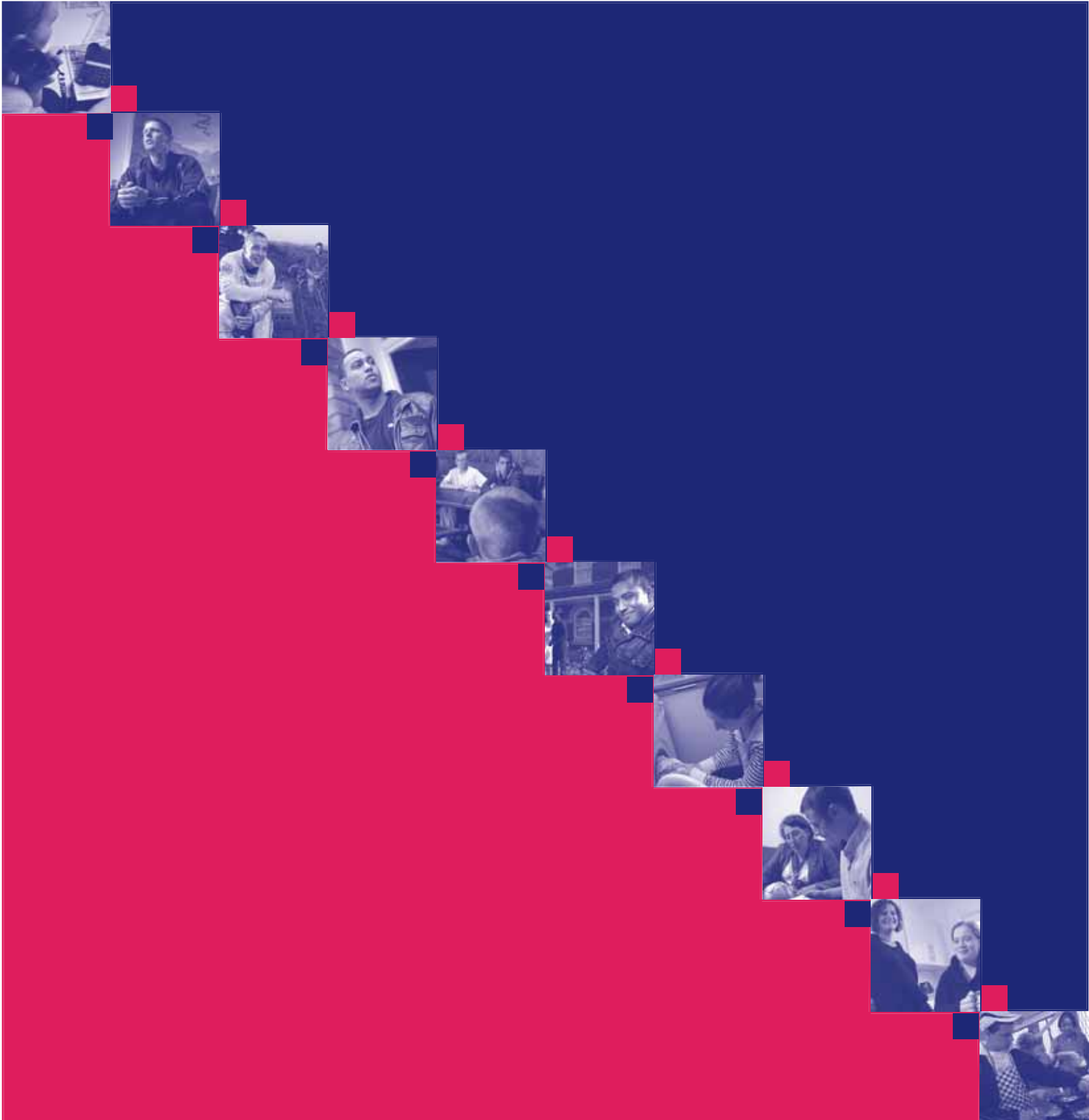




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# Pre-sentence reports for young people sentenced to custody: A Welsh review



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### **Nacro Cymru Youth Offending Unit**

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### **2003**

Nacro is a registered charity  
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Nacro is very grateful to everyone who appears in the photos.  
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## Background

Following consultation with the Welsh Assembly Government and Yot managers in Wales it was agreed that Nacro Cymru's Youth Offending Unit (YOU) would as part of its work programme examine a range of issues in relation to young people that received custodial sentences in 2002. In order to do this the YOU analysed the background, offending history and social circumstances of this group of young people from the Assets obtained from the 17 youth offending teams in Wales.<sup>1</sup> In addition it was agreed that it would review the pre-sentence reports (PSRs) to examine what information was put before the court, for those young people who eventually received a custodial sentence.

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<sup>1</sup> This information has been published as a series of separate briefings under the generic title Reducing custody: risk factors and can be obtained from Nacro Cymru

## Recommendations for report writing

The review evaluated 98 pre-sentence reports against a pro forma that had been developed and used to examine patterns of sentencing in England and Wales<sup>2</sup> (Bateman and Stanley 2002 Patterns of Sentencing Differential sentencing across England and Wales). The pro-forma is divided into seven sections that address the following:

- Reference details/basis of report
- Offence analysis
- Information about the young person
- Risk of re-offending
- Quality of Proposal
- Information contained in the proposal
- General (issues not addressed elsewhere)

Reports were reviewed against more detailed criteria under each of these headings. From this a number of key features have been identified that will assist report writers to produce effective, good quality pre-sentence reports.

### Reference details/basis of report

Report authors should obtain information about the offences that have been committed from the Crown Prosecution Service so that they are aware from official sources what the young person has been charged with. This should be discussed with the young person as part of the preparation for the pre sentence report. Report authors should:

- Indicate whether advance disclosure information was available from the Crown Prosecution Service and if so whether it was fully comprehensive or incomplete.
- Clearly state what efforts had been made to obtain any missing information – who has been contacted and how many times
- Indicate whether the defence solicitor has been contacted as an alternative source for advance disclosure information
- Comprehensively list the range of sources other than the young person that have been consulted in the preparation of the report.
- Indicate that the report was informed by an Asset assessment
- 

### Offence analysis

It is important to give a concise summary of the facts surrounding the commission of the offence(s) for which the young person is to be dealt with. This section should clearly set out:

- What the offence was
- When it was committed
- Provide a concise account of the events that led up to it
- Give an indication of the young person's opinion of why it occurred (for example whether premeditated or opportunistic)
- State whether it was a one off incident or follows a pattern of offending (the same or different in nature),
- Indicate whether the young person's version of events concurred or differed from the CPS version of events.

This methodology should be followed for each offence the PSR is addressing.

Where information is lacking from the CPS either in whole or part, this should be clearly indicated and some idea given of the steps to obtain it. In the absence of any information it should be made clear that what is contained in the PSR is solely based on the young person's account of events and has not been checked or challenged, unless other sources have been consulted and cited.

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<sup>2</sup> Bateman T and Stanley C (2002) Patterns of Sentencing Differential sentencing across England and Wales. Youth Justice Board. London

## Information about the young person

Information should be contained in the PSR that is relevant and appropriate and assists the reader to understand why the young person has offended. The content should be pertinent and focused. When determining relevance it is useful to consider:

- Does the information contribute to an assessment of the offending behaviour
- Is it relevant to what is being proposed
- Is it mitigating – does it present a more positive picture of the young person

The section should also identify the risk and protective factors that are evident in the young person's life and link to the Asset assessment. The author should indicate in what capacity (if relevant) they know the young person. The section should examine relevant information in following areas and where possible ensure that information that is mitigating is included, It should:

- Describe who the young person is living with (for example parents and siblings)
- Comment on the nature of their relationship within the household (for example close and supportive or problematic)
- Include any relevant information relating to the family's situation and circumstances and its likely impact on behaviour, for example tension in relationships, estrangement, financial hardship etc
- Describe any involvement with Social Services, indicating what this has involved and why
- Examine the education or employment status and provide information about significant progress or difficulties (level of attendance, achievements etc)
- Explain how the young person uses their leisure time and who they associate with
- Evaluate the extent to which the use of substances may be impacting on offending behaviour (if appropriate)
- Describe any issues relating to physical, emotional or mental health (if relevant)
- Comment on the young person's outlook on life generally (for example any goals or plans they may have for the future such as to try and stop offending or to stop associating with particular individuals) and in relation to the current circumstances specifically
- Comment on any previous responses to supervision, with any difficulties explained or set in context
- Indicate whether reparation or restorative justice activity is a possibility

Consideration should be given to the level of maturity displayed by the young person in their attitudes, actions and motivation. This is relevant in terms of aiding understanding of their behaviour and considering what interventions might be suitable for them.

