

# Pre-Sentence Reports

June 2011

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*





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June 2011

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## List of abbreviations

<b>ACE</b>	Assessment, Case management and Evaluation
<b>DoJ</b>	Department of Justice
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIPS</b>	Northern Ireland Prison Service
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PSRs</b>	Pre-Sentence Reports
<b>SSRs</b>	Specific Sentence Reports

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## Chief Inspector's Foreword

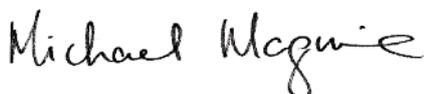
The Probation Board for Northern Ireland (PBNI) is best known for the supervision of offenders. An equally important but less obvious aspect of its work is the delivery of Pre-Sentence Reports (PSRs) to the courts. A PSR provides the court with an assessment of the nature and causes of a defendant's offending, the likelihood of re-offending, the risk of harm to the public, information on the range of appropriate disposals, areas to be addressed and additional measures. These reports have a major impact on the outcomes for the offender pre and post-sentence as well as for the public at large. The PBNI prepares around 6,000 PSRs each year.

The demands on the Probation Board in the production of PSRs are increasing and it is important that they are completed within a robust quality assurance framework and that they are positively received by the court in deciding their sentencing options for offenders. The purpose of the inspection was to consider how the Probation Board assures quality control of PSRs, identify areas of good practice and make recommendations aimed at improving service delivery.

The overall conclusion from the inspection was that there were clear arrangements in place for the quality control of PSRs and that there was a high degree of concordance between sentencing options and the options given in the PSR. The inspection confirmed the competency of the on-going quality control mechanisms. The quality of the PSRs produced by the Probation Board were held in high regard by the courts.

The inspection made a number of recommendations aimed at improving current arrangements, including the need to increase the use of Specific Sentence Reports, where appropriate, and the need to engage with the Department of Justice (DoJ) concerning the use of PSRs as a vehicle towards influencing Community Sentence Orders.

This inspection was undertaken by Stephen Dolan and Tom McGonigle of CJI. I would like to thank all those involved in the inspection process.



**Dr Michael Maguire**

Chief Inspector of Criminal Justice in Northern Ireland  
June 2011



## Executive Summary

The Probation Board for Northern Ireland (PBNI) prepares 6,000 Pre-Sentence Reports (PSRs) each year. The PSRs provide Sentencers (primarily District Judges) with an objective assessment of an offender's likelihood to re-offend, an assessment of the risk of harm and a range of sentencing disposals to be considered. Pre-Sentence Reports are used by the Parole Commissioners for Northern Ireland when considering the release of prisoners, the licence conditions to be imposed and when reviewing recall of determinate sentence prisoners.

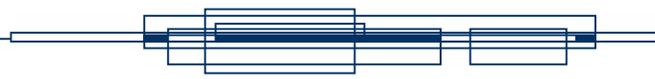
Pre-Sentence Reports may also include areas to be addressed for an offender and are used by probation staff based in prisons and prison staff responsible for offender management and resettlement. As such the reports have a major impact on the outcomes for an offender pre and post-sentence as well as for the public at large. Their importance in the sentencing framework demands a consistent format, quality delivery and relevance to the users.

The Probation Board has developed a set of Core Standards that provide the mainstay of the Board's quality control processes. Implemented in 2000, the Core Standards were revised and updated in 2006. Interim Standards were introduced in 2009 following the introduction of public protection sentencing and a revised set of Standards will be implemented in 2011.

Complementing the written standards is a gatekeeping process that provides a comprehensive quality control mechanism. Every PSR is subject to gatekeeping appropriate to the experience of the report writer and the complexity of the case. A series of regular audits also assesses the quality of the reports and adherence to delivery targets. The Probation Board conduct regular surveys of Sentencers and satisfaction levels exceed 90% across a range of metrics. In light of the widening usage of PSRs the user survey could be extended to include the Parole Commissioners and other relevant users in the prisons.

A shorter report known as a Specific Sentence Report (SSR) is available to Sentencers where a certain disposal is under consideration. These reports will indicate to the Sentencer if the disposal (a Community Service Order or Probation Order) is appropriate. A SSR requires less input from the report writer, and at current volumes a move to greater use of SSRs indicates efficiency gains for the Probation Board. Substituting 10% of the PSRs with SSRs would allow the re-allocation of resources to meet other work priorities. In light of the current pressure on resources, this would be a worthwhile objective and it is recommended that the Probation Board and Sentencers review the potential to increase usage of SSRs or some equivalent specific report.

