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**Richard Mason**  
Head of Unit

To: Chief Officers

17 May 2007

Dear Colleague

**Probation Circular 12/2007: Pre-sentence Reports**

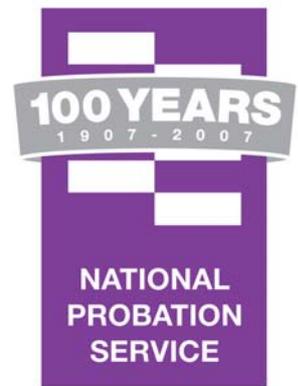
The attached guidance updates PC18/2005 and is the result of extensive consultation with Areas and sentencers. It introduces a number of important practice changes, including allowing Areas greater flexibility in determining which type of PSR is most appropriate for each case. At the moment the new guidance is not consistent with National Standards 2005 SS2.7 and SS2.8 but this inconsistency will go when we issue the revised National Standards. Whether or not the new Standards have been issued by then, Areas should work to the new guidance in this Circular from 1 June.

As a quick reference tool for staff we will be providing Areas with a laminate that has the Circular's Annex A on one side and Annex E on the other. Areas should approach Ola Haruna ([ola.haruna@homeoffice.gsi.gov.uk](mailto:ola.haruna@homeoffice.gsi.gov.uk) or on 020 7217 8607) with their requirements.

Many thanks.

Richard Mason  
Head of Offender Assessment and Management Unit

# Probation Circular



## PC12/2007 – PRE-SENTENCE REPORT DECISION TOOL

**IMPLEMENTATION DATE:** 1 June 2007

**EXPIRY DATE:** June 2012

**TO:** Chairs of Probation Boards, Chief Officers of Probation, Secretaries of Probation Boards

**CC:** Board Treasurers, Regional Managers

**AUTHORISED BY:** Richard Mason, Head of Offender Assessment & Management Unit

**ATTACHED:** Annex A: Decision Flowchart  
Annex B: Decision Flowchart Text Version  
Annex C: FDR Template  
Annex D: FDR AT Guidance Notes  
Annex E: One Page Summary  
Annex F: Equality Impact Assessment Form

### RELEVANT PREVIOUS PROBATION CIRCULARS

PC18/05, PC33a/05, PC15/06

### CONTACT FOR ENQUIRIES

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### PURPOSE

To provide Probation Areas with new guidance for determining Pre-Sentence Report type. This Circular updates the guidance provided in PC18/2005

### ACTION

Chief Officers should ensure that the contents of this Circular are implemented with effect from 1 June 2007.

### SUMMARY

This guidance introduces a new decision process which will assist Areas to determine the most suitable type of Pre-Sentence Report: either Oral, Fast Delivery or Standard Delivery. It also introduces a revised Fast Delivery Report template which replaces the one issued with PC18/05. The changes allow FDRs to be used:

- To target offenders for general offending behaviour programmes, and
- To assess the impact of custody in custody threshold cases.

The guidance promotes greater flexibility over report type whilst maintaining defensible decision making, with public safety firmly at the heart of the PSR writing process. In particular, there is now more flexibility to prepare FDRs on cases where the OGRS score is 41 or above and where a report is required on an existing case. This Circular is consistent with the forthcoming revised National Standards.

This circular is endorsed by the National Sentencer/ NOMS Consultation Group (NSNCG) which includes senior representatives from the Magistrates' Association, Justices' Clerks Society, Council of HM Circuit Judges, District Judges, CPS, HMCS, Sentencing Guidelines Council, NOMS and the NPS.

## 1. Introduction and background

1.1 PC18/05 provided a framework for deciding which type of PSR is the most suitable. In broad terms it equates to the following:

- OASys Risk Of Harm Screening indicates no need for a Full Risk of Harm Analysis and the OGRS score is under 41 = Fast Delivery or Oral Report
- Need for Full Risk of Harm Analysis or OGRS is 41 or over = Standard Delivery Report

1.2 The Criminal Justice Act 2003 National Implementation Guide for community provisions (Edition 2 Version 5F of May 2005) envisaged extensive use of FDRs. In the event they have been under-used, in part as a result of their being associated with only low seriousness cases instead of being seen as more widely applicable.

1.3 The attached PSR Decision Tool, at Annexes A (flowchart) and B (text version), is designed to increase the flexibility of the FDR and encourage its use across the sentencing thresholds, whilst ensuring that there is no compromise on public protection. The tool aims to assist Probation Areas to fulfil probation commitments to delivering speedy justice and to make best use of resources by working with the courts to ensure that SDRs are only used where necessary. In the main the tool focuses on the actions of probation staff in court, described generically hereafter as 'Court Officers'.

1.4 Also attached at Annex C is a revised FDR Template, with AT Guidance Notes at Annex D. The template reflects the changes outlined in this Circular, the most significant of which is the addition of a 'Thinking and Behaviour' set of questions to facilitate targeting for General Offending Behaviour Programmes (GOBPs). The template has been tested for accessibility and is Assistive Technology (AT) compliant. Annex E contains a One Page Summary of the key points of the circular and decision process.

1.5 Previous guidance has stressed the importance of regular liaison between strategic / operational managers and sentencers and court staff. This should continue as it is a basis for good service delivery to the courts and, without undermining sentencer independence, encourages the most efficient use of probation resources.

## 2 PSR Type

2.1 In section 158 of the 2003 Act a PSR is defined as 'a report which with a view to assisting the court in determining the most suitable method of dealing with an offender is made or submitted by an appropriate officer and contains information ... presented in such a manner as may be prescribed by rules made by the Secretary of State'.

2.2 Standard Delivery, Fast Delivery and Oral Reports are all Pre-sentence Reports under the terms of the Act. They should be viewed as reports of equal standing, differentiated by their assessment basis and suitability for use in different circumstances. SDRs and FDRs are written reports which are handed in to the court.

2.3 Courts must be given the information they need in order to reach a sentencing decision. Court Officers are in a position to advise courts as to the report type which would best meet the court's sentencing needs. The PSR Decision Tool promotes a switch in emphasis whereby Probation Areas exercise greater direction over report type. This approach is endorsed by the NSNCG. The tool encompasses various business processes but essentially assists Court Officers to answer the two questions below:

## UNCLASSIFIED

Question:	If "Yes":	If "No":
1. Is there enough information to enable the court to sentence now?	The court proceeds to sentence or the Court Officer presents an Oral Report to supplement court information	Go to question 2
2. Would an FDR assessment secure sufficient information to facilitate safe sentencing?	The Court Officer requests adjournment for an FDR	The Court Officer requests adjournment for an SDR

2.4 All Standard Delivery Reports must be based on an OASys assessment. Other assessment tools (e.g. Risk Matrix 2000 or SARA) may also be necessary depending on the offence. Fast Delivery and Oral Reports must be based on OGRS and an OASys Risk of Serious Harm Screening. Oral Reports are generally most suitable in low seriousness cases and/or to provide brief information and progress updates against a current sentence plan. Where a more comprehensive assessment of the offender is necessary, an FDR or SDR will be appropriate.