## Risk of re-offending

Assessing the likelihood of re-offending is an integral part of preparing the PSR and giving the court an indication of the likely risks the young person may present. Risk assessments should be conclusive and as full and transparent as possible without being unduly negative to the young person. A thorough risk assessment should address the following:

- Discuss the identified risk factors, making reference to the Asset assessment
- Weigh these against any protective factors
- Analyse the young person's offending history to give an indication of increasing or decreasing levels of seriousness and frequency of offending
- Consider whether there is a pattern to the offence types, or whether the offending behaviour is more random
- Weigh up all the information to indicate whether there is a low, medium or high risk of future offending
- Assess what the likely level of harm might be from further offending, for example to whom and in what circumstances
- Provide some indication of the type of intervention that would be needed to address the identified risk factors

Although it may be difficult to assess from a first offence that is serious in nature, what the likelihood of future offending might be, as far as possible this checklist of issues should be applied. Attitude, motivation and the context in which the offending occurred should be fully explored in order to make proper judgements. It is also important to bear in mind that past behaviour is also a predictor of future behaviour.

## Quality of proposal

The proposal should be consistent with the information contained in earlier sections of the PSR and follow logically from the body of the report. A strong argument should be presented for the

preferred proposal. Where courts have given an indication that they wish to consider all sentencing options, the expectation should be that this is followed and the range of disposals the young person might be eligible for should be examined and discussed with an indicator of whether or not they might be suitable and why.

In all the cases examined courts were clearly aware that they had the option to sentence the young person to custody. The role of the report's author at this stage is to set out other options for consideration. Where the court has indicated that the only option might be custody, every effort should still be made to consider other options, to ensure the court is in a position to make an informed decision on the basis of full information.

Reports that presented strong and cogent arguments, had the following features:

- A range of options were presented and the merits of each were discussed objectively
- Authors were clear about what they are proposing and why and a firm conclusion was reached about the most appropriate option
- It was plainly set out in the report what work would be undertaken with the young person on the preferred community sentence
- Any negative impacts on the young person of not pursuing a particular course of action were discussed, such as vulnerability, disruption to family life and interference with other aspects of the young person's life (of custody in particular)
- Authors argued against custody and clearly stated why they felt this was not a good option
- If there were any doubts about compliance they were clearly expressed
- Authors used positive language and addressed the issues in a factual and objective manner
- There were clear indications of how the proposed community sentence would reduce or minimise further offending and why it was appropriate in that instance

### **Information contained in proposal**

Fully comprehensive proposals are likely to indicate to the court that time and effort has been spent in considering how they young person can be effectively managed in the community. This suggests that there needs to be more information than simply indicating what the preferred option might be, or to merely state that the intervention would meet the requirements of National Standards, without providing any further detail. The most comprehensive proposals:

- Listed the individual elements that would be addressed in a programme of supervision and were clearly linked to previously identified risk factors and how they could be reduced
- There was specific detail about the level and duration of contact of individual elements of the plan of supervision
- There were clear indications about who would carry out each element of the proposed work, named by agency, organisation or individual
- Where the proposal was for a community as opposed to custodial penalty the reasons why this was a better option were clearly explained.

In cases where custody was likely to be the outcome, the following factors should be considered and addressed:

- The young person's vulnerability and ability to cope with a custodial environment
- The impact of separation on the relationship with their family, notably in terms of maintaining contact and future arrangements, for example where they will live on release
- The effect of disruption to education, training or employment should be taken into account in terms of the young person's current situation and future prospects
- How the sentence would assist in preventing offending and assist the young person to deal with the negative influences in their life

### **General**

As a final observation, pre-sentence reports should:

- Be written using the standard headings and format set out in the National Standards for Youth Justice (2004). This should be the case even if the young person has not attended an interview to indicate to the court consistency of approach and that all relevant information has been taken into account and considered by the author
- Be written to ensure that the language used to describe the young person is non-discriminatory, avoids stereotyping and is free from assumption, value judgements and jargon. It should paint a balanced picture of the young person and draw attention to any mitigating factors.

- Care should be exercised when describing a young person as a persistent offender. Whilst persistency forms part of the criteria for sentencing a young person aged 12 to 14 years of age to a detention and training order, it is for the court to decide whether a young person is a persistent offender and not the author of the report
- The points made should be clear, unambiguous and made with firm commitment
- The report should be concise and contain relevant, factual information, with sources appropriately cited
- Indicate that the statutory aim to prevent offending has been addressed as a constant theme throughout the report

Further information on this subject can be obtained from the second edition of the publication Pre-sentence reports for young people (2003), by contacting Nacro Cymru.

## Introduction

National Standards for Youth Justice (2004) state that the purpose of a pre-sentence report (PSR) is to “*provide information to the sentencing court about the young person and the offence(s) committed and to assist the court to come to a decision on a suitable sentence.*”

A PSR should be produced within 15 working days of the court requesting one, unless the subject of the report is a persistent young offender (PYO)<sup>3</sup> or they meet the criteria to be considered for an Intensive Supervision and Surveillance Programme (ISSP)<sup>4</sup>. In these cases the PSR must be produced within 10 working days of request.

National Standards for Youth Justice (2000) were applicable at the time that these reports were written. These standards required that PSRS were written using the following standard headings (section 6.8):

- Sources of information
- Offence analysis, including what is known about the impact of the offence on the victim and assessment of the offender’s awareness of the consequences to self, family and any victims
- Offender assessment
- Assessment of risk to the community, including risk of re-offending and risk of harm
- Conclusion

The PSRS that have been assessed have been sampled against these criteria. However it should be noted that the National Standards for Youth Justice were revised in 2004. The new Standards made some alteration to the format (section 7.10), which stated that there should be:

- A front sheet
- Sources of information including whether an Asset has been completed
- Offence analysis, including the impact of the offence on victim(s)
- An assessment of young person
- An assessment of risk to the community, including the risk of re-offending and harm
- A conclusion including the proposal for sentencing

It should be noted that the offence analysis and the impact on the victim specifically has subsequently been amended<sup>5</sup> to reflect the fact that the offence analysis will include “*an assessment of the victim’s wishes regarding, and willingness to engage in, reparation and restorative justice interventions. Information regarding the impact of the offence on the victim can be taken from CPS papers, or from Victim Personal Statements only*”. This is more fully discussed in section in the offence analysis section and more specifically in relation to the question “is the impact on the victim assessed?”

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<sup>3</sup> A persistent young offender is a young person aged 10-17 who has been sentenced by a criminal court in the UK on three or more occasions for one or more recordable offences, and within three years of the last sentence is subsequently arrested or has information laid against them for a further recordable offence.<sup>1</sup>

<sup>4</sup> To meet the ISSP criteria a young person must be appearing in court charged with, or convicted of, an offence and must have previously been charged, warned or convicted of offences on four or more separate dates within the last 12 months. Additionally they must have previously received at least one community penalty or custodial penalty at any stage. Young offenders can also qualify for ISSP if they are at risk of custody because: i) the current charge or sentence relates to an offence which is sufficiently serious that an adult could be sentenced to 14 years or more; ii) they have a history of repeat offending on bail and are at risk of a secure remand under section 130 of the Criminal Justice and Police Act 2001.

<sup>5</sup> Letter to YOS managers from the Youth Justice Board (10<sup>th</sup> December 2004) Victim assessments in PSRS

## Methodology

In undertaking this research YOU had identified that there were 500 custodial sentences imposed on young people in Wales in 2002. PSRs were requested for each of these sentencing decisions and in total 327 were made available from the Yots. Where PSRs were not available it was due to the fact that the young person may have been sentenced on a previous PSR, the report had been destroyed or were simply not available.

It was decided to sample a selection of those made available. 30% were chosen (n=98) in a random selection designed to maintain the 30% weighting across the Yots and the four criminal justice areas in Wales. The details are contained in Appendix A.

