity' and linked with homophobic or transphobic hate crime). This is potentially linked to feelings of shame relating to their own self-esteem and position in the world.

A perception of 'territorial invasion'/a sense of entitlement and alienation

Being unable to accept the realities of multi-culturalism, feeling that the presence of other cultures detracts from their own. They might draw on social support in their own communities for prejudiced attitudes and stereotypical views. They relate to ideas of superior and inferior 'ingroups' and 'outgroups', and notions that resources of ways of life are under 'threat' due to 'outgroups'.

Thinking styles

For example rigid thinking; not being able to differentiate between fact and myth; absorbing racial or other prejudicial myths without question. They might be easily influenced by the media and/or the internet/social media.

A predisposition to resort to violence as a means of conflict resolution

They might have previous convictions for violence. Many offences associated with this type of offending involve conflict or the use of violence; the prejudice element of the offence is often not the single motivating factor.

Additional factors to consider

- Being a victim of discrimination themselves (may contribute to a distorted worldview);
- Peer influences;
- Experiences of loss or bereavement;
- Mental health difficulties;
- Disability hate crime – offence(s) may involve exploitation and/or differential motivations;
- Affiliation with far right/extremist groups – consider a referral to Prevent.

Given the specific types of harm caused by hate crime, it is suggested that the following paragraph is included in the 'Seriousness' section of the report:

Offences motivated by prejudice can be particularly harmful to victims and communities due to the targeting of a core aspect of the person's identity. Emotional and psychological trauma can be heightened, and vicarious trauma can be experienced by those who have the same identity characteristics as the victim, such as family members or the wider community.

6.5 Cases where serious harm has been caused

Writing court reports in relation to cases where the person has caused serious harm to others can be some of the most challenging to complete for social workers. The Risk Management Authority (RMA) definition of serious harm is defined as: " the likelihood of harmful behaviour of a violent or sexual nature, which is life threatening and/or traumatic, and from which recovery, whether physical or psychological, may reasonably be expected to be difficult or impossible"

In cases involving sexual abuse, domestic abuse or loss of life, social workers need to be able to separate the actions of the individual from the process of gathering and assessing the required information to complete a report to assist with sentencing.

This requires significant skill and consideration should be given when allocating a piece of work such as this to the level of report writing experience required to undertake these more complex court reports. Social workers need to be appropriately trained in the relevant risk assessment tools and feel confident in their abilities to present comprehensive risk assessment information. This will include a view of the ongoing risk to others balanced with a picture of the person's life in the lead up to the commission of the offence(s) to best assist the court to reach a decision on disposal.

It is recognised that these reports can take longer to compile given the need for more detailed risk assessments and verification of information and this should be a consideration when allocating the report. These more complex reports require significant enquiry skills as social workers seek information from a variety of sources in addition to interviewing the person. Best practice would suggest that a minimum of two interviews should be undertaken where resources permit; one of which should be a home visit if the person is at liberty in accordance with local lone working procedures as appropriate

If a custodial sentence appears to be inevitable, given the severity of the offence, there needs to be consideration given to post release supervision and what that may look like. A proposed case management plan should be presented within the review of relevant sentencing options within the JSWR to include measures to protect the victim during the sentence and on the person's release. This is particularly important in cases involving domestic abuse, stalking, rape and sexual assault, forced marriage and honour-based abuse.

In cases involving domestic abuse the local authority areas that have information sharing protocols in place with Police Scotland will be able to request information which can assist to build a picture of non-convicted behaviours. In addition, if children are involved, the social worker compiling the JSWR should check that a referral has been made to the Children's Services Team and liaise with their social work colleagues regarding any child protection actions taken or required.

This information and any follow up actions taken by Children's Services colleagues will be documented within social work records and therefore accessible to the social worker completing the report. In areas that have access to the Caledonian System the allocated Women's worker and/or Children's worker will be in a position to offer

the social worker compiling the court report an invaluable perspective of the victim's views.

In addition, some areas have criminal court based advocacy services. These hold information about victims of domestic abuse that would be extremely useful to be aware of when considering patterns of behaviour. It is suggested that in these areas contact be made with the court advocacy worker prior to meeting the person for their court report interview. This would provide an opportunity to gain a context and background to the offence from the victim's perspective. This contact would also enable the social worker to consider information from the advocacy service of the victim's views on the imposition of a non-harassment order which can be taken into account when presenting their professional view on sentencing options in the court report. It should be noted however that information should not be sourced to the victim or the court advocacy service.

Contact can also be made with specialist organisations supporting victims of domestic abuse if these details are known and the organisation has the person's permission to disclose information. Having information on the impact of the offending on the victim, any history of abuse, impact on children, safety issues and concerns, patterns and nature of the abuse and information about the victim's experience can become an integral part of the risk assessment. Again, that information should not be sourced to the victim or the support service.

Obtaining information from various sources will enable the social worker to provide information in the court report on patterns of behaviour and/or coercive control- [What is domestic abuse? | Scottish Women's Aid \(womensaid.scot\)](#) This information is crucial in enabling comprehensive risk assessments to be undertaken and effective case management plans for those that perpetrated the offence and safety plans for victims that can be implemented.

As noted previously, caution is required as to how information that could be sourced to the victim is presented to the court. Consideration can be given, if the case has been discussed at MARAC ([Marac in Scotland | Safelives](#)) or within a child protection case conference for example, to refer to information as having..." been obtained following a multi-agency meeting" or stating that.. 'information has come from departmental records.' It should only be noted in those broad terms rather than stating the name of the meeting the information has come from to avoid presenting a service generated risk to the victim.

If the person has been convicted of sexual offences and been made subject to notification requirements. Sometimes referred to as the 'sex offender register' this blog from the Scottish Sentencing Council may be of interest [Sex offenders register explained \(scottishsentencingcouncil.org.uk\)](#) to provide a more detailed explanation of how it works in practice. In these cases, there will already be involvement from the Police Scotland specialist sex offender unit within the local division. It would therefore be expected that the social worker compiling the JSWR would liaise with police colleagues to gather information prior to interviewing the person. The social worker should make it clear during the court report interview with the person that there will be ongoing liaison with the local police unit that monitors those subject to notification requirements.

Where resources permit, a joint meeting with the police to discuss respective roles and potential disposals would be beneficial. As a minimum, it would be expected that there would be contact via a telephone call between police and JSW whilst the case has been adjourned for preparation of the justice social work report.

If the sexual abuse has involved a child victim or the victim or perpetrator has contact with children there will have been measures taken by Children's Social Work services in order to ensure their safety and that of any other children who may have ongoing contact with the person. It is therefore crucial that the social worker compiling the justice social work report is able to access information on the current situation with the child(ren) and liaise with other professionals involved. This will ensure that the risk assessment is as comprehensive as possible and if a community based supervision plan is proposed it takes into account any ongoing safeguarding issues relating to child contact. Consideration should be given to specific requirements attached to a licence or Community Payback Order to curtail any potential victim access.

Given the complexity of these reports and the subject matter, it is important that the social worker has support and guidance from experienced practitioners both during the assessment process and also to review the report content prior to submission. The opportunity to de-brief and reflect should be offered as part of one to one supervision sessions and learning shared with colleagues as appropriate.

7. Quality Assurance:

The provision of good quality services is an expectation of those working within or coming into contact with justice social work. Whether it is the court report being delivered in good time to court or the court based worker providing an update to the court on someone's progress on a current order the impact of this should lead to improvements in practice.

Each JSW service should have a system in place to monitor, review and evaluate practice in relation to report writing and the delivery of court based social work services. This should be designed to collate data on the quality of these services and any action required to improve this where required.