### 3 How to use the PSR Decision Tool

3.1 This circular does not provide guidance on role boundaries issue. The focus of the circular is on which type of report should be written rather than who should write it. However, the Decision Tool has been designed with the recognition that Court Officers and Offender Managers may be either PO or PSO graded. It is acknowledged that FDR production systems vary between Areas, particularly in terms of access to both PO and PSO graded FDR writers. It is also acknowledged that courts are busy places and that decisions often have to be taken quickly on the basis of 'best information available'. Public safety however must be the paramount consideration.

3.2 The Tool is designed as a linear process which filters offenders towards initial default report types, depending on offence and offender characteristics and circumstances. From the initial default outcome a process of professional moderation determines the most suitable report type on a case by case basis. During the process of moderation it is possible to move to a more or less comprehensive assessment type.

#### 3.3 Pre-hearing Preparation and Diversionary Work

3.3.1 Court Officers need to engage proactively with the court to identify cases that may be sentenced with no or with minimal probation involvement. Additionally, pre-hearing identification of potential report cases will enable probation staff to play a full role in court business and promote speedy and appropriate sentencing.

3.3.2 Pre-hearing preparation should include information exchange arrangements between Offender Managers and Court Officers where offenders currently under supervision appear before the courts. This is referred to later under section 3.5 'Current Case?'.

3.3.3 Areas should also maximise opportunities for pre-sentence information exchange with Criminal Justice Intervention Teams (CJITs) where drug misusing offenders are appearing before the courts. This will ensure that drug assessment and treatment information is available to report writers and the courts as speedily as possible.

3.3.4 Preparation work in breach cases will also ensure that court business is not delayed through unnecessary adjournments. Offender Managers should ensure that sufficient information is available at the first hearing to enable the court to proceed to resolution, due process permitting. Within the guidelines issued in PC15/06 (Guidance On The Implementation Of Practice Recommendations Arising From An HMIP Independent Review Of A Serious Offence Case, February 2006, Annex A

section 8.6), Areas are encouraged to avoid unnecessary adjournments in breach cases by writing robust breach reports which include a response to supervision and clear recommendation.

- 3.3.5 In breach cases where there are no identified risk of serious harm issues and re-sentencing is sought, professional judgement should be used to assess whether re-sentencing can be achieved on the basis of the breach report alone or following a short adjournment for an FDR. Where risk of serious harm issues are evidenced, an SDR should be sought to ensure public safety in re-sentencing.

### **3.4 Adjournment Statement**

- 3.4.1 The Sentencing Guidelines Council advises courts to provide report writers with a provisional assessment of seriousness and intended purpose(s) of sentencing in the form of a written Adjournment Statement (SGC CJA 2003 New Sentences 1.1.16). The statement is important in assisting with correct targeting of proposals and meeting the court's information needs. It should inform each step in the process described below. The NSNCG has endorsed the expectation that Adjournment Statements should be provided in all Magistrates' Court cases. For Crown Court cases any indication of seriousness and intended purpose of sentencing will be provided at the judge's discretion. Where no indication of seriousness is given the report writer will need to make a judgement about seriousness to inform the targeting of proposals. This should be based on the case circumstances and sentencing guidelines, with the rationale for the decision being articulated in the report.

### **3.5 Current Case?**

- 3.5.1 If the offender is currently under supervision the Court Officer should always try to consult with the Offender Manager directly. Where an Offender Manager has known in advance that re-offending has occurred, depending on the tier in which the offender is being managed, an OASys review should already have been done and the Court Officer briefed accordingly. As a minimum, the Offender Manager should ensure that the Court Officer is well briefed as to the offender's progress against the current sentence plan.
- 3.5.2 In view of the Offender Manager's existing knowledge of the offender, the presumption should be for an FDR unless this would be insufficient to address risk of serious harm or complexity factors. Ideally, the Offender Manager should complete the FDR. In some circumstances it may be practicable for the Offender Manager to be available to prepare an FDR on the day or within five days. When that is not possible, he or she should discuss with the Court Officer areas to be covered in the FDR. There will, of course, be a range of current cases in which only an SDR is appropriate (e.g. seriousness of re-offending and/or risk/complexity factors).
- 3.5.3 Where an appearance at court takes place without prior warning and the Offender Manager is not available for consultation, discussions should involve the Offender Manager's Line Manager or, where there is one, the Offender Supervisor. Where none of these is available, and there has been no other investigation of the offender's progress against the current sentence plan, an adjournment for an SDR would usually be most suitable.

### **3.6 Risk or complexity identified?**

- 3.6.1 The purpose of this question is to 'screen out' straight away those cases which are most likely to require an SDR. If any of the following factors are present an SDR would normally be required. Although service delivery arrangements in some Areas require completion of the OASys RoSH Screening at this stage, completion is not expected at this point under the Decision Tool. This is intended to minimise delay in court business in cases which are clearly suitable only for an SDR. As noted earlier, a RoSH Screening is mandatory for all reports.

**UNCLASSIFIED**

Factor	Description/Comment
<i>Violent/Sexual offence/history</i>	Offence definition as in OASys Risk of Serious Harm Screening R1.2
<i>Domestic Violence related</i>	Any offence where there is an indication that DV may be an issue (e.g. assault, criminal damage, burglary, obsessive and/or threatening behaviour)
<i>Child Protection</i>	Current offence or history indicates child protection concerns
<i>Racially Aggravated / Hate Based</i>	Current offence or history indicates racially aggravated / hate based concerns
<i>PPO</i>	Offender is a Prolific or other Priority Offender
<i>Mental Health</i>	Current offence or history indicates significant mental health issues
<i>Vulnerability</i>	Any indication of personal vulnerability including emotional immaturity and/or difficulty coping in a custodial setting
<i>Poor compliance / breach history</i>	Offender has a pattern of poor compliance / breach. (This should be assessed as a potential factor where sentencing is for a new offence. When re-sentencing is for breach only refer to guidance above under pre-hearing preparation/diversionary work.)
<i>Programme indicated (except DID Progs/GOBP)</i>	Outline case circumstances or specific sentencer comment may indicate that consideration should be given to a programme – screen out unless DID Progs/GOBP
<i>DRR indicated</i>	There is evidence of daily or weekly Class A drug misuse. Screen out unless a Comprehensive Assessment (Models of Care) which specifically addresses a DRR is available on the day and the offender fully understands the requirements of a DRR and has given signed consent to a DRR being made.