PSRs were audited using a pro forma that had been developed to examine patterns of sentencing in England and Wales<sup>6</sup> (Bateman and Stanley 2002 Patterns of Sentencing Differential sentencing across England and Wales). The pro forma is contained in appendix six of that report, which can be down loaded from the Youth Justice Board website.<sup>7</sup> The pro-forma is divided into seven sections:

- Reference details/basis of report
- Offence analysis
- Information about the young person
- Risk of re-offending
- Quality of Proposal
- Information contained in the proposal
- General (issues not addressed elsewhere)

These headings broadly relate to those used in National Standard with additional ones that examine the overall quality of the report and other issues, such as discrimination not specifically examined elsewhere. Each section of the pro forma is sub-divided into a number of sectors (between five and eight in number), which are in the form of questions, which request more detail about the particular area of the PSR being assessed. In reviewing the contents of the PSRs examined the assessor is required to respond to the questions with *Yes*, *No* or *Not Applicable* and to use the answers recorded to give each section an overall score of between 1 and 5 in relation to the quality of the information provided. The assessment tool has been written so that an affirmative response always indicates a positive aspect of a PSR.

The possible scores are:

1. Excellent
2. Good
3. Satisfactory
4. Not Satisfactory
5. Poor

This report will address each of the sections of the assessment tool commenting on issues that arose in each of the sub-sections. At the start of each part is a brief summary of the main considerations followed by an examination of the main issues that arose when examining the reports against the specified questions. At the end of these descriptive sections there is a section that indicates what scores were given for each aspect of the reports, which reflect the overall quality of the data examined (see section entitled *Assessed Scores*).

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<sup>6</sup> Bateman T and Stanley C (2002) Patterns of Sentencing Differential sentencing across England and Wales. Youth Justice Board. London

<sup>7</sup> [www.youth-justice-board.gov.uk](http://www.youth-justice-board.gov.uk)

## Information about young people whose pre-sentence reports were assessed

In terms of basic information about the young people sampled, there were 8 girls and 90 boys in the sample. In terms of age:

- 3% of young people were 13 years of age
- 11% 14 years of age
- 24% 15 years of age
- 16 and 17 year olds 31% each respectively

Four young people had ethnic backgrounds other than white British.

32% had committed violent offences (robbery, assault and GBH etc) 31% had committed motor related offences (TWOC, allowing self to be carried and driving whilst disqualified) and 15% burglary. The remaining 12% had committed a varied range of offences. There was one serious sexual offence in this sample (unlawful sexual intercourse). 10% of the sample had committed offences with a gravity score of 7 (all violence related) and 16% with a gravity score of 3 (for example less serious assaults, theft and allowing self to be carried). 74% of offences fell within the gravity band four to six.

Information about previous offending history (from Assets) was available in 35 cases. Of these 8 young people had no previous convictions, 5 had two or three previous convictions, 10 had between four and five, 7 had between six and seven, 2 between eight and nine and 11 had ten or more previous convictions.

The Youth Justice Board introduced Asset as the standard assessment tool that is used by Yots to identify the risk and protective factors that are present in a young person's life. When there is a request for a court report such as a PSR an Asset assessment must be undertaken.<sup>8</sup> The Asset has 14 sections, which examine different areas of a young person's life, for example living arrangements, family and personal relationships etc. Practitioners are asked to rate the extent to which identified problems within each section are associated with a risk of re-offending. The rating scale ranges from 0, which is no association at all to 4, which is a very strong association. The ratings for each section are added together to give an overall picture. The higher the score, the greater the assessed risk of re-offending.

In terms of the Asset profiles of the young people who PSRs were examined:

- 9% had an overall score of less than ten
- 26% of between ten and nineteen
- 36% of between twenty and twenty-nine
- 16% of between thirty and thirty-nine
- 5% of over forty

With two exceptions all those who had at least 6 previous convictions had a minimum Asset score of 27. However the scores for those with less than 6 previous convictions were much more randomly spread, ranging between 9 and 46. Similarly where information was available about those with no previous convictions the range of scores was between 10 and 30. Information was only available about the previous convictions for 2 of the young people with scores under 10 and neither of these had more than two previous convictions.

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<sup>8</sup> National Standards for Youth Justice (2004) section 4.1

## Reference details/basis of the report

One of the most important sources of information for a PSR author is information about the offence, which is available from the Crown Prosecution Service (CPS). This information should be obtained prior to the interview with the young person, so that when discussing their version of events it can be compared with that which has been officially recorded to either confirm or challenge it. This section was examined to assess the availability of CPS documentation and the steps taken, if necessary, to obtain it.

In 85% of cases report authors indicated that they had examined this documentation as part of the process of compiling the PSR. However in fifteen reports it was indicated that advance disclosure information was not available. This was because two reports did not contain a section on sources. In seven cases there was no reference to CPS documentation and it was not possible to identify whether it had been available or it had been omitted when compiling the list of sources. A further six reports indicated that what had been received was incomplete as it did not relate to all the offences under consideration or some of the documentation was missing (for example the transcript of the police interview).

In a further six reports it was mentioned that CPS documentation had not been received. Only one report mentioned making repeated requests to obtain it. Where documentation was missing there was generally no mention of any action taken to ascertain the information from anyone other than the young person. As a result these reports relied solely on the young person's version of events. Given that all these reports related to serious matters where custody was a consideration, it is important that efforts are made to get the required information. For example one option would be to contact the defence solicitor. If the author does not have a clear view of what the court is sentencing the young person for, they are not in the best possible position to consider the likely alternatives.

Although not specifically addressed in the assessment pro forma, one of the requirements of National Standards is that PSR authors cite the sources they have examined when preparing the report. There was wide variation in terms of how this was addressed. The least comprehensive reports only referred to an interview with the young person and access to CPS pre sentence disclosures. As mentioned two reports contained no information about the sources that had been consulted.

The most comprehensive reports listed a wide range of sources and included some or all of the following (as appropriate and relevant to the individual case):

- The interview with the young person (the number of times were generally specified such as one intensive interview or seen on three separate occasions)
- Interview with parents/carers (personally or by telephone)
- CPS disclosures regarding the offence and other relevant documentation (witness statements)
- PNC print out of antecedent history
- Liaison with the young person's solicitor
- Sight of CCTV video footage that related to the offence
- Discussion with colleagues within the Yot who may have had contact with the young person as a supervising officer (specified by name)
- Discussion with victim mediation officer/support worker or the Yot police officer or equivalent and in some instances the victim themselves
- Information from the education provider (if of statutory school age)
- Review of relevant case files and records held by the Yot such as previous PSRs
- Specific mention of Asset informing the content of the pre sentence report
- Indication that the report has been informed by assessments undertaken by specialists (for example health or education)
- Discussion with ISSP team where it was evident the young person met the criteria and where this was being considered as an option in the report
- A progress report or discussion from those that may have supervised the young person during a remand on bail
- Discussion with staff at the secure facility in which the person was being held if on remand or serving a custodial sentence for a previous matter
- Previous personal knowledge of the young person as a supervising officer

Also of note is that a small number of reports indicated that there had been discussion of the report with an operational manager within the Yot. This mechanism appears to be in place in a number of Yots and indicates that the Yot reviews cases that are likely to attract custody as part of a quality assurance process. Others clearly indicated there was such a process in place within the Yot and reports were subject to internal scrutiny prior to submission to the court.

National Standards for Youth Justice (2000), which were in place when these reports were written, specified that before any intervention is undertaken with a young person that an Asset assessment should be completed. When analysing the sources cited, consideration was given to whether Asset was specifically mentioned, even though it was not a specific requirement that it should be at this stage. In fourteen reports it was mentioned as being reviewed, informing or having been completed as part of the process of compiling the PSR. Although not mentioned in a number of other cases it is likely that when reference was made to checking case records this would have been one of the records specifically reviewed. National Standards (2004) now specifically require that PSRS are based on an Asset assessment (section 7.3) and that sources must cite whether one has been completed (7.10).

## Offence analysis

The aim of the first main section of the report is to outline the facts surrounding the commission of the offence, which were accepted by the court at the point of sentence and to give an account from the young person's perspective, highlighting any differences from the CPS version of events. The overall consideration for this section is whether it conveys a convincing assessment of how and why the offences were committed (and not merely a description). It should complement other information given about the young person, and form a useful basis for an assessment of risk and an early indication of what a suitable sentence might be. The section should:

- Provide the court with an understanding of why the offence was committed and not simply repeat the prosecution's version
- Give an independent assessment of the seriousness of the offence, with reference to mitigating or aggravating features
- Indicate to the sentencer whether reparation or restorative justice activity is a possibility

### **Are agreed/found facts clearly outlined?**

The first part of the analysis sought to identify whether the facts of the case were clearly outlined in the PSR. In general this was satisfactorily addressed in reports, with 68% clearly setting out what the offence was, when it was committed, providing a concise account of the sequence of events that led up to it, an indication of the young person's attitude to what had occurred and information about whether their version of events concurred with or differed from the CPS version.

