

Pre-Sentence Report (PSR) Pilot 2021: Defence Legal Representatives Briefing

The pre-sentence report (PSR) project team is writing to inform you of the PSR pilot that will launch from late March 2021 at your Magistrates' court. The pilot will run for 12 months at 15 Magistrates' courts across England and Wales - please see appendix (section 6) for the list of pilot court sites and go-live dates. This pilot has received approval from the Senior Presiding Judge of England and Wales in December 2020.

1. PSR pilot background & objectives

1.1 In 2019, the Implementation Unit was commissioned by Ministers to review the use of PSRs following a significant decrease in the number recorded between 2010-2018 - from more than 212,000 in 2010 to fewer than 114,000 eight years later. The Ministry of Justice (MoJ) investigated these circumstances and concluded that the purpose of a PSR has become lost and sentencers have very different views on the benefits of PSRs and when one is deemed necessary.

1.2 The PSR pilot will test an alternative delivery model (ADM) which is designed to increase the delivery of quality and timely PSRs for offenders in the 15 Magistrates' courts. In the long term, it is our hypothesis that higher quality PSRs will improve offender outcomes, increase sentencer confidence and improve the administration of justice, and we will be evaluating to test whether this is the case.

1.3 The PSR pilot team recognises that Magistrates' courts are under significant pressure at the moment due to the COVID-19 pandemic. We will continue to be engaged and remain alert to court performance to ensure the pilot avoids placing additional pressure on operational staff. The introduction of the ADM is designed to improve the administration of justice, not complicate it.

1.4 To mitigate against any negative impacts the pilot may have, the PSR pilot team has worked closely with the National Probation Service (NPS), HMCTS and the Judiciary to complete a change readiness assessment. These assessments have driven conversations across the different teams to seek assurance that the adoption of the ADM can be incorporated into their local delivery model.

1.5 The purpose of the pilot is to test and evaluate whether the ADM has been successful according to our pilot ambitions. Analysts from MoJ Analytical Services will be conducting an evaluation to understand how the ADM works and the efficacy of PSRs. The evaluation will explore how a PSR is utilised across the Judiciary, HMCTS and HMPPS and what the impact on those in receipt of PSRs has been.

1.6 Both quantitative and qualitative data collection will take place continuously throughout the pilot, with interim reviews of the pilot taking place 6 and 12 months into the ADM adoption. Defence legal representatives may be asked by analysts to provide feedback during the pilot.

2. The alternative PSR delivery model

2.1 The ADM being tested has three main parts designed to improve the volume of timely and quality PSRs. These have been developed in collaboration with the NPS, MoJ Policy and HMCTS.

2.2 **Part 1:** Utilising the PSR before plea protocol, i.e., identifying defendants who intend to plead guilty earlier on and creating a PSR before the first hearing date.

2.3 **Part 2:** Ensuring that offenders within the priority cohorts receive a written short format report. The priority cohorts are female offenders, young adults aged 18-24 and offenders who are at risk of custody. These cohorts have been classified as more commonly having complex needs which require more work with other agencies to produce a more comprehensive PSR; therefore, we are recommending a written short format report is produced instead of an oral report. If a written short format report cannot be produced on the day, then we will be requesting the Magistracy to provide NPS with a short adjournment (up to a maximum of 5 days), subject to listing and probation capacity, to complete a written short format report to obtain all the relevant information pertaining to the offender and the offence.

2.4 **Part 3:** Improving the quality and efficiency of on the day PSRs. For those who cannot be identified earlier in the process (part 1) or are not considered a priority cohort (part 2), we want to ensure that the NPS court teams are equipped to better deliver high quality information, confidently and concisely. We plan for pilot site NPS court teams to receive learning and development to improve their communications and advocacy skills, critical thinking and problem solving, inclusive risk assessments, trauma informed practice and responsive ways of working all of which will aid the quality of PSRs. Alongside this, changes have also been made to probation's digital tool to help improve the quality of sentencing proposals.

3. Rationale for the adjournment of priority cohorts if a written short format cannot be completed on the day

3.1 The government's 'female offender strategy' recently led to a review by Lord Farmer which highlighted the value of PSRs for female offenders because they typically have complex needs which require more time to address. For instance, women tend to have a higher prevalence of mental health problems than male offenders as well as a higher prevalence of experience of abuse during their childhood and/or adulthood. Binge drinking and Class A drug use are risk factors more strongly associated with reoffending for women than they are for men.

3.2 For young adults (aged 18-24), there is the added complexity of understanding a young person's maturity. They are likely to have specific issues and needs as a result of their maturity levels. Ensuring that the sentencer is cognisant of the specific needs of a younger offender is the primary reason for requesting additional time to produce the PSR.

3.3 Finally, adjournments will be requested for offenders who are at risk of custody. Evidence demonstrates that short custodial sentences can exacerbate the risk of reoffending and can reduce the impact of positive protective factors which disrupt an individual's desistance journey. We hope to test whether a written PSR has any impact on whether sentences for this cohort are custodial or community and the subsequent engagement with their respective sentence.

4. What role do defence legal representatives play in the pilot?

4.1 We would encourage you to make use of the PSR Before Plea protocol, to which the Law Society is a signatory. As you may be aware, the PSR before plea protocol has already been launched nationally as a part of efforts to improve the administration of justice due to the impact of COVID-19. The pilot will reinforce this part of the process and measure its impact on the numbers of PSR before plea that are undertaken compared with sites not adopting the ADM.