**3.7 Calculate OGRS**

3.7.1 Areas should maintain existing arrangements in court for the calculation of OGRS. This may include ongoing negotiations with the CPS for the provision of disclosure information and access to an OGRS calculation device (court based computer, pocket PC). This court based calculation of OGRS informs the decisions below.

**3.8 OGRS 76+**

3.8.1 This section raises the OGRS threshold for FDRs from 41 to below 76. An affirmative answer to this question indicates that an SDR would usually be most appropriate in such cases. A negative answer enables an FDR to be considered unless the offender has already been screened out for risk/complexity factors. This greater flexibility over report type allows general offending behaviour programmes to be proposed through an FDR. The FDR template attached to this Circular has been amended to reflect this.

3.8.2 Areas will need to take the following action to make this change effective:

- Ensure completion of OASys at commencement in line with National Standards
- Ensure effective targeting for general offending behaviour programmes. The revised FDR Template at Annex C includes the addition of four thinking and behaviour questions modelled on OASys section 11. ‘Yes’ answers to 3 out of 4 questions, along with an OGRS score of 41 and over, would indicate an offender’s eligibility for a GOBP. FDR writers should also assess for suitability and availability as part of the interview process. (Refer to PC 38/04 Revised Targeting Strategy for supporting information.)
- Establish or revise quality assurance arrangements for FDRs

### 3.9 Professional Moderation

3.9.1 Having identified a default report type the process of professional moderation enables the decision to be refined depending on the specific circumstances of the case. The sections below indicate factors which will influence moderation but they are not an exhaustive list. Professional judgement is required to weigh up the needs of the case and assess, on balance, which report type is most suitable. It is important to note that, from an initial default position, the final assessment of needs and therefore of report type may move both up and down the range as indicated by the shadow arrows on the flowchart.

Factor:	Description/Comment
<i>Court's assessment of seriousness</i>	An FDR may be appropriate across the sentencing thresholds (Community Order bands Low, Medium, High and the Custody Threshold) in combination with other factors. The Impact of Custody section in the FDR Template will ensure that appropriate attention is given to the emotional and social impact prior to sentence.
<i>Court's intended purpose/s in sentencing</i>	Knowledge of the court's intended purpose/s will also assist with targeting and assessment for report type suitability. For example, an FDR should be suitable for most cases where punishment only is being considered.
<i>Advice from OM or Line Manager</i>	A current case may require an SDR, perhaps to facilitate targeting for an offence specific programme.
<i>Diversity Issues</i>	Staff should be proactive in identifying and sensitive to potential diversity issues. The assessment undertaken must be sufficient to ensure that appropriate consideration is given to any issues that are relevant to the individual offender and offending circumstances.
<i>Risks/Complexities?</i>	Consideration of risks/complexities at this stage will be particularly relevant for current cases which may not be suitable for an FDR.
<i>Are risks being controlled/minimised?</i>	Where an existing risk management plan is in place is it achieving the aim of public protection? If yes then an FDR or Oral Report may be appropriate.
<i>Offender's progress under supervision</i>	Is progress being made against a current Sentence Plan? To what degree are the objectives of the plan and the purpose of the sentence being achieved?
<i>Court's information needs?</i>	There will be occasions when, for example, an offender's OGRS score is 76 or over but the court has indicated that the offence is in the low/medium community sentence band and is looking to sentence quickly. In such circumstances an FDR may be considered when, on balance, the court's information needs can be adequately met through such an assessment. Decisions to prepare FDRs in such circumstances must be defensible.  Equally, service delivery arrangements in some Areas will enable full Risk of Serious Harm Analyses to be conducted on the day. Where this is possible and the outcome of the assessment is low, an FDR may be considered if the court's information needs can be met in this way and the decision is defensible.
<i>Is new offence different in type/seriousness to current supervision?</i>	In cases of lower seriousness offences or offences of a less serious type the court's information needs may be appropriately met by an FDR or Oral Report.
<i>Availability of recent OASys?</i>	If a full OASys has been completed or reviewed within the past four months, then an FDR should usually be prepared, except where there is evidence of an increase in risk of serious harm or where the offender was previously assessed as high or very high risk of serious harm.
<i>Is a new OASys required?</i>	After consideration of the above factors Court Officers, in conjunction with the Offender Manager or Line Manager as necessary, should assess whether a new OASys is required to inform sentencing and if so advise the court to adjourn for an SDR. Where a new OASys is not required, the court should be advised as to whether an Oral or Fast Delivery Report is most suitable.

	The paramount consideration in advising on report type is public safety. Where a Court Officer is in any doubt about an offender's suitability for an Oral or Fast Delivery Report, and advice cannot be obtained from colleagues/managers, an adjournment for an SDR should be sought.
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### 3.10 Advice to Court / Report Production / Post Adjournment Review

- 3.10.1 At this point the Court Officer is in a position to discuss the proposed report type with the court. In most cases this will lead to an adjournment for an FDR or SDR to be produced.
- 3.10.2 Following local negotiations with sentencers, a number of Areas have arrangements in place to review report type *post adjournment* where appropriate. Examples of post adjournment review include:
- The court has adjourned for a report when no Court Officer was available to advise on report type
  - A case initially adjourned for an FDR reveals the need for more detailed enquiries
  - A case initially adjourned for an SDR is subsequently assessed as suitable for an FDR
- 3.10.3 Building on local liaison arrangements, Probation staff and managers should adopt a proactive approach to reviewing report type post adjournment as this flexibility will help ensure that probation resources are used efficiently and public safety remains central to the assessment process. Areas should seek to involve courts in such decision making as far as reasonably practicable. Any such decision must take account of NPS Court Report Timeliness Targets.
- 3.10.4 Where a report will not be available for the court hearing (e.g. the offender has failed to attend for interview), Areas should inform the court at the earliest opportunity, ensuring that the reason for non-provision is made clear. This will enable both probation and courts to make the most effective use of resources.

## 4 Specific guidance on use of the FDR template

- 4.1 This section contains some additional guidance on the completion of particular sections of the revised FDR Template at Annex C.

### Drug Misuse

- 4.2 A positive answer to any of the questions relating to Class A drug use should prompt a referral for a DRR assessment.

### Thinking & Behaviour

- 4.3 This section covers eligibility for general offending behaviour programmes. Positive answers to three of the four questions plus an OGRS score of 41 or above indicates the offender is eligible for a GOBP.