Authors were sometimes faced with difficulty where the young person disagreed with the account, denied involvement in the offence or could not remember what had happened either because of the substances they had consumed or as in one case because the young person was not sure which offence he had pleaded guilty to. Young people's recollections could also be vague in instances where they were being sentenced for a number of offences, that had been committed at different times. For example in one instance the young person had breached a community sentence order and was being re-sentenced for the original offence, which had been committed over a year ago. In these cases authors reported the facts that were made available to them and commented as far as they could in relation to the information that had been obtained from the CPS or other sources.

Where reports were assessed less positively it tended to be because PSR authors provided very basic information about the offence(s) and what had occurred in terms of context and detail, giving little or no information from the young person's perspective. Additionally they did not make specific reference to whether the young person's account of the offence differed or agreed with the CPS version.

### **Is offence placed in context, which assists in understanding of why it occurred?**

The PSR author has an opportunity to present important information to the court, which will not appear in the CPS report, notably in placing the offending behaviour in the context of the young person's life and events. The aim should be to present an analysis and not a description.

On the whole reports (68%) provided an adequate amount of contextual information. They put the offending behaviour in perspective by describing the events that had led up to the offence being committed, included information which was directly relevant to explaining the occurrence of the offence, such as, the young person's attitude and motivation and any mitigating or aggravating factors. They also described other relevant reasons such as the influence of drugs or alcohol or made links to events that might have had an impact on behaviour such as a recent bereavement or the loss of income (due to a training placement coming to an end), which had resulted in offending to obtain items to sell for cash. These reports also offered comprehensive explanations of what had occurred from the young person's perspective

Where reports were assessed less positively authors had confined themselves to a simple factual account of the offending that were minimal in detail or conversely provided overly analytical descriptions of events. This group of reports also placed less emphasis on the context in which the offending had occurred or made little or no reference to the young person's viewpoint.

### **Does the report convincingly assess level of culpability/premeditation?**

The majority of reports (74%) addressed the issue of culpability and premeditation well. The most useful information in terms of understanding why the young person offended was the personal insight they had about their own behaviour. This could give the author an indication of whether the young person understood whether they knew what they were doing was wrong or whether the actions were considered acceptable and the norm within their circle of peers. Other relevant information was whether the young person had considered the effect on the victim and their family and whether on reflection they felt any remorse.

In the majority of cases PRS authors recorded the fact that the young person knew that they had done was wrong and expressed contrition. They explained why this was the case or how this viewpoint had come about, which was generally by the young person being encouraged to reflect back and think about what had occurred. Within the sample there were three reports in which it was recorded that the young person had refused to discuss the offence. In two cases the reasons why were explained; extreme agitation and in the other frustration at being repeatedly being questioned. In another two cases the young people had poor recollections due to the fact that they had consumed various substances before offending and another who was generally described as uncommunicative and needing continual prompting.

In terms of whether acts were deliberate, planned, opportunistic or impulsive PSR authors tended to rely on the facts of the case to indicate what might be the case. For example setting out with the clear intention of shoplifting, acting out of boredom, or the young person finding themselves in a situation where they chose to act irresponsibly or recklessly for which they were unable to offer clear explanations.

### **Where there are previous convictions, is the pattern of offending analysed in a convincing manner?**

Reports obviously have to concentrate on the current offence(s), which are the most important as these are the matters for which the court has to consider an appropriate sentence. Previous patterns of behaviour and offending history can provide the court with a fuller picture of the young person's current situation and circumstances and can be taken into account when assessing the seriousness of the current offences.

With regard to cases where there were previous convictions only 55% of reports contained an analysis of the pattern of offending as opposed to simply listing previous convictions. The reports that scored well in this respect listed the previous offences, noted issues such as increasing or decreasing levels of seriousness of offending, commented on increasing or decreasing frequency of offending and any changes in the type of offending. Although reports generally did not meet this standard, those that contained comprehensive lists of previous conviction also scored positively.

With regard to the reports that did not fully address the matter of previous patterns of offending, this was generally because the whole PSR required close reading to ascertain what the previous convictions were. In other cases previous convictions were referred to, but not explained or referred to in the '*Risk of Re-offending*' section or there was no mention either way of whether there was a previous history. However, if the young person had no previous convictions it was stated.

### **Does the PSR outline the consequences of the offence for the offender, family and victim?**

The majority of PSRs did not fully outline the consequences for the young person, their family or the victim of continued offending. Only 46% of PSRs mentioned the consequences for all three parties, such as having empathy for the victim through the realisation that they had caused them stress or harm, understanding that their offending behaviour was causing their parents or family distress and having some understanding of the negative consequences of continued offending for themselves.

### **Is the young person's attitude to the offence assessed?**

Almost every report (90%) addressed the young person's attitude to the offence with the PSR author offering some explanation for why they thought the offending occurred. In a number of reports this information was supplemented with information from family members. Where this was included it was appropriate and used to support the issues being discussed.

Authors discussed the young person's attitude to the offence in terms of whether they accepted responsibility for it, or there being a recognition that the consequences of further offending could lead to negative outcomes such as custody or that their actions were inappropriate or anti-social.

Reports also indicated if the young person lacked insight into the effects of their behaviour, or if they felt they were acting reasonably in reaction to provocation, or blamed co-defendants for what had occurred thereby minimising their own involvement. In cases where the young person denied the offence, the reasons were also cited such as admitting guilt out of fear or on the advice of a solicitor, or because they could not fully recollect the offence as they had been under the influence of substances or because there had been a lapse in time between the offence being committed and the PSR being prepared. In two cases the young people concerned categorically refused to discuss their offending. This section also generally assessed the young person's preparedness to work with the Yot and whether they were co-operative and communicative.

Where reports scored less positively it tended to be because there was less information to analyse or the author appeared to have written the report more from their personal viewpoint than that of the young person. Within the sample there were four reports that were written from limited information, as the young person had not attended an appointment with the author and six where the author indicated that the young person had been uncommunicative.

### **Is the impact on the victim assessed?**

Reparation is an integral element of work with young people involved in the youth justice system and as such PSRs need to consider whether reparation could be an element in a community programme.

There was generally a lack of information in reports about the impact of the offence on victims with only 35% of reports specifically addressing this issue. A small number of reports were unable to get a response from the victim before preparing the report. Where information was included it was generally a short statement that indicated whether the victim had been contacted and whether or not some form of reparation was a possibility or not (and the reasons why). It was also likely to include what the view of the victim was to the offence in terms of fears, concerns, damage incurred or injuries sustained. It was noticeable in reviewing these reports that the views of victims were generally not punitive.

A number of reports contained a short discrete section or paragraph sometimes entitled "*Effect on the victim*", which outlined the offence from the victim's perspective and the young person's indicating what a possible way forward might be. One report indicated that the assessment of the impact was taken from information provided in CPS papers, and included a statement from the PSR author that "*there must have been an impact on the victim's children*" as they had witnessed the assault on their father. Although this may be the case, this is not an objective analysis of the impact on the victim.

The comments made in this section relate to the position prior to the recent changes that have been made to the National Standards for Youth Justice.<sup>9</sup> As indicated in the introduction the PSR author is no longer required to assess the impact of the offence on the victim. This is because it is contrary to the Lord Chief Justice's 2001 Practice Direction,<sup>10</sup> which states that the means by which this should be done, is through Victim Personal Statements (the formal means by which a victim has the opportunity to say what effect the crime has had on them) or through an expert's report, for example a member of the medical profession. The police should offer all victims the opportunity to make a Victim Personal Statement (VPS), once they have completed the witness statement. It can be completed at the time or at a later date.