7.1 Justice Social Work reports

JSW managers should monitor the standard of reports regularly by:

- considering the implementation of a peer review model quality check of reports to develop a collective responsibility for continuous improvement. The following article might be a useful reference for this ; https://www.researchgate.net/publication/310734620_Peer_review_Supporting_reflective_practice_and_connection_between_social_workers
- reviewing samples of reports by undertaking regular audit. To assist with this a suggested basic audit tool is attached at [Annex 3](#) which can be adapted to suit local priorities
- reviewing reports where the sentence was custody in order to determine that all available information on the feasibility of community disposals was conveyed to the court
- requesting regular feedback from court on the quality of reports
- considering learning and recommendations from any inspection reports to ensure consistency in practice

7.2 Provision for court-based social work services

S27(3) of the 1968 Act places a responsibility on the local authority to provide officers to the court. In practice, this duty sits with JSW and as such local managers will arrange for staff to be available to the court as required. This is likely to mean that priorities will need to be determined through consultation with SCTS which takes account of available resources. JSW managers will decide how to allocate resource to court based social work services most effectively, basing this on throughput of cases, the demand for reports and the anticipated demand for services across all types of court in their area.

The benefits of having business support staff dedicated to covering court based JSW administrative tasks cannot be understated and should be considered in any planning for service needs at court.

Most sheriff courts have an established liaison meeting which brings together all operational services within the court to discuss current practices and any issues related to court proceedings. JSW managers should ensure representation at these meetings. This would allow for early identification of any issues associated with service delivery by JSW within the court.

The benefits of being involved in regular liaison with the court are:

- it provides an opportunity to raise operational issues of mutual interest
- it offers a chance to share information about the nature and scope of services which JSW and its voluntary sector partners make available to the courts
- a forum to receive information on how justice social work services within court are performing
- sharing of information about services under development by key partners and how these contribute to policy, planning and practice

Good communication with court based partner organisations in relation to day to day practice is integral to the promotion and understanding of the role of court based social work service provision. The quality of the service provided by court based social work staff is enhanced by working in partnership with those other services working within the court ensuring the JSW role continues to be highlighted and valued within the court processes.

Annex 1

JSWR template and guidance notes:

For ease of reference the guidance for each section of the report template can be found by clicking on the blue heading:

JUSTICE SOCIAL WORK REPORT

<u>1. Personal Details:</u>			
CHS Ref		SW Ref	
Name		Gender	
D.O.B		Age	
Address			
Post code			
<u>Date/Duration of Current Order/Licence:</u>			

<u>2. Report Writer Details:</u>	
Name	
Position	
Office Address	
Telephone No	
E-mail address	

<u>3. Court details:</u>	
Court	
Date of Court	
Comments	

<u>4(a) Current Offence Details:</u>	
Offence(s) – include case number	Date offences committed

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4(b) Outstanding Matters:

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5. Basis of Assessment:

Sources	
Risk Assessment Tool(s)	
Limitations of Assessment	

6. Analysis of Current Offence:

Context

--

What is the attitude/insight and level of responsibility for the offence?

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7. Personal and Social Circumstances Relevant to Sentencing:

Background/Significant Relationship(s)

--	--

Accommodation	
Training/Education/Employment	
Financial Circumstances	
Physical Health	
Mental Health and Well-Being	
Substance Use	
Use of Time	

<u>8. Analysis from Risk Assessment:</u>	
Pattern	
Nature	
Seriousness	

Likelihood	
Action required to promote desistance	

<u>9. Professional Assessment of Sentencing Options:</u>

<u>10. Conclusion:</u>
Signed _____ Date _____

Section 1 – Personal details: The information required should be available from the court paperwork or social work records. The date and duration of any current order or licence was a specific request from sheriffs as this assists in decisions regarding sentencing.

Section 2 - Report Writer details: Self-explanatory – it may not be necessary to include both the telephone number and email address – decision can be made locally on this.

Section 3 – Court details: This information should be on court paperwork. Remember to include whether it is a Summary or Solemn Court. The comments section can be used for any additional information that may be useful for the court to be aware of such as sensitive information that may not be disclosed in open court or a forthcoming court appearance that may have implications for sentencing on the current matter.

Section 4 - Current offence details and outstanding matters: The information required here will be available on the court paperwork. It is helpful if the case number (P-F ref and/or SCTS ref are also included) and the Criminal History schedule will

show pending matters which can be noted if relevant. This is helpful for the court if consideration is being requested for a deferred sentence pending the outcome of other matters.

Section 5 - Basis of assessment: In this section there is a free text box to note all the sources of information on which the report is based. This first section should be completed in bullet points. It should note how many appointments took place, the location e.g. an office visit, a home visit or are they remanded? Who else was contacted and where else information was sought from, examples could be; departmental records, partner agencies in health, addictions, victim support, Police Scotland or any other relevant organisations.

The note of the risk assessment tools used only requires a bullet point with a very brief explanation of the offence type the risk assessment tool is used for. Sheriffs have indicated that they have an expectation that if a risk assessment is presented in a court report it has been completed by an accredited, competent practitioner. The acronyms (SARA/LSIR/RM2K) only mean something to social workers and it is not necessary for the person who the report is about or the court to have a long explanation of the purpose of the risk assessment tool.

It is also important to acknowledge the limitations of any assessment. Where there are gaps or inconsistencies in information, or caveats regarding the assessment, these should also be recorded here. Therefore any deficit in information should be made clear, and the impact of any information gaps on the validity or scope of the assessment should be highlighted. For example, it could be noted that due to responsiveness issues e.g. age, complex trauma, neuro-diversity, gender, cultural differences, communication difficulties, it was not possible to gather a full history or undertake as comprehensive an assessment. Another example could be clarifying that the social worker completing the report has not had access to the same information as the court. A standard paragraph may be devised noting that the social worker has not had access to an agreed narrative or that the report is largely based on self-report, for example.

Section 6 - Analysis of current offence: The context section should contain information about what happened leading up to the commission of the offence(s), anyone else involved, any evidence of planning and any other information that would help to set the offence(s) within the context of what else was going on for the person at the time. This is different from providing the sentencer with the person's version of events and caution is needed to ensure a balanced narrative here.

The next section covers attitude/insight and levels of responsibility which are all helpful to explore in terms of consideration of potential disposals for the sentencer. If the person is demonstrating a level of understanding of the impact that their behaviour has had on others for example and/or a willingness to consider addressing some of the factors underlying their behaviour then there could be a focus for intervention that can then be addressed later in the report. The social worker's views on the person's capacity for change can be noted in this section or whether attitudes are entrenched and resistant to change.

This is the section of the report which will most explicitly make reference to the persons' attitudes toward the victim(s) of their behaviour. Any evidence of remorse or empathy should be noted here along with any statements made in terms of making

reparation for their actions. Consideration should be given to the type of questions to ask here. We know that there can be significant complexities underpinning how a person might respond to being asked about an offence in interview, such as the role of shame (a common feature of complex trauma) in denial and minimisation of behaviour, as well as difficulties with trust, etc. If these are not explored appropriately within the report and set within this context, then statements like "Mr X takes no responsibility for the offence" or "Mr X demonstrated very little empathy with the victim(s)" start to feed into a condemnation narrative that does not feel aligned with social work theories of understanding people's behaviour and motivations.

Denial or minimisation of actions can often be found at this pre-sentencing stage particularly when the person feels a level of shame for their behaviour. It could be that these levels of shame are preventing open discussion of the offence, or the denial serves as a useful shield as they are not at the right stage to discuss matters. The importance being, that denial or minimisation does not necessarily mean that the person does not recognise their own guilt or accept responsibility for their behaviour. It should therefore be noted that from a risk management perspective this does not preclude consideration of potential social work intervention as positive behaviour change is still possible.