### Risk of Serious Harm and Likelihood of Re-conviction

- 4.4 A 'yes' tick indicates that a full Risk of Serious Harm Analysis needs to be done before sentence and therefore writers should advise the court that an adjournment for an SDR is required (unless a full Risk of Serious Harm Analysis is already available).

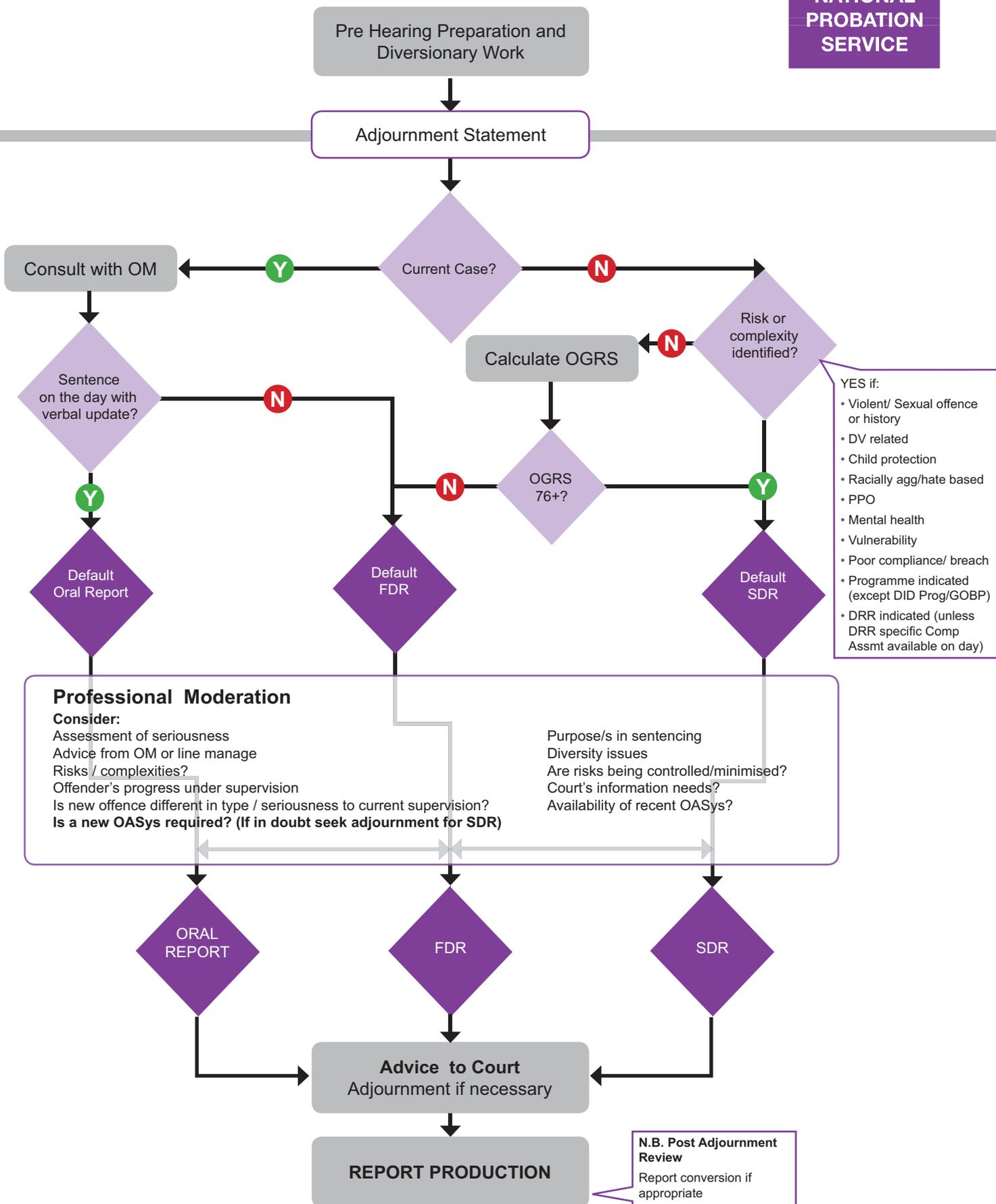
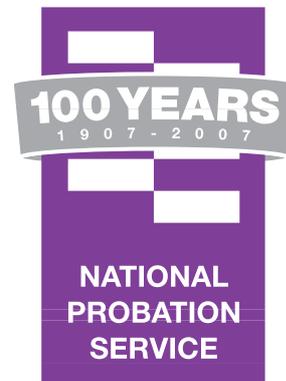
- 4.5 If the likelihood of re-conviction is high (OGRS 76+) and there is a proposal for sentence writers must be satisfied that the decision to sentence on the basis of the FDR is defensible – see professional moderation guidance.

Proposal and Reasons

- 4.6 Where a Community Order (or SSO) is proposed the writer should detail the individual Requirements and sentence plan objectives.
- 4.7 Where a Programme is part of that proposal the writer should confirm eligibility, suitability and availability.
- 4.8 Where a DRR is proposed the offender's informed consent should be confirmed.

# NPS PSR Decision Flowchart

## May 2007



# PSR Decision Flowchart

May 2007

Annex B

Point	Action/Question	If Yes:	If No:	Notes
1	Pre Hearing Preparation and Diversionary Work.	N/A	N/A	N/A
2	Adjournment Statement.	N/A	N/A	N/A
3	Current Case?	Consult with OM - Go to Point 4	Risk of complexity Identified – Go to Point 6	N/A
4	Sentence on the Day with verbal update?	Default to Oral Report Go to Point 5	Default to FDR - Go to Point 5	
5	Advice to Court - Adjournment if necessary	N/A	N/A	Report Production – Post Adjournment Review, Report conversion if appropriate
6	Risk of complexity Identified?	Default to SDR – Go to Point 5	Calculate OGRS – Go to Point 7	<b>Yes if:</b> <ul style="list-style-type: none"> <li>• Violent /Sexual offence or history</li> <li>• DV Related</li> <li>• Child Protection</li> <li>• Racially agg/hate based</li> <li>• PPO</li> <li>• Mental Health</li> <li>• Vulnerability</li> <li>• Poor compliance/breach</li> <li>• Programme indicated (except DID/GOBP)</li> <li>• DRR indicated (unless DRR specific Comp Assmt available on day)</li> </ul>
7	OGRS 76+	Default to SDR – Go to Point 5	Default to FDR – Go to Point 5	

## Professional Moderation, Consider:

- Assessment of seriousness
  - Advice from OM or line manager
  - Risks/complexities?
  - Offender's progress under supervision
  - Is new offence different in type / seriousness to current supervision?
  - **Is a new OASys required? (If in doubt seek adjournment for SDR)**
- Purposes/s in sentencing  
 Diversity issues  
 Are risks being controlled / minimised?  
 Court's information needs?  
 Availability of recent OASys?