The VPS or expert's report should be provided to the defence solicitor prior to the case being heard. This means that it is available for scrutiny and can be open to challenge, as with any other evidence put before the court. Where information was provided in a PSR it was in effect introducing new "evidence" based on the Yot worker's interview with the victim. As a result the Youth Justice Board in conjunction with the Department of Constitutional Affairs and the Home Office have determined that any Yot involvement with the victim should focus on the victim's views and willingness to engage in reparation or restorative justice activity. When considering the consequences of the offence on the victim, any information that might be relevant to the PSR should only be taken from the CPS statements or Victim Personal Statements, as opposed to discussion with the victim. The extent to which VPS are being completed is unknown, but it is apparent that without these documents there may be a lack of information that could be included in the PSR.

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<sup>9</sup> Letter to YOS managers from the Youth Justice Board (10<sup>th</sup> December 2004) Victim assessments in PSRs

<sup>10</sup> Lord Chief Justice's Practice Direction 2001, incorporated into the Consolidated Criminal Practice Directions (pt 3 para 28.1 and 28.2)

## Information about the young person

The aim of this section is to provide information about the social, personal, environmental and cultural factors in the young person's background and the extent that they are relevant to the current offence or to the pattern of offending behaviour. The amount of detail that is relevant and appropriate to each case and individual that should be included in the report is likely to vary considerably.

Issues that were taken into consideration when reviewing this section were whether the information about the young person enhanced the earlier offence analysis and suggested what forms of community penalty the young person might be suitable or unsuitable for. Also under consideration was whether the information presented came across in a balanced way that was not unduly negative. The report should come across as an independent assessment of the young person, which provides an understanding of the offending behaviour and helps to identify what penalties may be suitable.

## Does the PSR include relevant details of the young person's personal circumstances and family background?

97% of reports contained information and analysis of the young person's family, personal and social circumstances. The level of detail varied enormously, but in a small number of instances it appeared to be bordering on the irrelevant, for example by going into exhaustive detail about the education or employment status of the young person's siblings. Too much or too little information can be potentially damaging to the report as it can create a more negative picture of the young person than is actually the case. The thread of the argument can also be lost in too much unnecessary detail. As a result it is important to keep the content pertinent and focused. When determining relevance it is useful to consider:

- Does the information contribute to an assessment of the offending behaviour
- Is it relevant to what is being proposed
- Is it mitigating – does it present a more positive picture of the young person

If information is included that does not meet one or all of these tests, the question has to be raised as to why is it being included and this should be an important issue for those gate keeping the quality and appropriateness of reports.

Where this section was well written it contained information that is relevant to the proposal being argued for and had a clear link to any issues the Asset assessment had identified. Depending on the young person's circumstances information is likely to come from some of these sources, but it should be noted that this is not intended to be a list of information that might be relevant or appropriate in all cases.

- A description of who the young person was living with (for example parents and siblings)
- The nature of their relationship within the household (for example close and supportive or problematic)
- Inclusion of any relevant information relating to the family's situation and circumstances and its likely impact on behaviour, for example tension in relationships, estrangement from a parent, financial hardship etc
- Any involvement with Social Services and why
- Contact and relationships with external family that was relevant and significant
- Education or employment status and any significant progress or difficulties (level of attendance, achievements etc)
- Use of leisure time and who the young person associates with
- Use of substances where they may be impacting on offending behaviour
- Health issues where relevant
- Outlook on life generally and in relation to the current circumstances specifically
- Previous responses to supervision

In the few cases that reports did not score positively the details provided were scant and gave very little useful information about the young person's background and offered little or no analysis of their situation and circumstances. For example one of these reports commented on the fact that the young person found it difficult to regularly attend sessions whilst under supervision of the Yot. It made reference to a chaotic lifestyle without stating whom this young person was living with and in what circumstances. The report also described the young person as lethargic, without offering any further information about how they had come to this decision. The offences being considered were shoplifting and there was no mention of how the young person supported themselves financially, which might also have been relevant.

### **Does the PSR include relevant details of the young person's future plans and goals?**

In 74% of reports there was no mention of future goals. It is not clear if report writers did not refer to this from omission or because they did not address this matter with the young person or want to highlight the fact that the young person did not have any plans for the future. From inference some of the young people described were leading very chaotic lives and as a result were unlikely to have little thought of the long term future. This in itself would be a fact worth mentioning when set within the context of the need to prevent offending and to indicate areas for potential intervention. If the young person has given any indication that they want to stay out of trouble, or want to stop taking substances or stop associating with offending peers these facts are worth noting.

### **Does the PSR include relevant details of education and employment?**

89% of reports provided information about education and employment, although the level of detail they contained varied considerably. The most comprehensive provided a description of where the young person went to school, what they attained, whether there were any problems or difficulties, whether they had engaged and attended and general observations about their relationship with the school or education provider. If the young person had left school there would be a similar approach to any further education, training or employment that they were or had been engaged in.

Other reports that were less comprehensive just contained a brief statement such as education being non-existent or that the Education Department had been involved with the family without offering further information.

In nine reports there was no mention of education or employment. It was possible to identify from the Assets of these young people that five were 17 years of age (three were unemployed, one in further education and one has casual employment). Three young people were 16 years of age (one of whom was unemployed, however no information was recorded for the other two). One was 14 years of age and receiving education in a specialist unit. Four of the young people had an Asset rating of 3 or 4 relating to either education or employment, which suggests some comment would have been expected.

### **Is background information presented in a fashion, which assists in understanding current and/or previous offending?**

82% of reports provided information which assisted in understanding the young person's offending. The best examples included information from a variety of sources such as the young person themselves, their parent/carers(s) and other members of the Yot or agencies that had previous or current contact with the young person. They also reviewed the information available within the context of risk factors and their relationship to offending behaviour by examining the young person's family circumstances, education or employment information and any other factors that might have a bearing on their offending behaviour such as problems with drugs and/or alcohol; the young person having been a victim of crime or abuse; having learning difficulties or problems with literacy and basic skills and other factors such as associating with offending peers.

Where reports addressed this less well they confined the detail presented to very brief factual descriptions of the young person's immediate circumstances. Some of the more basic descriptions of background information were contained in reports that had been prepared in the young person's absence. However as the Yot had previously known all of these young people, case records could have been more extensively used to provide background information. It was also noted that there were a few reports where the young person and their family were not forthcoming and the details included in these reports were therefore limited, again any known information could be reviewed to inform the current position.

### **Is the young person's level of maturity assessed?**

Only 32% of reports sampled explicitly mentioned maturity or immaturity within the context of attitudes and behaviour. One example made reference to the fact that the young person lacked maturity and as a result was unable to take control of his life and to sustain relationships that could be supportive and help him to stay out of trouble. Another report cited the fact that the young person's level of maturity and low self-esteem made acceptance by a peer group extremely important to him.

On the whole maturity was rarely specifically mentioned, although the behaviour and attitude of the young person was often discussed from which assumptions could be made. For example one report made reference to the young person developing leisure interests and increased motivation to move away from pro criminal associates, which suggested an increasing awareness of different lifestyle choices and growing maturity. The mention of maturity or immaturity could not be relevant when considering the suitability of a particular intervention for that individual.

**If there are previous convictions, is the young person's response to previous disposals assessed?**

The young person's response to previous disposals was addressed in 66% of reports. The comments were usually a factual statement to the effect that the young person had, for example, co-operated with a community sentence, was motivated and positive in attitude or had not offended. Where the opposite was the case, PSR authors did not always set any failures in context, which would have been helpful in assessing the future likelihood of compliance. Whether the young person has a previous offending history or not, their current attitude and motivation should be assessed when community sentences are under active consideration.

**Is irrelevant material excluded? i.e. is all information relevant to offending, risk of re-offending, suitability for sentencing options or personal mitigation?**

94% of PSRs were assessed to contain relevant information. The issue of whether reports contained irrelevant information is difficult to assess and the level of detail about family background and other information has to be left to the judgement of the report's author who is better able to assess the relevance of matters. Omitting relevant facts (such as information about education and employment previously discussed) rather than including irrelevant ones may be more of an issue.

## Risk of re-offending

The factors that are relevant when considering the risk of re-offending is whether the risk assessment is convincing and conclusive in the light of the earlier sections of the report without encouraging a more serious disposal than would be justified on the basis of their offending history. The section should also lead logically to the consequent discussion of what would comprise a suitable penalty that would reduce the risk of offending.

### **Is there an assessment of the likelihood of any further offending?**

Any PSR where there was a statement, however qualified, of the likely risk of re-offending was assessed as having addressed this issue and this applied to 91% of the sample. Although almost every report contained a section on risk to the community (including risk of re-offending and harm), not every report contained a full assessment of risk. In these cases the section consisted of a discussion of the risk factors but authors did not commit themselves to any firm conclusions about the level of risk and likelihood of re-offending in the future.