Section 7 - Personal and social circumstances relevant to sentencing: The personal and social circumstances section requires particular skill to reflect the relevant details for the court to have awareness of without becoming a lengthy narrative of the person's life. Separate headings for physical and mental health are suggested given the often complex health, speech, language and communication needs of many people within the justice system. If the person was/is a looked after child or care leaver then this should be noted and the social worker should ensure that corporate parenting entitlements are explored with them. If more specialised risk assessments related to domestic abuse or sexual offending are completed pre-sentence then it may be that relevant information from those can be included in this section. For example, information regarding impact of offending behaviour within relationships or on employment prospects can be included. It is likely that if there is a background of inter-personal trauma and adversity for the person this is the section where it will be discussed most fully. Any impacts of trauma that are known and/or may require further assessment could be of relevance and analysed in any of the sub-headings, depending on the individual's situation and their presentation.

It is unlikely there will be sufficient time to undertake a full screen of trauma impacts at court report stage. However, the person may already be known, their records might indicate prior trauma reactions and/or they may present at interview in a manner that indicates they are currently experiencing reactions and that allows a discussion to open up about the impacts of trauma on them in the present. The assessment undertaken at the report writing stage is an opportunity to briefly identify and explore these with the individual and check out their understanding of the issue and consider possible relevance to recommendations for disposal. For many, further exploration and assessment of trauma reactions is likely to be needed, beyond that of the court report interview/s.

Post-traumatic stress reactions that someone may experience can include re-experiencing of the traumatic events as intrusions, flashbacks or nightmares,

dissociation, avoidance of thoughts, memories, situations or people and a persistent heightened sense of threat or hypervigilance.

Other common reactions experienced by complex trauma survivors can include severe and persistent:

- problems sustaining safe and trusting relationships with people and services
- the person having a negative and diminished sense of themselves including feelings of shame, guilt or failure
- regulating emotions and tolerating distress.

Self-harm and use of substances can be used by survivors as a means of coping with surviving traumatic experiences. It would therefore be relevant and appropriate to include this as any information that can offer an insight into areas of criminogenic need can begin to develop the analysis for methods of further intervention.

Section 8 - Analysis from Risk Assessment: Key areas to be considered in reports are highlighted within The Framework for Risk Assessment and Management and Evaluation (FRAME: www.rma.scot/standards-guidelines/frame/)

If the report is being compiled for children aged 12-17 the associated Care and Risk Management (CARM) process should be used: [Youth justice: risk assessment management framework and evaluation guidance - gov.scot \(www.gov.scot\)](http://www.gov.scot/youth-justice/risk-assessment-management-framework-and-evaluation-guidance)

The intention is that identification and analysis of the person's behaviour will be explored within the context of the four headings. This will enable information to be set out that will cover all the information needed by the Court to consider the potential risks in the case, the likelihood of any further offending and the likely imminence of this. This approach will highlight what is of greatest concern and what can be done to mitigate against this.

An LSIR initial assessment will be completed in every case or the equivalent YLS/CMI for under 18s. If the index offence involved domestic abuse it is best practice to complete a Spousal Assault Risk Assessment V3 (SARA V3) alongside the LSIR to identify specific treatment needs which may need to be addressed as part of community based supervision. It is a requirement to complete a SARA V3 in all cases when considering a man's suitability for the Caledonian Men's Programme. In cases involving sexual offences then a RM2K will be completed at the pre-sentence stage. Where resources permit, a Stable assessment should also be undertaken pre-sentence to identify treatment needs and suitability for a specialist groupwork programme although it is recognised that in some areas this will not be commenced until after sentencing. All of the information relating to the varying risk assessments currently in use can be found here www.rma.scot/research/rated

The skill of the report writer is to gather the often complex risk assessment information from a variety of sources and present this in a format that will ensure the court can set the behaviour into a context that balances the explanation of the risks with an exploration of the needs that require to be addressed to reduce these risks in the future.

Any discussion of risk should convey the *pattern, nature, seriousness* and *likelihood* of offending. Addressing *imminence* in cases where a further risk of serious harm assessment indicates the need for contingency measures.

- *Pattern* consists of the onset, duration, frequency and escalation of offending
- *Nature* of previous and current offences: type, diversity and to whom the offences are directed
- *Seriousness* of previous and current offences: level of planning, and the degree of harm caused and intended
- *Likelihood* is understood as the current balance of risk and protective factors/strengths and potential implications for further offending behaviour.

The final section asks the writer to consider actions required to promote desistance. At this point, the report can present a strengths based, individualised approach to addressing the factors identified in the risk assessment whilst also being realistic about the difficulty and complexity of the process. This is comprehensively covered within this evidence review: <https://www.gov.scot/publications/works-reduce-reoffending-summary-evidence/>

It provides an opportunity to answer the ‘so what needs to happen to reduce the risk of future offending behaviour’ question posed by the identification of the ‘pattern, nature, seriousness and likelihood analysis. The information contained in this section should lead the court towards the likely disposals that could address the areas identified and be a bridge from the risk assessment to the suggested case management plan.

Section 9 - Professional assessment of sentencing options:

This section is an opportunity to review the disposals that will have most relevance in addressing the risks and needs identified within the report. It will address any public protection issues and consider whether a community based disposal is feasible. If so, is there a need for JSW involvement to address or reduce the likelihood of further offending or if supervision is not indicated, what alternatives may be suitable. It is not necessary to offer the sheriff an opinion on every available disposal as this is a professional assessment of the disposals most likely to reduce risk, based on findings in the earlier sections of the report. In cases involving young people there is the opportunity at this stage to consider the Sentencing Young People Sentencing Guideline [sentencing-young-people-guideline-for-publication.pdf](https://www.scottishsentencingcouncil.org.uk/sentencing-young-people-guideline-for-publication.pdf) ([scottishsentencingcouncil.org.uk](https://www.scottishsentencingcouncil.org.uk)) when a young person is someone under 25 at the date of guilty plea or finding and particular regard should be given to their maturity and rehabilitation when reviewing disposals. The guidelines are worthy of consideration when compiling reports with paragraph 10 (maturity), paragraph 15 (issues relevant to maturity) and also paragraphs 17 and 18 being of particular relevance.

One local authority area took the research compiled by [Dr Suzanne O'Rourke](https://www.cycj.org.uk) ([cycj.org.uk](https://www.cycj.org.uk)) and developed a checklist which can be used at the report writing stage to indicate whether there may be issues related to maturity and associated behavioural traits. It may be that other areas would wish to consider a similar approach to offer additional assistance to report writers when considering the relevance of maturity to the risk assessment given the complexity of this issue.

The following offers guidance on each of the potential disposals which could be imposed by the court and factors to be considered when reviewing them in the report:

9.1 Custodial Sentence: if the court has deferred sentence to obtain a report it is possible that the offence is serious enough to merit consideration of a custodial sentence. The report should therefore address the potential impact of loss of liberty on the individual and others such as their family, noting any negative or potentially positive impacts from the victim's perspective, if known, including victim safety. If the person is a parent there should be mention made of the impact of parental imprisonment on their child(ren). In relation to domestic abuse, Children Services Social Work should be contacted around any issues relating to children, child contact, residence and the engagement of the parent in relation to parenting duties and obligations, considering the Safe and Together principles [About the Safe & Together™ Model | Safe & Together Institute \(safeandtogetherinstitute.com\)](https://www.safeandtogetherinstitute.com) around perpetrator engagement with children and non-offending parent. This is not intended to form the basis of a child impact assessment which would be submitted to court separately. If there are specific concerns relating to mental health or well-being these should be highlighted in the report and to the court based worker so that in the event that a custodial sentence is imposed the information can be passed on to SPS via the custody care provider (see 5.3 above) Voluntary throughcare support is available for those sentenced to a short term sentence. It may therefore be worth discussing this in advance of the court appearance if a custodial sentence is likely and also ensuring that the CBW is briefed to remind the person about the availability of this at the post sentence interview.