The PSR before plea protocol:

- enables the court to proceed efficiently and expeditiously to sentence following a guilty plea without adjourning or standing the case down for a pre-sentence report.
- allows more flexibility in scheduling the pre-sentence report interview, which takes place prior to the hearing. NPS may ask the legal adviser, where necessary, to vary the first hearing date to ensure there is sufficient time to produce the report.
- reduces the time spent physically at court, when social distancing measures are in place, therefore protecting all parties' welfare during the pandemic.

A pre-sentence report before plea applies where:

- it's anticipated that an adult defendant, charged to appear before a guilty anticipated plea (GAP) or not guilty anticipated plea (NGAP) hearing on bail or postal requisition, will be sentenced in the Magistrates' court; for offences triable either way, see Sentencing Council allocation guideline.
- a defendant is willing to indicate a guilty plea to all offences charged on the full prosecution basis; and
- a defence legal representative, on behalf of their client, requests a pre-sentence report before plea. This will be where the offence passes at least the community threshold and a PSR is likely to be necessary.

Before asking for a pre-sentence report you will need to

- apply for the IDPC and receive instructions from the defendant on likely plea, as soon as is reasonably practicable
- confirm with the defendant that they are willing to comply with the production of a report, should NPS agree to produce one
- explain the PSR before Plea process to the defendant reminding them that arranging a PSR Before Plea provides no indication of any sentence and that

- o all sentencing options remain open including an immediate sentence of imprisonment,
- o the court will decide whether to consider the PSR before Plea, if one is available
- o the court may proceed to sentence without a pre-sentence report if the court considers it unnecessary.

4.2 Where the defendant agrees to the request for a PSR Before Plea, complete the applicable form and send it electronically to the National Probation Service mailbox for the Magistrates' court scheduled to hear the case, with an email including the URN and scheduled hearing date, entitled "PSR Before Plea", by the very latest, 3 working days before the scheduled hearing, copying in the court and CPS (please see appendix for email contacts).

4.3 When NPS produces a report, they will upload it to the Court Store for the hearing. If NPS agrees to produce a report but there is insufficient time before the scheduled hearing, NPS will make a request for the legal adviser to reschedule the hearing so that the report can be prepared in time. NPS will copy you and the CPS into this request.

4.4 At the hearing, the court receives the defendant's plea in the usual manner. Where the defendant pleads guilty, the court proceeds towards sentence and decides whether to consider any PSR Before Plea which has been created.

5. Stay in contact

5.1 Thank you again for your continued support. If you have any questions regarding the PSR pilot, please feel free to get in touch with psrpilot@justice.gov.uk

6. Appendix:

- **Pre-Sentence Report Before Plea Document**
- **Table of pilot sites**



Magistrates' Court	CPS mailbox	NPS mailbox	Phase	Go-live date
Basingstoke	FirstHearingMags.Wessex@cps.gov.uk.cjsm.net	sWSCNPS.hampshire.court@justice.gov.uk	1	22nd March
Luton and South Bedfordshire	HertsBedsMCT@cps.gov.uk.cjsm.net	SEENPS.Luton.MagsCourt@justice.gov.uk		
Easter Holidays 29th March - 9th April				
Coventry	Bham.CaseProgression@cps.gov.uk.cjsm.net	MidlandsNPS.Coventry.MagsCourt@justice.gov.uk	2	19th April
Bexley	London.IDPCRequests@cps.gov.uk.cjsm.net	LondonNPS.Bromley.MagsCourt@justice.gov.uk		
Bromley	London.IDPCRequests@cps.gov.uk.cjsm.net	LondonNPS.Bromley.MagsCourt@justice.gov.uk		
Brighton	SE.MagistratesCourt@cps.gov.uk.cjsm.net	SEENPS.SussexCourtHub@Justice.gov.uk		
Croydon	London.IDPCRequests@cps.gov.uk.cjsm.net	LondonNPS.Croydon.MagsCourt@justice.gov.uk		
Doncaster	YandH.correspondencemags@cps.gov.uk.cjsm.net	NENPS.doncaster.court@justice.gov.uk		
Swansea	SWestWalesCPS@cps.gov.uk.cjsm.net	WalesNPS.Swansea.MagsCourt@justice.gov.uk	3	3rd May
Swindon	FirstHearingMags.Wessex@cps.gov.uk.cjsm.net	SWSCNPS.Swindon.MagsCourt@justice.gov.uk		
Willesden	London.IDPCRequests@cps.gov.uk.cjsm.net	LondonNPS.Willesden.MagsCourt@justice.gov.uk		
Cardiff	SEastWalescps@cps.gov.uk.cjsm.net	WalesNPS.Cardiff.MagsCourt@justice.gov.uk	4	17th May
West Cumbria	lancashirecumbria.mc@cps.gov.uk.cjsm.net	NWNPS.cumbriacourts@justice.gov.uk		
Teesside (Middlesbrough)	durham.teesmcgeneral@cps.gov.uk.cjsm.net	nenps.clevelandmiddlesbroughmc.admin@justice.gov.uk		
Thames	London.IDPCRequests@cps.gov.uk.cjsm.net	LondonNPS.Thames.MagsCourt@justice.gov.uk		