Where the issue of risk was addressed well in reports it included a discussion of the factors (sometimes making reference to the Asset assessment) such as substance misuse, chaotic lifestyle or association with pro-criminal associates and weighed these against likely protective factors such as being in employment or education; having a supportive family or an indication from the young person that they intended or wanted to stop offending. The young person's offending history would be analysed and factors such as increasing or decreasing seriousness and the frequency of offending weighed up to form an opinion of whether there was a high, medium or low risk of re-offending in the future. A number of reports referred to the level of risk that the Asset assessment had identified.

Where the issue in question was a first offence, the report always stated that this was the case and report writers indicated that predicting risk in these instances was sometimes difficult, as there was no history on which to base decisions. However, one of the indicators of risk is past behaviour and if there is no past history, this suggests that the actions may have been out of character and may not be repeated. This makes it important to fully explore the young person's attitude and motivation and to understand the context in which the offence occurred.

### **Is there an assessment of the likely harm arising from any further offending?**

Generally there was not an assessment of whether there was likely to be harm arising from further offending, (to whom and in what circumstances) and only 40% of reports were assessed as having addressed this. This might be understandable for young people who were being dealt with for property related offences and who had no history of violent offending. However as a third of reports related to cases involving GBH, assault or robbery etc where there may well be risks to others and a further third related to vehicle and motor related crime where there may be risks associated with being an unskilled or reckless driver this is perhaps surprising.

Where there was an assessment of likely harm it tended to be in the form of a statement about the likely risk to the young person from emotional problems, self-harming or reckless behaviour. Reference was sometimes made to the risk of harm to specified individuals or groups such as the young person's own family. Where harm to the public was cited it tended to be cited in relation to being under the influence of drugs or alcohol. One example indicated that the young person "*was capable of inflicting serious harm and must be seen as a dangerous young man*". Another report that was dealing with breach explicitly noted that there was no risk to the public as the problem lay with the young person not wishing to comply with the requirements of an order.

### **Is the likelihood of further offending distinguished from the likely seriousness of any further offending?**

Only 10% of reports contained an assessment of whether any further offending would be likely to be more or less serious than what had previously taken place. The reasons for coming to this view were not always fully explained and would only have been evident from reading the whole report. Where there was an assessment of no risk or a very low risk of further offending, an assessment of future seriousness was usually not addressed.

Where assessments concluded with a firm view about the future risk of offending they tended to explore the link between risk factors and offending suggesting that if the risks could be managed the likelihood of re-offending would be reduced. Alternatively they might indicate that

offending was inevitable if factors such as reliance on substance misuse could not be reduced or developing improved coping mechanisms could not be increased by the individual, as opposed to predicting the level of seriousness of offending if it continued.

**Does the PSR indicate what forms of intervention would reduce the risk of re-offending and/or harm?**

In 36% of reports, the author described what changes the young person would need to make to their behaviour to reduce the risk of harm or re-offending. In these instances report authors listed the main risk factors they had identified and gave an indication of the type of intervention that would be required to address them. If appropriate, they also indicated whether any work had already started (for those already under supervision). Authors also expressed a view about the young person's attitude and motivation, stressing any positive factors and tended to conclude with a statement to the effect that if these issues were worked on they could diminish the risks that were present.

That said, the majority of reports tended to state what the problem was for example, "*will need to overcome his alcohol problem if he is to avoid further offending*" but did not say what intervention might help the young person to achieve this. Others included general statements about needing to work with the youth offending team to minimise the risk of re-offending without being clear about what that might entail and why "*with the right support and encouragement, it could be that future risk is reduced*". Some catalogued previous offences but made no link to appropriate interventions. Others explained some of the issues but gave no firm conclusion to support what degree of risk the young person might present "*in view of his admission to giving in easily to peer pressure and his immaturity a risk of re-offending has to be acknowledged*".

**If the offence is a sexual/violent one, is the information adequate to indicate level of risk and how it would be managed?**

This issue was not relevant to all the reports, as only one third of reports related to violent or sexual offences. Of these 23% indicated how the risk would be managed. On the whole the information presented was poor in terms of setting out how any risks would be dealt with. There were some examples, which merely expressed the fact that "*with professional intervention, the risks of re-offending could be reduced*". One report indicated that the young person said he wanted to stay out of trouble provided enough evidence to suggest that the risk of re-offending was therefore reduced.

Authors tended to record the fact that risk factors were present that indicated further offending, but did not always clearly spell out what could be done to manage and support the young person to minimise them. It was fairly common for there to be a statement to the effect that the young person needed to demonstrate a commitment and self motivation to move away from their present pattern of offending. Where the offence was a first offence, practitioners tended to comment on the unpredictability of the type of offence, the fact that it was serious and to indicate that the young person had the capacity to offend in this type of way, rather than the reverse that would indicate that there was no history in this respect and the incident could be seen as a one-off.

There was one serious sexual offence within the sample and the risk assessment in this instance was comprehensive in setting out what the young person's personal risk factors were, indicated that there were concerns about escalating behaviour and the ensuing risk to the public. The author referred to the rating identified in the Asset assessment and then set out the detailed arrangements that would be put in place to manage the young person in the community, suggesting a range of measures that were designed to assist the young person and to minimise the risk presented.

## Quality of proposal

The proposal should be consistent with the information contained in the earlier sections of the PSR and be informed by the earlier assessments in a way, which suggests that it would reduce the further offending/harm.

### **Is there a clear proposal for a non-custodial sentence?**

In terms of the breakdown of proposals contained in the PSRs; 82% made reference to community disposals, 15% proposed custody and one a hospital order. However, not all of those that related to non-custodial sentences were clear proposals for this option (the hospital order excepted).

Of the 15 reports where custody was proposed they broadly fell into two categories:

- The report writer came to the conclusion that they were unable to propose a non-custodial sentence usually due to the repeated failure of the young person to co-operate with previous community based disposals
- The report proposed custody, either in vague terms or by explicitly suggesting that any period of incarceration should be for a limited period, and that the Yot would continue to try and work with the young person during this time

With regard to the community sentence proposals 51% were clearly proposed and well presented, whilst with the remaining 49% PSR authors took the following approaches:

- There was no clear proposal, any suggestions that were put forward were vague, inconclusive and lacked conviction
- The alternative proposal of a community penalty would be mentioned by name such as a supervision order, with very little further reference to what the order itself might entail and how any identified risks would be managed. This suggested a token mention of an alternative as opposed to the inclusion of one on which the bench could have confidence in.

In those cases where no clear proposal was given the most common approach was for the report writer to lay out a number of options available to the sentencer, often arguing the pros and cons of each option, but failing to make a final recommendation. Whilst all the available options should be explored if that has been the direction of the court report writers need to state a clear preference for the one that they have assessed is the most appropriate.

### **Does the proposal follow logically from the body of the report?**

In 40% of reports the proposal did not follow logically from the body of the report and this was generally because the detail that was contained in the section was weak, the proposal was unconvincing or there was no firm commitment to a preferred sentence.

When well structured the proposal came across as the predictable conclusion of an argument that started in the offence analysis and continued through the sections relating to information about the young person and the risk of re-offending section. These reports tended to start this section with a very short summary of what had previously discussed to assist the reader to place the information that was to follow in context.

Where proposals did not follow logically they tended to be lacking in detail and although apparently reasonable in many cases, did not link to what had previously been discussed and as a result did not lead to a logical or convincing conclusion.

### **Does the proposal take into account the seriousness of the offence and any non-binding indication of seriousness given by previous bench?**

If some form of direction had been given by a previous bench such as asking the report writer to consider "all sentencing options" in the preparation of the report it tended to be stated at the start of this section as part of the introduction. However, it was not usually clear from the report what indication a previous bench (or judge) had given.

However 85% of reports acknowledged the seriousness of the offence and the situation in which the young person found themselves, most commonly making reference to the fact that the court was considering a custodial sentence, as this was commensurate with the seriousness of the offence. Whilst accepting of this as a fact a number of reports also set out the argument for a

community sentence to be considered. They did this by highlighting the possible negative consequences for the young person of a custodial sentence and offering detailed information about what could be undertaken on a community sentence as an alternative. Whereas a small number of authors stated that if custody was under consideration they would not discuss any other alternatives.