9.2 Community Payback Order (CPO): this is imposed as an alternative to a custodial sentence. Nine of the requirements of the order require a supervision requirement to be imposed the exception to this being a Level One unpaid work requirement which can be imposed as a standalone order. A Level One unpaid work requirement also does not require a justice social work report to have been completed prior to being imposed. However for all other requirements of a CPO to be considered the court will require a JSWR.

All 10 requirements are available to the sheriff or High Court which are:

- compensation requirement
- supervision requirement
- unpaid work or other activity requirement
- programme requirement
- residence requirement
- mental health treatment requirement
- drug treatment requirement
- alcohol treatment requirement

- conduct requirement
- restricted movement requirement

Justice of the Peace(JP) courts can only impose a CPO with the following five requirements :

- supervision requirement
- compensation requirement
- unpaid work or other activity requirement
- residence requirement
- conduct requirement

If the assessment concludes that imposition of a CPO should be suggested as a preferred option for disposal an initial case management plan should be presented within the report. This plan can highlight the key areas identified as needing addressed to reduce risks of re-offending. Depending on local arrangements, the report can also state where and when the person should report for their first appointment. This can then be followed up by the court based worker during the post sentence interview (PSI) to ensure they are clear with regard to their responsibilities once subject to the Order.

For further information on Community Payback Orders click on this link :

<https://www.gov.scot/collections/justice-social-work-guidance/>

9.3 Electronic Monitoring:

9.3.1 Restriction of Liberty Order: A Restriction of Liberty Order (RLO) with an Electronic Monitoring Order (EMO), is a direct alternative to custody. The purpose of this order is to electronically monitor restrictions placed on the individual by requiring them to remain at or away from a specified place for set periods of time while enabling them to remain at home and to continue in employment or training. The person must consent to the imposition of an RLO and EMO. When considering an RLO as a possible sentencing option, consideration of the objectives of the disposal should be identified in the report, for example:

- Where a person has previous experience of other community disposals and is thought to be likely to be at serious risk of custody.
- Avoiding circumstances which have led to offending in the past, i.e. restricting the person to their home at the times when opportunities to reoffend are most likely.
- Seeking to ensure that the person does not go to a particular place, e.g. the home of a previous victim. An RLO with an EMO cannot prevent the person from doing so but can serve as a deterrent and gives warning if they are near to that address.

It is important for the report to recognise however, that an RLO is not a guarantee of safety for a person who may be at risk from an individual. The report should address any potential risks to others living within the household associated with the person being restricted to a particular address. The address will be deemed unsuitable if it is concluded that highlighted risks cannot be safely managed and the court will be advised of this.

9.3.2 Restricted Movement Requirement (RMR): If the person is assessed as requiring a degree of supervision and/or support a restricted movement requirement (RMR) with EMO can be imposed as part of a CPO and supervised by a social worker. If electronic monitoring was part of the requirement this would be monitored by the service provider who would report any breaches of curfew or EMO to the supervising officer who would then be legally bound to report this to the court as a breach of the CPO within 5 working days.

9.4 Order for Lifelong Restriction (OLR) - S210(B)-(H) of the 1995 Act makes this available to the High Court as a disposal for individuals convicted of:

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

A case may be remitted from the Sheriff Court to the High Court to consider an OLR. As a form of life sentence, an OLR can only be imposed by the High Court. It differs from a discretionary life sentence or a long determinate sentence because of the crucial element of statutory risk assessment and risk management which is undertaken prior to sentence being passed and in carrying out the order. For example, a Risk Management Plan is required throughout the individual's life, and this plan is subject to scrutiny and monitoring by the RMA. On an application from the prosecutor or at its own instance, if the court considers that the statutory criteria is met, it will make an order, known as a Risk Assessment Order (RAO) commissioning the preparation of a Risk Assessment report (RAR). This has the effect of adjourning the case for the purpose of a risk assessment to be carried out by an RMA accredited assessor. In practice, the RAO may be made on conviction, in which case the RAR and JSWR may be prepared at the same time in which case, liaison between the assessor and the social worker will be crucial for information sharing and assessment purposes. Alternatively, reports submitted to the court, such as the JSWR or psychiatric report may lead the court to consider that the risk criteria has been met and a RAO should be made. In those cases it is likely the assessor will request access to the case file and a meeting with the court report author to ensure a full understanding of the risks and potential case management issues.

9.5 Supervised Release Order (SRO): In cases where the court has indicated that a custodial sentence is being considered due to the severity of the offence, the social worker preparing the JSWR should consider whether a period of post-release supervision would be beneficial. This would offer structured support and manage any ongoing risks post release. A provisional supervision plan should be outlined in the report. The court can make a Supervised Release Order in indictment cases for offences other than sexual offences when the individual is sentenced to less than 4 years. A SRO cannot be imposed in indictment cases where an Extended Sentence could be imposed (an Extended Sentence allows for a longer period of supervision

than SRO). The court will make a SRO after considering a JSWR but it is not necessary to seek the individual's consent. The SRO can last for 12 months following release but cannot extend beyond the expiry date of the custodial sentence.

9.6 Extended sentence: Any person sentenced on solemn procedure in the High Court for a violent or sexual offence, and in the Sheriff Court for a sexual offence, can be ordered by the court to be under 'extended supervision' following release. The period of extension can be up to three years in the Sheriff Court and ten years in the High Court. The assessment process for the social worker will mirror that of a SRO and a provisional supervision plan should be included for the court's consideration.

The court will make an Extended Sentence after considering a JSWR but is not required to seek the individual's consent.

9.7 Remittal to the Children's Hearing for advice/disposal: Research has established a strong association between children who have experienced some form of trauma and adversity and those engaging in harmful or risk-taking behaviours, bringing them into contact with the criminal justice system ([McAra and McVie, 2022](#)). These children are often known to statutory services, and from the most deprived areas, with the impact of prolonged exposure to stress and trauma in childhood manifesting in the presentation of a significant risk of offending, and are vulnerable with complex needs ([SCRA, 2022](#)). Therefore when writing a JSWR consideration should be given, where appropriate, considering the nature of the conviction, to maximise the opportunity to avoid children entering adult criminal justice systems which can often lead to lifelong consequences. Remittal provides an opportunity for the child's case to be considered holistically by the welfare based Children's Hearing System which may better address their needs at that time.

The Age of Criminal Responsibility in Scotland was raised from 8 to 12 years in 2021, meaning children over the age of 12 years can still be prosecuted in a criminal Court. [The Getting It Right For Every Child \(GIRFEC\)](#) principles and values should be applied to all children, with the [United Nations Convention on the Rights of the Child](#) defining a child as anyone under the age of 18 years "*unless the law applicable to the child, majority is attained earlier*" (2016: 4). When completing a JSWR for children under 18, social workers should be referring to the [Whole System Approach \(WSA\)](#) to ensure that where possible any intervention suggested reflects the needs of the child alongside a proportionate response to the nature of the index offence. This approach also aligns with [The Promise](#).

The options available will depend on the age of the child or young person, the court disposing of the offence, and whether the child is subject to a compulsory supervision order or interim compulsory supervision order. The options must be considered carefully to ensure that in making a recommendation the report-writer identifies the correct statutory option.