# Fast Delivery Pre-Sentence Report

*This is a Pre-Sentence Report as defined in Section 158 of the Criminal Justice Act 2003 and has been prepared in accordance with the requirements of the National Standard for Pre-Sentence Reports*



XXX Area

**THIS REPORT IS A RESTRICTED DOCUMENT**

OFFENDER'S DETAILS:	
Name: (First name, family name)	
Date of Birth:	
Age:	
Address:	
Post Code:	
Telephone Number:	
CRN Case Reference Number:	
PNC ID Number:	

COURT DETAILS:	
Sentencing Court:	
Date of Hearing:	
Local Justice Area:	
Date Report Requested:	

OFFENCE DETAILS:	
Offence(s) (dealt with in this PSR):	Date of Offence(s):

**RESTRICTED**

**COURT DIRECTIONS:**

**Seriousness:**       Low    Medium    High    Custody Threshold    N/A

**Sentencing Purpose(s):**       Punishment    Reduction of Crime    Rehabilitation  
 Public Protection    Reparation    N/A

**PSR WRITERS DETAILS:**

**Name:** \_\_\_\_\_

**Official Title:** \_\_\_\_\_

**Office Location:** \_\_\_\_\_

**Tel No:** \_\_\_\_\_

**Date report completed and signed:** \_\_\_\_\_

**1. Sources of Information**

- Interview
  - Prosecution Summary
  - Previous Convictions
  - Service Records
  - Previous OASys Assessment
  - Other
- (Please Specify)**

**2. Offence Analysis**

Please provide a (very) brief outline of the offence(s):

Why did the offence(s) occur?

Offender accepts responsibility for offending?

Yes  No  In Part

(Please provide details)

Offender recognises the impact and consequences of offence(s) on victim(s)?

Yes  No  In Part

(Please provide details)

Offender recognises the impact and consequences of offence(s) on the community?

Yes  No  In Part

(Please provide details)

Anti-social/discriminatory attitudes/behaviour associated with offending?

Yes  No  In Part

(Please provide details)

Current offence(s) part of an established pattern of offending?

Yes  No  In Part

(Please provide details)

**Current offence(s) indicate escalation in seriousness of offending behaviour?**

Yes  No  In Part

(Please provide details)

**3. Offender Assessment**

**Accommodation**

Is accommodation relevant to the offending behaviour?

Yes  No

(Please provide details)

**Education, training and employment**

Are education, training, employment and/or basic skills relevant to the offending behaviour?

Yes  No

(Please provide details)

**Financial management and income**

Are finances relevant to the offending behaviour?

Yes  No

(Please provide details)

**Alcohol Misuse**

Is alcohol misuse linked to offending behaviour?

Yes  No

Does the initial screening show a need for a specialist assessment?

Yes  No

If 'yes' to either of the above please provide details:

**RESTRICTED**

**Drug Misuse:**

Is drug misuse linked to offending behaviour?

Yes  No

Is there current/recent drug misuse on a daily or weekly basis?

Yes  No

Is the offender willing to consider addressing his/her drugs misuse?

Yes  No

If 'yes' to any of above please provide details:

**Mental Health:**

Is mental health linked to offending behaviour?

Yes  No

Does the offender have a history of mental health issues?

Yes  No

Is a specialist report required?

Yes  No

Please provide details where appropriate:

**RESTRICTED**

**Thinking and Behaviour:**

Is there evidence that the offender:

Demonstrates inadequate social/interpersonal skills?

Yes  No

Demonstrates impulsive thinking and/or behaviour?

Yes  No

Uses inappropriate problem solving strategies?

Yes  No

Has difficulty understanding other people's points of view?

Yes  No

If 'yes' to any of above please provide details:

**Impact of Custody (custody threshold cases only):**

Would this individual have particular difficulty coping in custody?

Yes  No

Are there particular social and emotional consequences of imprisonment?

Yes  No

Please give details:

Additional Information about the Offender relevant to the offence(s) and the management of the offender including:

**4. Risk of Serious Harm and Likelihood of Reconviction**

The Risk of Serious Harm Screening indicates the need for a full Risk of Serious Harm Analysis?

Yes  No

The Likelihood of Re-Conviction is assessed as:

Low  Medium  High

Comments:

**5. Sentencing Options and Proposal**

Proposal and reasons:

Offender's attitude to proposed sentence:

Signature:

Name:

Date:

**Outcome**

**Sentence of the court:**

**Comments:**

## **COMPLETING THE FAST DELIVERY REPORT**

The following guidelines are for employees who are completing the Fast Delivery Report using Assistive Technology.

You are advised to save this template to your local hard drive.

There are 2 types of response.

### **1. Check box.**

To select or deselect a check box in response to a question press SPACEBAR.

ARROW DOWN or TAB to move to the next field.

### **2. Text box.**

You should enter free text in this type of field.

When you have completed your response, press

ARROW DOWN or Tab to move to the next field.

Please Note:

The report template has a level of protection applied to it in order to aid completion and provide navigation through the document.

If you wish to use spell checking or reading back facilities, in order to identify any inconsistencies within the completed text, please ensure this level of protection is removed and reapplied once any necessary changes have been made.

Unprotect the document using the following actions:

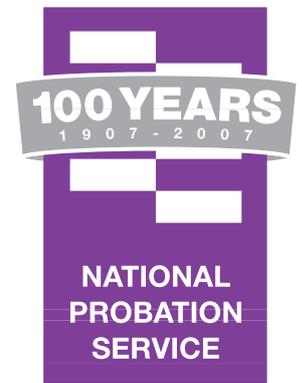
1. Tools menu
2. Unprotect Document

Reprotect the document using the following actions:

1. Tools menu
2. Protect Document
3. Yes enforce protection
4. OK

# PC12/2007

## PSR Decision Tool - One Page Summary Key Points & Actions for Court Officers & Offender Managers



### Background Purpose

- SDRs, FDRs and Oral Reports are ALL PSRs under the CJA2003 – different report types are suitable in different circumstances
- Critical Questions:
  - Can the court sentence now? If 'yes' proceed to sentence or provide Oral Report
  - If 'no' would an FDR assessment secure sufficient information?
  - If 'yes' go to FDR
  - If 'no' advise court to adjourn for SDR
- **Public safety must be at the centre of decision making**

### Preparation

- Engage with court staff to pre-identify likely hearing outcomes
- Obtain information on known offenders
- Ensure breach cases are as 'ready to resolve' as possible