**Does the proposal take into account any personal mitigation included in the information about the young person?**

In 74% cases personal mitigation was explicitly referred to in the conclusion and proposal. This was almost certainly the case in PRSs where authors took the time and trouble to set out and briefly summarise the young person's background and circumstances before detailing what the court might consider in terms of sentencing options.

The type of information that was presented as personal mitigation related to vulnerability in custody, the inability whilst in custody to deal with personal difficulties, any reference to remorse, any positive changes in attitude and behaviour, issues that might relate to maturity and its impact on behaviour, a clear identification of the risks and how they might be addressed (there was generally little or no reference to protective factors) and the potential to change.

**If the proposal is for a community penalty, does the report indicate how the intervention will reduce offending?**

In only 51% of the reports that referred to a community penalty was there a firm indication of how it would reduce offending. The general approach was to identify the risk factors and to discuss what the community penalty could do to address these, by listing a range of interventions the young person would be required to participate in. Although this information may have been dealt with elsewhere in the report, if included here it added weight to the section in supporting and reinforcing the discussion around proposals.

Where proposals did not indicate how the intervention would reduce offending, it was generally because the conclusion was extremely brief (for example one paragraph). Alternatively there was merely mention of a proposed community sentence without any further detail about how the young person would be managed and supported to avoid further offending.

**Does the proposal relate clearly to the offence analysis?**

When assessing whether the proposal related to the offence analysis consideration was given to whether it was proportionate in terms of the restriction of liberty and the support and supervision that was being suggested. This was assessed to be the case in 77% of reports. Where reports were assessed less favourably the conclusions were lacking in commitment and if read in isolation would offer little information about the young person and the offence(s) they had committed. There were a couple of reports that proposed three month action plan orders that were at odds with the level of seriousness of the offence and where no other alternatives were discussed for the court to consider. None of the reports related the proposals specifically to the type of offence committed.

**Is the proposal suitable in the light of information given about the young person's needs background and circumstances?**

83% of reports made a suitable proposal in the light of the information provided and discussed, in that they examined alternatives other than custody. A degree of leeway has been allowed in respect of PSRs that discussed community alternatives, particularly where there had been concerns about vulnerability or issues in the young person's background that may have given cause for concern about their ability to deal with a custodial sentence, even though the author may not have presented the proposal in the most convincing way. One PSR proposed a Hospital Order because of concerns about the young person's mental health and it is noted that the report met the legal criteria in that two medical practitioners supported the view that the young person suffered from a mental impairment and would be better placed in an environment where they would receive therapeutic treatment.

**Is the proposal compatible with the risk assessment and the indication of how risk might be reduced?**

In 38% of reports the proposal was not compatible with the risk assessment and did not contain information about how the risk might be reduced. Generally speaking, where there was a good risk assessment, there were very clear statements about why the interventions that were being proposed were appropriate and a clear focus on what work would be undertaken with the young person. On the other hand if an intervention was not suitable the author would say why it would not adequately tackle the causes of the offending behaviour, when dismissing it as a possible option and leading the reader to consider other more suitable options.

**Overall, is there a strong argument presented in favour of the preferred proposal?**

In 56% of cases reports were assessed as not presenting a strong argument in favour of the preferred proposal. However, reports that presented strong arguments had the following features:

- They presented a range of options and discussed the merits of each in a positive manner
- They were clear about what they were proposing and why
- They plainly set out what work would be undertaken with the young person on the preferred community sentence
- They discussed any negative impacts on the young person of not pursuing a particular course of action, such as vulnerability, disruption to family life and interference with other aspects of the young person's life (of custody in particular)
- They argued against custody and clearly stated why they felt this was not a good option
- If they had any doubts about compliance they were clearly expressed and tended to relate to concerns about the young person lacking the necessary motivation, rather than concerns about managing the behaviours or risks they presented
- They used positive language and addressed the issues in a factual and objective manner

Where reports did not contain a preferred proposal, it was generally because they had not fully explored all the options, they did not commit themselves to a preferred option or the proposal presented was weak and unconvincing to read.

## Information contained in proposal

The information contained in the proposal should be sufficiently detailed to explain how the author considers it will reduce the risk of offending, and where appropriate, its likely success relative to a custodial sentence.

### **If the proposal is for a community penalty or otherwise involves Yot intervention is there a clear indication of what work will be done with the young person**

In 51% of the reports that proposed a community penalty there was a clear indication of what work would be undertaken with the young person. In terms of the way this was presented some PSRs incorporated this into the report by listing and detailing each element of the programme whereas others attached a schedule to the report,

The reports that gave clear indications of the work that would be done with young people were specific in mentioning which community sentence was most appropriate and then outlined the individual elements that would be undertaken to address the identified risk factors. For example work would be done to help the young person develop strategies to resist peer pressure and improve self esteem or assistance would be given to finding employment or time would be spent examining the consequences of continued offending and improving and developing consequential thinking skills.

The remaining 49% of reports either did not contain a community proposal or did not make a clear recommendation about what was intended with regard to the programme of work that would specifically be undertaken on a community sentence. The most common failing was to propose a particular disposal, such as a community punishment order, without giving any further detail about what this would entail for the young person if placed on the order. Instead these reports tended to contain a statement to the effect that the author thought this to be the most appropriate sentence for the young person as it would help them to focus on their problems or difficulties. If ISSP was being proposed the report tended to give standard information about the programme, without tailoring it to the individual young person.

### **Is there a clear indication of levels of contact and the duration over which that contact would be maintained?**

Of the reports that proposed a community option, 40% contained information about the level and duration of contact that would be required. However even where a clear indication was given about the type of intervention that would be undertaken specific detail about levels and the duration of contact was generally not included, unless it was a general reference to the specified number of hours young people are required to participate in an ISSP programme for or that the proposed intervention would meet the requirements of National Standards. A number of other reports made reference to how long a young person may engage in a particular element of the programme, for example cognitive behavioural work would be undertaken over 40 days, but this was rarely applied to all the proposed interventions.

### **Is there an indication of who would carry out each element of the proposed work?**

62% of reports that proposed a community sentence contained information about named individuals, specific organisations (such as the local substance misuse service) or the designation of a specialist worker within the Yot (education officer) who would be carrying out the work. On the whole reports that made clear proposals about a community sentence also had a clear idea about what elements should be addressed in the sentence even if they were not specific about who would carry them out. In a number of reports there were specific details about some but not all elements of the programme and others listed the likely interventions and gave an indication that these would be undertaken by the Yot or supervising officer.

### **Is there any reference to how the young person is likely to respond to the programme and how it will impact upon them?**

Although 69% of PSRs that proposed a community sentence contained some detail in terms of how the young person was likely to respond to the programme and its impact on them it was generally, it tended to be in the form of a reference to how the risk factors would be addressed and what the intended impact would be of doing so, such as a reduction or improvement in

certain behaviours. This was as opposed to indicating how the young person would react or respond to the specific intervention being proposed. Where this issue was addressed reports were more likely to note the fact that the requirement of a programme had been discussed with the young person and they were aware that any failure to comply would lead to breach action being taken.

**If custody is likely, does the report clearly indicate the potential negative consequences of such an outcome in terms of community/family support?**

18% of reports gave some indication of the potential negative consequences of custody on the support that could be available to the young person, from either community based organisations, other individuals or the family. Where negative consequences were mentioned they tended to be in relation to vulnerability and potential problems in coping with the custodial environment based on past experience or current concerns.

**If custody is likely, does the report clearly indicate the potential negative consequences of such an outcome in terms of education/training?**

Only 12% of cases addressed the possible negative consequences in relation to education or training, such as disruption to existing arrangements, for example being unable to complete studies or training or interfering with progress the young person was currently making.

**If custody is likely, does the report clearly indicate the potential negative consequences of such an outcome in terms of re-offending?**

Only 28% of reports clearly indicated the potential negative consequences of a custodial sentence. These included concerns that the experience of custody could result in a potential risk of re-offending on release, as existing difficulties would not have been adequately addressed or there may be problems of reintegration into the community. Authors also noted the problem of young people mixing with more experienced offenders and this being a negative consequence particularly where peer pressure had been identified as a contributory factor to offending behaviour.

## General

The final area for consideration was whether the whole report reads as one leading naturally and convincingly towards the conclusion contained in the proposal in a way that was consistent with the legislative provisions for sentencing (i.e. proportionality, welfare considerations, prevention of offending and human rights issues).