Section 49 of the Criminal Procedure (Scotland) Act 1995 sets out the following options in relation to reference or remittal to the Children's Hearing:

A. Child under 16 years not subject to a Compulsory Supervision Order or an Interim Compulsory Supervision Order (s.49 (1))

In such cases:

- The Court **may** remit the case to a Children's Hearing for disposal without first seeking the advice of a Children's Hearing (s.49(1)(a))
- The Court **may** request the advice of a Children's Hearing and on receipt of that advice then either (i) dispose of the case itself or (ii) remit it to a Children's Hearing for disposal (s.49(1)(b))

B. Child under 18 years on a Compulsory Supervision Order or an Interim Compulsory Supervision Order (s.49 (3))

In such cases:

- 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 any advice issued by the Children's Hearing, the sentencing court either (i) disposes of the case itself or (ii) remits it to the Children's Hearing for disposal.¹

C. Child aged 16 – 17.5 years not subject to a Compulsory Supervision Order or Interim Compulsory Supervision Order (s. 49 (6))

Note that this option is only available where the court is either (i) the Justice of the Peace Court or (ii) the Sheriff Court where the proceedings are summary proceedings. It is not available in the High Court or in Sheriff Court solemn proceedings. In such cases:

The court **may** obtain the advice of a Children's Hearing before disposing of the case

After considering any advice issued by the Children's Hearing, the court **may** either (i) dispose of the case itself or (ii) if the advice obtained from the Children's Hearing is that they should deal with the case, remit it to a Children's Hearing for disposal.

When assessing a child's suitability, the author should assess and highlight in court reports:

- Welfare and best interests of the child
- Assessment of risk and need

¹ Note that for certain offences the court **must** dispose of the case itself and cannot remit it to the Children's Hearing. These offences are:

- (i) Section 51A of the Firearms Act 1968; and
- (ii) Section 29 of the Violent Crime Reduction Act 2006)

- Can risk, vulnerabilities and (complex) needs be better managed and addressed through the Children’s Hearing System?
- Levels of maturity/functioning/capacity to understand processes
- Risks to child and others if brought into adult justice systems
- Plan of work to manage risk and address needs
- Victim impact/restorative justice assessment
- Supports available to child – parents/caregivers/other agencies
- Speech, language, and communication needs
- Where will the child’s rights be best upheld?
- Public protection
- [Care And Risk Management \(CARM\)/risk management](#)

Despite the [standards for those working with children in conflict with the law](#) stating that “all reports must comment on the option of advice/remittal to a Children’s Hearing” (Scottish Government, 2021: 12), remittal continues to be underused in every area of Scotland. If remitted to the Children’s Hearing, the Hearing will decide whether to make a Compulsory Supervision Order, or if there is a CSO already in place, whether to continue or vary that Order (**for all children up to the age of 18 years**)

Remittal may be a suitable suggestion even in cases where the offence is serious, including when a custodial sentence would be a likely outcome were the court disposing of the case.

9.8 Mental Health Disposals: Although used infrequently, social workers compiling reports should be aware of disposals which the court can impose in cases where it is clear that mental health and/or capacity issues require addressed to reduce on-going risks. Information regarding **Compulsion Orders** as a court disposal can be found here: [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003 \(legislation.gov.uk\)](#).

Guardianship Orders can be imposed by the Sheriff as a disposal: [Adults with Incapacity \(Scotland\) Act 2000 \(legislation.gov.uk\)](#).

Supervision and Treatment Orders are a rarely used but available disposal which can be considered when treatment is available for a diagnosed mental health condition which the person can receive in conjunction with support from a social worker. Schedule Four of [Criminal Procedure \(Scotland\) Act 1995 \(legislation.gov.uk\)](#) contains further information.

It is likely that reports of this nature will be complex and require advice and assistance from colleagues who have specialist knowledge of mental illness and criminal proceedings such as mental health officers (MHOs). Liaison with the local Adults Social Work team in advance of the court sentencing date will be required in order to ensure that any resourcing implications are agreed and the court can be advised of the case management plan in the JSWR to assist with disposal of the case.

9.9 Drug Treatment and Testing Orders (DTTOs): Where there appears to be a link between offending behaviour and drug related issues, all reports must have a section on the need for a fuller assessment in order to consider a DTTO. In most cases this will mean suggesting that the court defer sentence to obtain a specialist assessment. The social worker should explain to the individual the nature of such a

disposal, and also the specific assessment process that is involved with a DTTO. Given the treatment element of this Order the person needs to be assessed as motivated to engage in treatment. Careful consideration needs to be given to the 'high tariff' nature of this disposal, and that for some people this may not be the most appropriate disposal to assist in their recovery. For more information on assessment for suitability criteria the full practice guidance for DTTOs can be found here:

<https://www.gov.scot/collections/justice-social-work-guidance/>

9.10 Structured Deferred Sentence (SDS): SDS is now available in most local authority areas and some courts have established a Problem Solving approach to facilitate this. The aim is to provide a structured intervention for individuals upon conviction and prior to final sentencing. They are generally used for people in the justice system with a range of complex needs which may be addressed through social work and/or multi-agency intervention, but without the need for a court order. SDS also offers the opportunity for justice social work services and key partners to directly provide and tailor interventions for individuals. This may include, for example, components on risk-taking behaviour, decision-making, and victim impact, as well as interventions to address identified need. SDS is used in a variety of ways and can provide a flexible and effective intervention which can offer the court an insight into a person's likely compliance with statutory supervision. Alternatively, it can enable a short term intervention to take place which, if successful, can allow the case to be disposed of at the next court appearance without the need for any further action. For a fuller explanation of SDS please click on this link:

<https://www.gov.scot/collections/justice-social-work-guidance/>

9.11 Deferred Sentence: This can be a useful suggestion in cases where the person has advised of involvement in a particular therapeutic activity or work/training placement and it would be helpful to the court to await the outcome of this before disposing of the case. In these cases, a supplementary report can be suggested to bring the court up to date with progress. It can also be used in cases where the person has limited involvement in the justice system or there has been a long gap since the last offence and the person's commitment to refrain from further offending can be tested. Conversely, it could also be considered if there are a number of other analogous matters calling at a date in the near future and community based supervision is being considered. This would let the court dispose of all matters at the same time and consider co-ordinated review dates if appropriate which would make best use of court time and better levels of compliance if the person does not have numerous court dates for similar matters.

9.12 Financial Penalty: If the offence is considered fairly minor in nature, the assessed risks of further offending are low and there are no identified needs then a fine could be considered. The JSWR needs to address the person's financial circumstances and their ability to make payments to a fine. If their criminal history suggest a number of other fines imposed, contact should be made with the Fines Enforcement Officer at the local court to ascertain whether these are being paid regularly. If it is going to be a number of years before current fines will be paid off then it is perhaps prudent to consider an alternative disposal rather than compound the person's financial difficulties.

A Compensation Order can be considered either as a standalone order or as a requirement of a CPO. This requires payment to be made to compensate the victim financially for any offence which caused loss, damage or personal injury. Such orders are most frequently used where the amount of damage or loss is clear and where there is no doubt that it has arisen from the offence in question. The court will consider the person's financial situation and ability to make payment to a compensation order and an order need not necessarily be for the full amount of the damage or loss. Payments are made to the court where arrangements are then made for the money to be paid to the victim of the offence. Full payment must be possible within a reasonable period and payment to a compensation order will take priority over payment to a fine. The social worker must discuss the potential outcomes for failure to meet payments with the person to ensure they have sufficient funds to cover a financial penalty along with other financial commitments as the court can send the person to prison as an alternative for non-payment of financial penalties.