### PSR Request & Production

- Obtain Adjournment Statement – Indication of Court's Assessment of Seriousness and Intended Purpose/s of Sentencing
- Consult with Offender Manager or relevant colleagues on current cases – filter towards Oral Report or FDR
- Filter cases with risk/complexity factors towards SDR
- Filter cases with OGRS 76+ towards SDRs
- Apply Professional Moderation - weigh up all factors present to determine most suitable report type. Remember, moderation can vary a default report type both up and down
- Remember defensible decision making
- If in any doubt, opt for the more comprehensive assessment of those being considered.
- Use report production process to review report type suitability where appropriate

**A. INITIAL SCREENING**

**1. Title of function, policy or practice (including common practice)**

*Is this a new policy under development or an existing one?*

PC12 Pre-Sentence Reports – May 2007

**2. Aims, purpose and outcomes of function, policy or practice**

*What is the function, policy or practice addressing? What operational work or employment/HR activities are covered? What outcomes are expected?*

The guidance introduces a revised decision making tool to assist Areas to determine the most suitable type of Pre-sentence Report for each case.

It introduces a revised Fast Delivery Report template which allows for the targeting of general offending behaviour programmes and for the addressing of impact of custody in custody threshold cases.

The guidance aims to promote greater flexibility over report type whilst maintaining defensible decision making and public safety at the heart of the PSR writing process.

**3. Target groups**

*Who is the policy aimed at? Which specific groups are likely to be affected by its implementation? This could be staff, service users, partners, contractors.*

*All groups.*

*For each equality target group, think about possible positive or negative impact, benefits or disadvantages, and if negative impact is this at a high medium or low level. Give reasons for your assessment. This could be existing knowledge or monitoring, national research, through talking to the groups concerned, etc. If there is possible negative impact a full impact assessment is needed. The high, medium or low impact will indicate level of priority to give the full assessment. Please use the table below to do this.*

Equality target group	Positive impact – could benefit	Negative impact - could	Reason for assessment and explanation of
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		disadvantage (High, medium, low)	possible impact
Women	✓	L	<p><b>Potentially positive impact</b> The tool is focused on the level of risk and needs assessment appropriate to each case. It should encourage courts to avoid more intensive assessments on apparent welfare grounds which could reduce the likelihood of women being vulnerable to ‘double jeopardy’ principles.</p> <p>Through making better use of resources offenders will have speedier access to PSR appointments and reduced remand times.</p> <p><b>Potentially negative impact</b> Areas must ensure that any pre-sentence assessment allows for adequate exploration of offence related diversity issues. It is possible that the time available in which to prepare an FDR may not always facilitate this.</p> <p>Impact of custody assessments must address social and personal impact including vulnerability. Areas will need to ensure that where this is part of an FDR assessment the quality of that assessment is not</p>

NPS Race Equality Impact Assessment template

			<p>compromised by the time available to prepare the report.</p> <p>There is a concern that increased use of the FDR may compromise the NPS' ability to influence the use of community orders through weakened targeting. This may disproportionately affect certain groups of people e.g. Black offenders.</p> <p>Training for report writers – Areas should maintain a defensible position in terms of quality of service delivery and duty of care to staff. Staff who write PSRs must be appropriately trained and supervised.</p>
Men	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Asian/Asian British people	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff</p>

NPS Race Equality Impact Assessment template

			training
Black/Black British people	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Chinese people or other groups	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
People of mixed race	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
White people (including Irish people)	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff</p>

NPS Race Equality Impact Assessment template

			training
Travellers or Gypsies	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Disabled people	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Lesbians, gay men and bisexual people	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Transgender people	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff</p>

NPS Race Equality Impact Assessment template

			training
Older people over 60	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p>
Young people (17-25) and children	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody, targeting in FDR assessments and staff training</p> <p>For YAOs there is an additional risk of not considering the vulnerability factors sufficiently and therefore encouraging sentencing as adults, which is likely to be more punitive. A speedier assessment process might also discourage the involvement of families in the process.</p>
Faith groups	✓	L	<p>Positive: same re: speeding up justice</p> <p>Negative: same re: exploration of diversity issues, impact of custody,</p>

			targeting in FDR assessments and staff training
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**4. Further research/questions to answer**

As a result of the above, indicate what questions might need to be answered in the full impact assessment and what additional research or evidence might be needed to do this.

Full impact assessment required. This is being commissioned externally and will run through into the operational life of the circular.

**Initial screening done by: Jo Chilvers - NOMS Offender Management Team**

**Name/position**

**Date 20/11/06**

## B. PLANNING A FULL IMPACT ASSESSMENT

### 1. Title of function, policy or practice (including common practice)

*Is this a new policy under development or an existing one?*

PC12/2007 Pre-sentence Report Decision Tool

To provide probation areas with new guidance for determining Pre-Sentence Report type, updating the guidance provided in PC 18/2005.

### 2. Aims, purpose and outcomes of function, policy or practice

*What is the function, policy or practice addressing? What operational work or employment/HR activities are covered? What outcomes are expected?*

The guidance introduces a new decision process which will assist Areas to determine the most suitable type of PSR either Oral, Fast or Standard delivery. It also introduces a revised FDR template which replaces the one issued in PC 18/2005. The changes allow FDRs to be used:-

- to target offenders for general offending behaviour programmes, and
- to assess the impact of custody in custody threshold cases.

The guidance promotes greater flexibility over report type whilst maintaining defensible decision making with public safety firmly at the heart of the PSR process. In particular, there is now more flexibility to prepare FDRs on cases where the OGRS score is 41 or above and where a report is required on an existing case.

### 3. Target groups

*Who is the policy aimed at? Which specific groups are likely to be affected by its implementation? Use the initial screening to summarise potential adverse impact on each group as identified above and the reasons given. What knowledge and information do you already have, what further research or evidence should be collected in the full impact assessment?*

- √ Gender
- √ Race
- √ Disability
- √ Sexual orientation/transgender

√ Age  
√ Faith

The policy has the potential to impact on all specific groups. See Initial Screening and Section 6.

It has not been possible to obtain comprehensive research information relevant to specific groups and pertinent to this policy.

#### 4. Impact assessment process

*Which staff will conduct the IA? (e.g. Board members, senior managers, policy leads, or a team of staff.)*

Paul Hindson - Head of NOMS OM Team  
Jo Chilvers – NOMS OM Team  
Joe Woods - NOMS OM Team  
Omar Ralph - NPS Diversity Manager  
Karen MacLeod – NOMS OM Team  
Megan Jones – NOMS CJA/Custody Plus Team

*Will you include external advice from community groups or individuals?*

NAPO and Unison have been consulted as has T&T Consultancy for Assistive Technology implications.