### **Is the PSR free from discriminatory / stereotypical language and assumptions?**

All PSRs were free of discriminatory language. However the issue of stereotypical language such as referring to young people as persistent offenders needs careful consideration, particularly as in one example, the PSR author chose to highlight this in italics in the report. Whilst the status of persistent offender is certainly useful in identifying young people who may be eligible for more intensive interventions, its use in a PSR can unnecessarily label the young person and reinforce a stereotypical assumption.

The court can make a Detention and Training Order (DTO) on a young person aged 12 to 14 years of age if they are a "*persistent offender*". It is however a matter for the courts, not the PSR author to determine whether or not the young person they are dealing with is a persistent offender, as there is no statutory definition for this purpose. There has been recent case law in relation to the definition specifically in relation to the imposition of an 18-month DTO on 14 year old boy (Regina V TTG).<sup>11</sup> On appeal it was established that the young person had been sentenced for five offences: two of possession of a prohibited firearm, two of possessing ammunition without a firearm certificate and one offence of possession of a Class C drug cannabis. All items had been found by police officers when searching the young person's home. He had two previous convictions for unrelated offences. These were theft and aggravated vehicle taking for which he had received a conditional discharge and driving without a licence or insurance, for which he received a 6-month supervision order.

On appeal it was concluded that the definition of persistence had been used too widely and for unrelated offences. In addition the timescale between the previous offending history and the current offences were also reviewed. There had been 11 months between the court appearances for the motoring and firearms offences, which indicated there had been a gap in the offending behaviour. As a result the DTO sentence did not stand and a supervision order was imposed in its place.

With regard to the language used in the reports examined, on the whole they were free from jargon and were careful to offer explanations and use terminology that were not prejudicial to the young person. However in a small number of instances there was concern about the choice of language in relation to the young person. For example one young person was described as showing disrespect for the criminal justice system, which would seem to be an unnecessary statement

### **Is the PSR well structured, concise and easily comprehensible?**

88% of reports were well structured, concise and easily comprehensible. As mentioned in the introduction, National Standards require that there are certain headings that are used when writing reports. Most report authors followed these, although a small number of reports added additional headings, the most common one being *Effect on the victim* and the other *Response to supervision*. Where reports significantly departed from the using the prescribed headings was when they had been prepared in the absence of the young person. In these cases headings were generally not used and reports were much less well structured.

Reports that contained details that were ambiguous (such as no clear proposal) were not always easily understandable in terms of what was intended for the young person were assessed less positively.

### **Does the report avoid irrelevant material?**

Overall 95% of PSRs avoided irrelevant material. A minority of reports repeated relevant facts and as has previously been commented on in a number of instances report writers have been

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<sup>11</sup> Extracted from No 2004/05568/A7 In the court of appeal criminal division (10.11.04) before Lord Justice Maurice Kay and Justices McCombe and David Clarke

given the benefit of the doubt in terms of what has been assessed as being relevant for inclusion or not. There is clearly a fine balance to be struck in writing a report that is concise, well balanced that contains the right amount of suitable information to provide a factual and objective picture of the young person to assist the sentencer in coming to an appropriate decision and those that depart from this by being either too brief or overly expansive in associated but not strictly relevant information.

**Does the report avoid presenting an unduly negative picture of the young person, which might lead the court to impose a harsher penalty than warranted by the offending?**

Almost all report writers took care to be fair to the young person by pointing out any mitigating factors in the case and wherever possible placing actions or behaviours into context; as such 85% of reports presented a balanced and fair picture of the young person. It is more likely that harsher penalties may have been imposed as a result of authors not being clear enough when making proposals about what was the favoured option or making weak or unconvincing proposals than being unduly disparaging about the young person.

Difficulties were apparent when the young person had not co-operated or attended the PSR interview with the report's author. As a result a small number of reports had very little information in them apart from the fact that the young person was uncooperative. Where a young person had not attended an appointment or was uncommunicative, this should be mentioned but every effort should be made to obtain information from other sources such as existing Yot records or from practitioners who may have had recent experience of the young person.

**Does the report take into account the welfare of the child without inviting intervention based purely on welfare?**

The welfare of the child was almost never mentioned explicitly in reports, however issues relating to welfare and well-being were taken into account in the section entitled *Information about the young person* in 65% of reports. This may not be an entirely accurate figure as there is a significant overlap between issues of welfare and risk factors that relate solely to offending behaviour. There was no evidence of authors seeking interventions purely on the basis of welfare as all the cases examined were serious and it is evident from outcomes that custody was a significant consideration in all cases.

**Does the report take account of the statutory aim - to prevent offending?**

This section was difficult to assess because taking into account the statutory aim of preventing offending is the aim of the youth justice system and by default should be an integral part of all work undertaken with young people. All reports addressed this to some degree, however 72% maintained this as a constant theme throughout the PSR by ensuring that every section made some reference to preventing offending.

For example the offence analysis might have referred to the young person having reflected on their actions and this having the potential to impact on their behaviour in the future. The offender assessment would have identified risk and protective factors in the young person's background and circumstances, the risk assessment would have indicated the level of risk presented and the conclusion how that risk could best be managed and what sentence was most appropriate to encourage desistance from criminal behaviour.

## Assessed scores

The following table is a summary of the assessed scores for each of the sections of the pre-sentence reports. It should be noted that overall 81% of PSRs were scored as satisfactory or better, however 19% were poor in quality, mainly because the risk of re-offending was not conclusive and the proposals were not strong or convincing enough.

There was a wide variation between the six different sections that were assessed as can be seen above. The particular strengths were that overall reports were well written and balanced with the offence analysis and information about the young person standing out as strong points. Noticeable weaknesses were the risk of re-offending not being decisive and proposals being weak and unconvincing. That said there was also considerable variation in individual reports in that they might score particularly well in one area but very poorly in another. When each section is examined individually two (good) was the most common score and three (satisfactory) the average.

	1. Excellent	2. Good	3. Satisfactory	4. Not Satisfactory	5. Poor	Average score by section
Offence analysis	23	28	18	25	5	3
Information about young person	5	59	22	10	2	2
Risk of re-offending	4	14	28	42	10	3
Quality of proposal	31	25	17	17	8	2
Information contained in proposal	1	14	24	36	23	4
General	41	31	19	7	0	2
<b>TOTAL</b>	<b>105</b>	<b>143</b>	<b>128</b>	<b>137</b>	<b>48</b>	<b>3</b>

In terms of the overall scores for the PSRs themselves there was one report that was excellent, 36 that were good, 42 were satisfactory, 17 that were assessed as not satisfactory and 2 as poor. The overall average score for an individual report was three (Satisfactory). This was also the most common score but this is a crude measure that does not reflect the fact that there were more than twice as many reports, which were assessed as being 'good' than 'not satisfactory'

## Appendix A

327 Pre-sentence reports were made available for the 500 custodial episodes in Wales in 2002. 30% of these were sampled and randomly selected from the youth offending teams. The 30% weighting was maintained across the Yots and four criminal justice areas in Wales. This equated to 98 pre-sentence reports.

<b>Gwent</b>	<b>Total</b>	<b>Sample</b>
Blaneau Gwent Caerphilly	28	9
Newport	16	5
Monmouth Torfaen	11	4
<b>Totals</b>	<b>55</b>	<b>18</b>

<b>North Wales</b>	<b>Total</b>	<b>Sample</b>
Central North Wales	22	7
Gwynedd Mon	14	4
Flintshire	17	5
Wrexham	17	5
<b>Totals</b>	<b>70</b>	<b>21</b>

<b>Dyfed Powys</b>	<b>Total</b>	<b>Sample</b>
Carmarthenshire	16	5
Mid Wales	14	4
Pembrokeshire	11	4
<b>Totals</b>	<b>41</b>	<b>13</b>

<b>South Wales</b>	<b>Total</b>	<b>Sample</b>
Bridgend	20	6
Cardiff	50	12
Merthyr	38	11
Neath Port Talbot	8	3
Rhondda Cynon Taf	20	6
Vale of Glamorgan	25	8
<b>Totals</b>	<b>161</b>	<b>46</b>

<b>Area</b>	<b>Total</b>	<b>Sample</b>
North Wales	70	21
South Wales	161	46
Dyfed Powys	41	13
Gwent	55	18
<b>Totals</b>	<b>327</b>	<b>98</b>