9.13 Admonition: This disposal can be used when the offence was relatively minor and isolated with no assessed need for further intervention. It may be that it is a first offence or the court had deferred sentence for good behaviour. If the person had refrained from further offending and was leading a settled lifestyle then the court may be more likely to consider no further action and admonish and dismiss the case. Alternatively, if the person has been sentenced or is due to appear on more serious matters, it may be a case of dealing with this less serious matter by means of admonition then the court and the person can concentrate on the more serious matters.

9.1 Absolute Discharge: This disposal is used infrequently as it results in no action being taken, the case being dismissed and not being recorded on the person's criminal history. Cases such as this would be more likely to be diverted from prosecution at an earlier point in proceedings. However, if it is the social worker's view that an absolute discharge should be considered then the case would need to be clearly made for it being in the public interest for no further action to be taken.

Section 10 - Conclusion: This is the part of the report that brings together all the relevant information from the body of the report. There should be no new information introduced at this stage and it should flow logically from the review of the sentencing options. Wherever possible a preferred option for disposal should be identified which in the social worker's professional opinion will best address the risk/needs presented by the individual whilst taking into account public safety.

Annex 2

Supplementary Justice Social Work Report:

1. Personal Details:			
CHS Ref		SW Ref	
Name		Gender	
D.O.B		Age	
Address			
Post code			
<u>Date/Duration of Current Order/Licence:</u>			

2. Report Writer Details:	
Name	
Position	
Office Address	
Telephone No	
E-mail address	

3. Court details:	
Court	
Date of Court	
Comments	This report is intended to supplement the original JSWR prepared for (<i>insert date</i>) and should be read in conjunction with it.

4(a) Current Offence Details:	
Offence(s)	Date offences committed

4(b) Outstanding Matters:

5. Basis of Assessment:

Sources:

Risk Assessment Tool(s):

Limitations of Assessment:

6. Current Circumstances:

If any new offences to be addressed include details here:

(Provide brief updates of personal circumstances below, where there is an update to be provided, then delete this line)

7. Updated Risk Assessment:

(Only include this section if there have been new offences or a significant change in circumstances otherwise this section can be deleted)

Pattern

Nature

Seriousness

Likelihood

Action Required to Promote Desistance

8. Professional Assessment of Sentencing Options:

(No need to review all sentencing options again. Brief update only required for most relevant)

9. Conclusion:

Signed

Date

Annex 3

JSWR Audit Template:

JSW Report Author:	Date:	
	JSWR Audit Author:	
Client ID:	Age:	
	Gender:	
Preferred Option:	Outcome of Court Appearance:	

1 Basis of Assessment:	Fully	Mostly	To some extent	Not at all	N/A
To what extent have details of any current Court Orders/Licences been given?					
To what extent are documentary sources of information identified/verified?					
To what extent have relevant people or agencies been consulted and information attributed to them?					
To what extent has the number and location of interviews been recorded?					
To what extent does the assessment evidence the use of appropriate risk assessment tools?					
To what extent have any limitations of the assessment been highlighted?					

2. Analysis of Current Offence(s):	Fully	Mostly	To some extent	Not at all	N/A
To what extent does the report explore the context of the index offence(s)?					
To what extent are any aggravating factors identified and explored?					
To what extent does the analysis show an understanding of how the person's personal circumstances impact on the offence and their narrative regarding it?					
To what extent does the report comment on the attitude of the person towards the offence/levels of insight present?					
To what extent is the person's motivation and/or capacity to change explored in the analysis?					
To what extent is there evidence of victim empathy and consequences of behaviour on others, including to the wider community?					

3. Personal & Social Circumstances Relevant to Sentencing :	Fully	Mostly	To some extent	Not at all	N/A
To what extent have relevant details of personal history been explored?					
To what extent are current circumstances commented on?					

To what extent have any communication issues been identified and linked to potential barriers to compliance with community supervision?					
To what extent has the link between drug and/or alcohol use and offending been analysed?					
To what extent are relevant health issues identified?					
To what extent are trauma related factors identified and linked to criminogenic needs?					
If person is under 26 to what extent is the age and stage of development highlighted and linked to appropriate interventions?					

4. Risk Assessment:	Fully	Mostly	To some extent	Not at all	N/A
To what extent does the assessment provide a sufficient analysis of offending in terms of pattern, nature, seriousness and likelihood?					
To what extent are actions to promote desistance identified?					
To what extent does the assessment identify areas that could be addressed via a community based disposal?					

5. Review of Relevant Sentencing Options:	Fully	Mostly	To some extent	Not at all	N/A
To what extent is there an assessment of the individual's ability to comply with community based disposals?					
Where there is a risk of a custodial sentence to what extent is there an assessment of the impact on the individual and/ or family, particularly children?					
To what extent is the evaluation of suitable/relevant sentencing options expected, given the assessment and analysis of offending which precedes it?					

	YES	NO	N/A
Does the report indicate the individual's consent to community supervision?			
Is an Initial Case Management Plan included?			
For unpaid work, has suitability and availability been addressed?			
Is the first appointment contained in the report?			
Has DTTO been considered for all relevant medium/high			

tariff drug related offences?			
For young people aged under 17½, is there evidence that remittal to the Children's Hearing for advice has been considered?			

6. Conclusion:	Fully	Mostly	To some extent	Not at all	N/A
To what extent does the conclusion align to the risk assessment and review of sentencing options?					
To what extent is the person's motivation to change addressed?					
To what extent has the report addressed the person's willingness to comply with community based disposals?					

7. Additional considerations:	Fully	Mostly	To some extent	Not at all	N/A
To what extent is the role of trauma fully considered throughout the report?					
To what extent does it distinguish between fact and opinion?					
To what extent does it address whether the person has a protected characteristic: disability, race, religion, sexual orientation and					

transgender identity and any impact on their offending or responsivity considerations?					
To what extent does the report prioritise victim safety considerations and/or impact on public safety? (i.e. no service-generated risk caused by any disclosures in the report)					
To what extent is the report consistent and credible?					
To what extent is it written in plain English - free from jargon or stigmatising language					
Is it easy to read so the main points can be grasped in one reading?					

Feedback for worker:

Circle which of this five-point scale best reflects overall rating:

4 – Excellent. All areas are strong and demonstrate a high level of quality. No need for improvements identified.

3 – Good. Almost all areas are strong, with room for only minor improvement.

2 – Adequate. Some areas of weakness, and a need for some improvement exists.

1 –Weak. Key weaknesses are present. A need for major improvement exists.

0 – Unsatisfactory. Major weaknesses exist with little or no areas of strength. A very clear need for major improvement exists

Comments for further discussion	
Signed	

Annex 4

Information sharing mandate form example:

Permission to access information (medical and/or other organisation)

Service User Details	
Surname	
First Name	
Date of Birth	
Address	
Telephone Number	

Details of Person to whom you give consent to access your information	
Full Name	
Address	
Relationship to service user	Social Worker/Social Work Assistant/Community Payback Work Officer [delete as appropriate]

Reason:
<ul style="list-style-type: none">• Information relevant to my ability to undertake a community-based penalty, for inclusion in a Criminal Justice Social Work Report (CJSWR)• Information relevant to supervision of my Court Order or Licence• Other: [provide detail]

I confirm that I give permission for the practice/organisation to communicate with the person identified above in relation to my medical records.	
Full Name	
Signature	
Date	