*How will the IA be approved and integrated into senior management processes?*

In local Probation Areas via training and development in quality assessment and report writing.

*What is the role of the diversity manager?*

To advise as the Impact Assessment is undertaken

#### 5. Consultation

*Give details of any planned internal staff and external community consultation and engagement.*

*Who will be consulted, how will it be done, when, what are the aims of the consultation, what will be done with the results?*

*Are a diverse range of staff, service users and stakeholders consulted?*

*How will the impact assessment process be publicised to give as many people as possible an opportunity to take part?*

The policy has undergone extensive consultation and has been endorsed by the National Sentencer/NOMS Consultation Group. This includes senior representatives from the Magistrates Association, Justices Clerks Society, Council of HM Judges, District Judges, Crown Prosecution Service, Her Majesty's Court Service, Sentencing Guidelines Council, NOMS and NPS.

Wider consultation has involved numerous staff within the NPS, NOMS/Home Office and Her Majesty's Inspectorate of Probation (HMIP).

The policy was amended as a result of consultation e.g. the policy on Young Adult Offenders has been amended to take account of vulnerability issues raised by those policy leads.

The consultees came from diverse backgrounds. As the policy is implemented and reviewed consultation with other specific groups, e.g. Lesbians and Gays in Probation (LAGIP) and the Association of Black Probation Officers (ABPO) may be beneficial.

The Impact Assessment will be placed on EPIC, the probation service intranet.

## C. CONDUCTING THE IMPACT ASSESSMENT

### 6. Q & A: Effect of function, policy or practice

*What questions were identified in the initial screening above?*

The Initial Screening identified both positive and negative potential effects. There are gaps in information and monitoring. The effect of this policy on offenders is not evidenced and would, in any event, be part of a complex picture of equality and parity issues in the Criminal Justice System. Equally, information about the range of staff writing FDRs is not available. There may be a higher level of organisational risk

in terms of confidence/competence regarding, for example, cases which are operated appropriately to the policy but then involve a Serious Further Offences. It is important that individual members of staff are equipped with the skills necessary to operationalise this policy.

*What other aspects of the way this policy is, or might be, implemented, should be explored?*

As previously stated, issues surrounding YAOs has been explored. It will be necessary to ensure that targeting for accredited programmes does not suffer as a result of this policy.

*Are there any points within the policy as it stands where the potential exists for negative impact on staff or service users or stakeholders across all groups?*

See above.

*Is there any existing evidence to show that adverse impact on any racial group has occurred previously in this area, if so what?*

The HMIP Thematic Inspection Report 'Towards Race Equality (2000) reviewed PSR quality based on a sample of 483 PSRs written between 30/12/97 – 31/07/99. Overall, reports on White and Asian offenders were assessed as being of satisfactory quality in a higher percentage of cases than those on African/African-Caribbean offenders (White 60%, Asian 63%, African/African-Caribbean 49%, Other 49%). The detail of the report contained considerable variations between areas and highlighted examples of good practice.

A follow up report, 'Towards Race Equality: Follow Up Inspection Report (2004)' found that the quality of PSRs had improved considerably, although a differential remained. 83% of PSRs on White offenders were found to be satisfactory or better compared with 75% of reports on offenders from minority ethnic groups. Many areas had revised policy statements and practice guidance in respect of PSRs to take account of specific issues relating to minority ethnic offenders. The introduction of a national PSR template had helped to improve quality. The recommendations from the original report were felt to be partially met. However, the lack of a significant research project on PSRs and minority ethnic offenders was viewed as a deficit.

Statistics published annually under section 95 of the Criminal Justice Act 1991 provide an indication of disproportionate outcomes for Black and Minority Ethnic

offenders. These figures suggest that variations occur in terms of decision making in the court process, for example, the likelihood of being committed for trial, trial outcomes and sentencing. On a cautionary note, there are some deficiencies in data provision and completeness. This means it is difficult to disentangle the extent to which these variations reflect decisions taken earlier on in the process, legitimate considerations at point of sentence or other factors. Source: Race and the Criminal Justice System: An Overview to the complete statistics 2004-5 (Nov 2006).

A planned quality audit of PSRs will seek to establish quality comparisons across race and gender divisions. The audit will also be used to identify best practice guidance.

*If not what evidence will you need to collect to assess the impact? (This might be monitoring, evidence from staff networks, evidence from service users, surveys, interviews, focus groups, wider consultation, research at national or area level on impact of similar policies or functions, etc.)*

As indicated above, NOMS OM Team intends to undertake a Quality Assurance audit approximately nine months after implementation.

*How can you be sure you have fully understood potential for adverse impact? Have relevant community members been engaged at all stages in identifying questions to ask, areas of concern?*

It is not possible to be sure of the impact at this stage. Understanding will increase as the policy is implemented and monitored.

*What level of community consultation and engagement has taken place during the impact assessment? What were the results?*

None due to the difficulties of identifying appropriate consultees and consulting with local communities at a NOMS level.

*Overall, how does the policy promote equality, eliminate discrimination and promote good relations?*

There are prompts within the tool and policy to consider moderation in the light of any diversity issues identified.

## 7. Assessment of evidence and action on results

*What conclusions can be drawn from the consultation and the evidence collection?*

Full conclusions cannot be drawn at this stage.

*Support the conclusions by reference to the outcomes of consultation and evidence collection.*

The policy has already been amended as a result of consultation. Quality Assurance auditing could identify any further amendments necessary.

*Is there is a need to change amend or withdraw the policy or practice?*

See section 6

*In what ways will be policy promote good relations, promote equality and eliminate discrimination? Does it need amending to reflect this?*

Operationalisation of the policy links to training and professional competence. Training in assessment and report writing will increase the likelihood of the policy being applied fairly, consistently and in ways which promote equality and eliminate discrimination.

*If so, what action is needed, , by when and who is responsible?*

No further action at this stage.

## D. FOLLOW UP TO IMPACT ASSESSMENT

### 8. Monitoring and management

*How will the policy be monitored to measure the impact of it on the target groups?*

Via the Quality Assurance audit.

*Are monitoring arrangements adequate to measure the impact of the policy in relation to on all groups?*

*Race*

*Gender*

*Disability*

*Sexual orientation/transgender*

*Faith*

*Age*

Monitoring arrangements are in place for the groups described above apart from Sexual Orientation and Faith. This information is not collected. Further work is needed to make use of the data available and to be able to draw meaningful conclusions from it.

*What management structures are in place to ensure effective implementation of the function, policy or practice?*

As stated previously, NOMS OM Team intends to undertake a Quality Assurance audit in the future.

### 9. Publishing the results

*How will you publish the results of the IA and any subsequent monitoring to measure progress?*

*In what formats, aimed at which audiences? If the information accessible to those who need it?*

Publish on EPIC

*How will feedback be given to those involved in consultation?*

Feedback to consultees has taken place, either individually and/or by issuing the revised policy after consultation.

**10. Approval and review**

*Who will give final approval of the impact assessment of the policy or function?*

Richard Mason

*How often will it be reviewed in future – by when and by whom?*

The policy will be reviewed in line with the QA process and by the NOMS OM Team.

Final approval by \_\_\_\_\_ (name)

Date of completed IA and approval \_\_\_\_\_

## **RACE EQUALITY IMPACT ASSESSMENT**

### **Ten key points to ensure a good impact assessment**

The ten steps below are practical suggestions about how to approach the impact assessment process in general to ensure that it is thorough and fully evidenced.

These notes supplement the more detailed guidance in the Home Office Impact Assessment template, to which probation areas should refer for more information if required, as well as the CRE guidance on impact assessment.

#### **1. Establish the local baseline in your area – this will help with all impact assessments**

Who are your service users? Who are your staff? Who are your partner organisations and those to whom you contract services? What do you know about these groups in relation to racial and cultural background, age, faith, gender, etc? Do you have enough knowledge and information about these diverse groups to be able to assess the impact of your policies and practices on each of them? What sort of information might you need to show that you can give detailed consideration to the possible impact?

If you don't have it, how can you get it? What do you know about your local community and sources of advice and expertise that you could tap into? How can you find out? What could be available in your area or at national level, to strengthen local community sources and their capacity to help with the impact assessment process?

Are there any race equality issues in your area which should be taken into account? For example have there been any employment tribunal cases alleging racial discrimination, or complaints from service users or community groups? What well known community concerns are there beyond the probation service – for example any known concerns about policing, or poor community relations – these external factors can affect how the Probation Service delivers its services.

#### **2. Clarify who is responsible for conducting impact assessments**

Will all impact assessments be done by one person, for example, the diversity manager? Or will relevant policy and operational managers carry them up with advice from the diversity manager? How will the assessment be communicated and actioned by senior management? How will the outcome form part of regular performance and management review

processes? Are responsibility and deadlines clearly assigned and are there enough resources available for those responsible to do them properly?

Will impact assessment training be provided for all those responsible for impact assessments?

3. Set up a process for internal consultation – and use it before you start

Given the composition of your staff, who needs to be consulted internally about the impact of policy and practice? Is there already a system in place for consultation? If so how effective is it? And if not can something be put in place *before* the impact assessment process begins? Can staff associations and support groups help?

Use the internal consultation process to help identify potential problems, adverse impact or areas which the impact assessment might need to probe. This framework can be used for all policies and functions.

4. Set up a process for external consultation – and use it before you start

What is the best way for you to involve local communities, faith groups etc? What sort of support from you might they need in order to take this on effectively (resources, access, methods of communicating, frequency of consultation and so on)? Are any existing consultation methods working well and do they include the right people? If not, set up a strong and effective system of regular consultation with local communities.

Some organisations have set up an independent advisory group specifically to assist with impact assessment, by reviewing priorities for assessment, conduct of the assessment, conclusions, and bringing a challenging and fresh perspective which can be very helpful.

Once a good process is in place, consult before you begin the impact assessment to help to identify potential problems, adverse impact or areas which you need to explore.

5. **Decide what questions need to be asked about the policy, function or practice.**

Remember that policies can be unwritten – custom and practice – as well as formal written policies.

What and who does the policy or function affect? How much do you already know about the way it works: has there been any ethnic monitoring in the past, any staff or service users surveys, audit reports or other information? Are there any identified concerns?

Use this and the consultation process above to think through any potential adverse impact of each area: what are the danger points where unfair treatment might occur? How much discretion is involved, and how is this discretion supervised and by whom? How is use of discretion recorded? What management oversight and supervision is in place for the policy or function?

What are the gaps in your knowledge of the impact of this policy or practice and how can you fill them?

6. **Collect the evidence**

Evidence can be from a variety of sources: ethnic monitoring where it is in place, of staff and service users, is one source. You can also carry out surveys or interviews and focus groups specifically to gather evidence for the impact assessment, and collect further evidence from the consultation methods set up earlier in the process. There might have been inspectorate reports, or pieces of local research on a topic. Staff associations and networks may have evidence as may partners and service users.

In the impact assessment you need to describe what the various sources of evidence were; how it was obtained, from whom and what were the key issues (concerns or successes) which the evidence suggests. It is not enough to state that no adverse impact has been identified: the assessment must make clear the basis for that statement: the how, who, what and when of arriving at that assessment.

7. **Act on the results**

According to what the impact assessment concludes, ensure action is taken to amend the policy or function or even produce a new policy or

procedure, and that responsibility and a timetable for action is clearly assigned and implementation is monitored.

**8. Set up and use an effective ethnic monitoring system.**

If the policy or function concerned has not been subject to ethnic monitoring in the past, and has a potential for adverse impact, you need to ensure ethnic monitoring systems are in place. All new policies and functions will also require an ethnic monitoring process to demonstrate year on year that there is no discrimination and that the policy promotes good race relations.

Make sure your local ethnic monitoring system can provide the answers to your own local questions (not just provide data for NPD statistics!) and reflects what you know about your service users and your staff. Make sure that everyone involved knows why they are monitoring and how to do it.

As well as outcomes in terms of statistics ensure you cover the use of discretion at key decision making points: how is it used, who by, who oversees the outcomes. Can you be sure discretion is always been exercised fairly and can you prove that? Provide training for the staff that will collect and analyse the ethnic monitoring information.

**9. Publish the results**

All race equality impact assessments should be made available to service users and staff, perhaps using the Area web site. Feedback and results should also be given to everyone, internally and externally, who was consulted. Publication promotes openness and accountability and encourages further dialogue and debate. Make sure the published results are in a range of accessible formats to meet the diverse range of access requirements.

**10. Keep asking the questions!**

If the ethnic monitoring and consultation is effective, the review process should become part of the routine performance and management processes so that the impact of policy and practice can be continuously reviewed.

Think about additional ways to check for impact and gather evidence as time goes by: annual service users and staff surveys, for example. Use local independent external contacts (for example local universities) to

conduct small scale research projects to validate the ethnic monitoring results.

Impact assessment is an evolving and continuous process. Policy and practice changes and so do people and knowledge and understanding of race and diversity. Setting up a strong system as suggested above will mean the impact assessment process becomes mainstreamed, and can be used as a basis for impact assessment of other diversity strands such as gender, disability, sexual orientation, faith and belief, and age.