Annex 5



FIFE JUSTICE SOCIAL WORK SERVICE

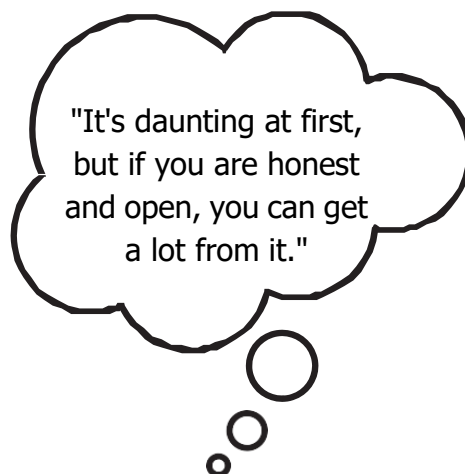
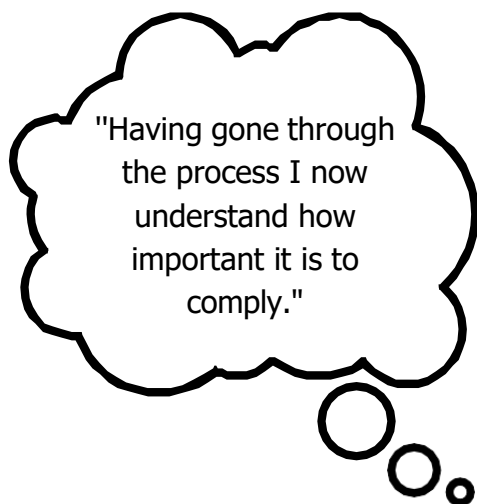


A GUIDE TO CRIMINAL JUSTICE SOCIAL WORK REPORTS

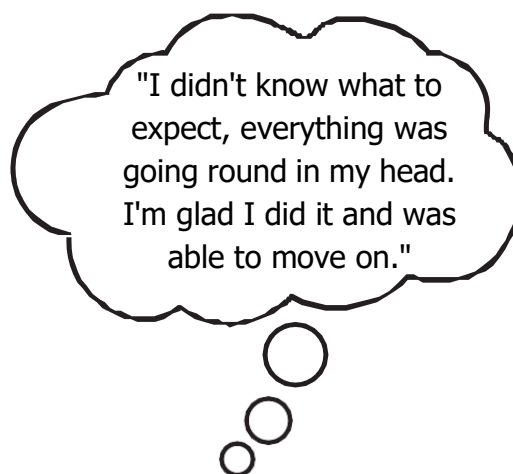
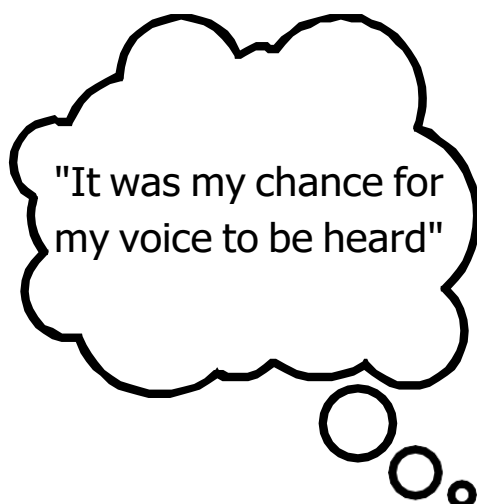


Created by The Service User Participation Group,
Fife Justice Social Work Service.

Court information leaflet example:



Hear how others felt



What to expect?

The Sheriff has requested a Criminal Justice Social Work Report, but what does this mean? See below for a road map of the process and the responsibilities for both you and your Social Worker.



Why is the Sheriff asking for a report?



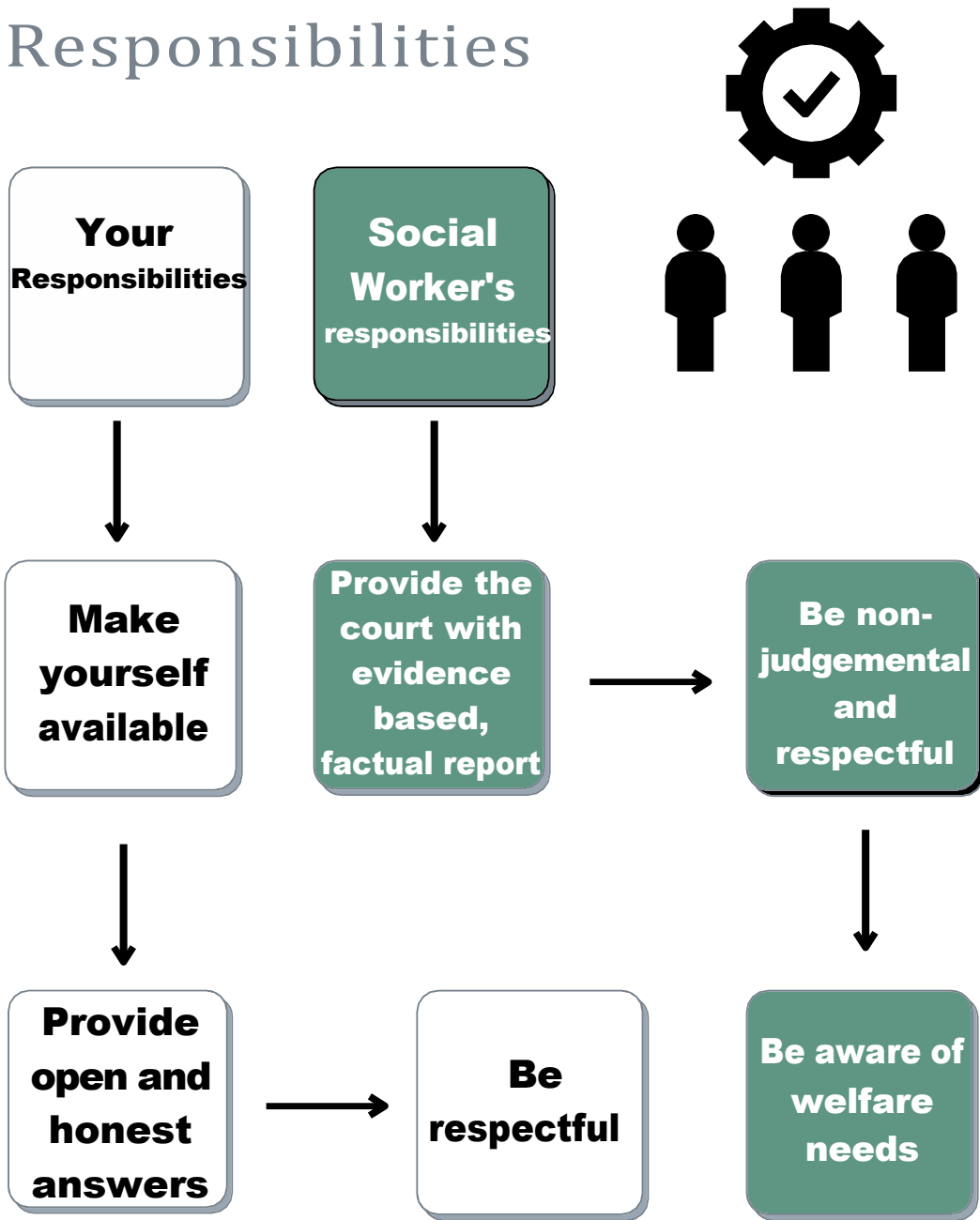
- The Criminal Justice Social Work Report involves the Social Worker talking to you to provide an understanding of your current circumstances.
- Your attitude towards the offence and your risk of re-offending is also considered which informs the Sheriff's disposal options.

'If we have heard something from the lawyer or the Fiscal which has given us cause for concern, it may be that the person could do with a bit of support or assistance. In these cases, the Sheriff would request the Social Worker to look in to this for them.'

Sheriff at Dunfermline Court

•

Responsibilities



What happens if I don't attend?

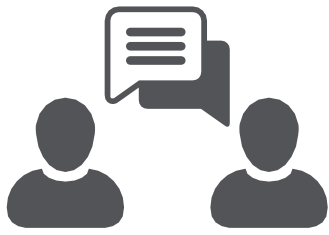


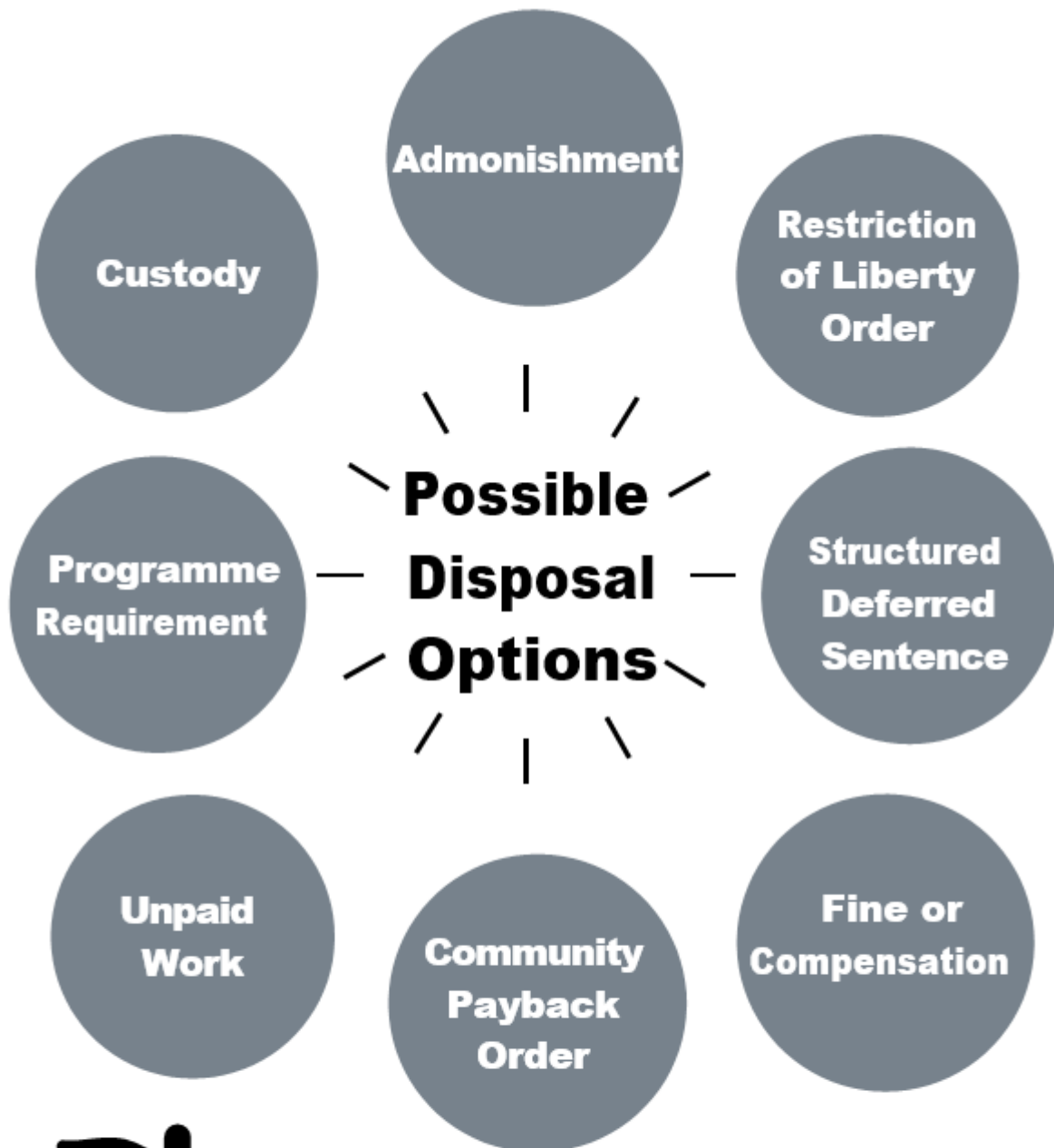
FAILURE TO ATTEND:

Failure to attend or make contact during the timeframe allocated for the Criminal Justice Social Work Report will result in the Sheriff being notified of your non-attendance. There may be a risk of being remanded in custody for the report to be completed.

If there are challenges to you attending your appointment, please make contact with your Social Worker and support can be provided.







What happens next?

The criminal Justice Social Work report sets out possible disposals which are available to the court. These will be determined by the Sheriff on the data of sentencing.

Custody:

Sentenced to a period of time in prison, with a possibility of supervision upon release.

Restrictions of Liberty Order:

Most commonly known as a 'tag'. This disposal involves you being restricted to your home address for periods of time. Most commonly this can be 7pm-7am.

Structured Deferred Sentence:

Sentencing can be deferred for 3 to 6 months to undertake offence focused work and welfare support with a social work assistant.

Fine/Compensation:

Money to be made payable to either the Scottish Courts or the victim.

Community Payback Order:

A Community Payback Order can have a range of requirements attached, the examples below are the three most common:

Supervision:

Attend regular meetings with a Social Worker/ Supervising Officer to engage in offence focused work and any welfare support required.

Unpaid Work:

To complete a set amount of hours of unpaid work within the community.

Programme:

The Sheriff may wish to impose a programme requirement to engage in group work for road traffic offences, drug-related offences, or domestic abuse.



How else can we help?

Additional Support:

- Should you require any additional support for the interview such as a carer or interpreter, please make the Social Worker aware ahead of the appointment.
- Prior to the interview, you will receive contact from a welfare worker, they can provide support with a wide range of welfare issues.



Annex 6

Suicide/Self-Harm pro-forma:



**SUICIDE / SELF-HARM
WARNING FORM**

1. Prisoner

Surname:

Forename(s):

Date of birth: / /

Prison No. (if appropriate):

Location / Journey:

2. Nature of the concern (Please tick all that apply):

- Statements of intent to self-harm/commit suicide
- Bizarre behaviour, or other signs of mental disorder
- Seems very depressed
- Signs of withdrawal from drugs/alcohol
- Reaction to offence/charge/conviction/sentence
- Act(s) of self-harm - since arrest
 - within the last month

If so, describe what happened below:

Any other history of self-harm

If so, how recent? (more recent = higher risk)

- Last 6 months 1-5 years
- 7-12 months 5 years +

Method:

- Hanging/self-strangulation
- Cutting
- Overdose

3. Source of information (Please tick all that apply):

- PER Own observation Prisoner Third party

If from third party complete details below:

Name:

.....
Role:

Agency (if appropriate):

Contact address:

6. Details of reporting custody/escort officer

Name:

Role:

Signature:

Date / Time:

Sub area base:

4. Details of what the prisoner/detainee and/or the third party said, plus own initial observations

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5. Actions undertaken to ensure safety whilst in pre/ inter-prison custody

Located in a cell with another prisoner:

Yes No

Frequency of observation:

Constant Intermittent Other

If other please state:

Other support to prisoner (e.g. telephone call to family or Samaritans):

Yes No

If yes please state:

Referred to medical practitioner
(eg. for medication):

Yes No

Any other action taken, if yes please state:

Yes No

(eg. telephone call made to prison and name and role of person receiving call)



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This publication is available at www.gov.scot

Any enquiries regarding this publication should be sent to us at

The Scottish Government
St Andrew's House
Edinburgh
EH1 3DG

ISBN: 978-1-83521-414-5 (web only)

Published by The Scottish Government, October 2023

Produced for The Scottish Government by APS Group Scotland, 21 Tennant Street, Edinburgh EH6 5NA
PPDAS1349962 (10/23)

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