Offenders who are released from prison under licence constitute around 30% of any Probation Officer's caseload. Inevitably there are times when an offender breaches order or licence conditions and a Probation Officer is required to take appropriate enforcement action which may include a recommendation for recall to prison. In the case of determinate sentences introduced by the Criminal Justice (Northern Ireland) Order 2008, any request for recall issued by a Probation Officer must be reviewed by a Parole Commissioner or in exceptional circumstances, by the Offender Recall Unit of the Department of Justice (DoJ). Some recent cases seemed to



fall between the *standard* and *emergency* categories, leading to an impromptu or provisional *urgent* classification facilitated by Parole Commissioners providing out-of-hours availability. The practical arrangements supporting this process are subject to ongoing discussions between the Probation Board and the Parole Commissioners and within this forum, the classification of *standard* and *emergency* recalls would benefit from clarification. Probation Board staff would also benefit from remote access to PBNI IT systems. Issues arise when information is required by Parole Commissioners or other bodies outside of normal working hours. The Probation Board operates an out-of-hours rota system through which Area Managers handle *emergency* recall requests.

The Reducing Re-offending Strategy to be launched by the Minister of Justice aims to reshape fundamentally the approach to tackling the factors leading people into the criminal justice system. The Probation Board understands that the timescales for this strategy now extend to February 2012. The inclusion of a review of community sentencing in the strategy is driven by the data indicating that community disposals are more successful than custody in reducing re-offending by adults convicted of less serious crimes. The Scottish Executive have already legislated for a presumption in favour of community sentences where short custodial sentences are being considered. Unlike report writers in Northern Ireland, who are trained to report in an objective manner and not seek to influence a Sentencer one way or the other, writers of court reports in Scotland were used to conditioning the opinion of Sentencers towards community disposals.

The review of community sentencing and the associated effectiveness of short custodial sentences opens up the possibility that persuasion or presumption towards community sentencing could be introduced. Whether persuasive or presumptive, the legislative requirements in relation to PSRs are set out in the Criminal Justice (Northern Ireland) Order 1996, and confirmed in the subsequent 2008 Order. As such, PBNI are of the view that such reports are of value in assisting the court in determining the most suitable method of dealing with an offender and contain the relevant information. The PSR provides information for judges to decide in what environment (whether custody or community) interventions may be applied to best effect for each individual appearing in court.

There were some suggestions that amendments in the sentencing framework changed the relationship between the offender and the Probation Officer with release now dependent on a good report to the parole hearing. There was also sentiment that post-release supervision could be more problematic as previously offenders consented to release conditions whereas the new sentence licensing conditions were imposed. In practical terms the adherence to the conditions is not that much different, but the relationship between the Probation Officer and the offender is deemed to have become more formal. It remains to be seen whether these concerns materialise in a tangible manner.

Overall, the Probation Board provides high quality and timely PSRs. The quality control systems are of a high standard, internal management is focused and relevant, and training is comprehensive and adding value. The widening net of users indicates the increasing value of PSRs in offender management and the positive response in surveys demonstrates their importance within the sentencing system. There is scope to increase the uptake of shorter reports to introduce some efficiencies and the advent of public protection sentences is an opportunity for the Probation Board to further develop working arrangements with other bodies.



## Recommendations

### Strategic Recommendations

- The Probation Board should restate the Core Standards objective as delivering the Pre-Sentence Report to the court on time. (A target of 95% to 100% should be set) (*paragraph 3.13*).
- The Probation Board should increase the usage of Specific Sentence Reports (or other suitable reports). A target of 35% per annum should be set (*paragraph 3.31*).

### Operational Recommendations

- The Probation Board should usefully discuss with third party service providers how best to deliver relevant data from Pre-Sentence Reports (*paragraph 2.26*).
- The Probation Board should survey other users of Pre-Sentence Reports in conjunction with the Sentencer survey (*paragraph 3.10*).
- The Probation Board need to identify the specific reasons for poor uptake of Specific Sentence Reports and if necessary, develop reports that meet the requirements of Sentencers but are less resource intensive (*paragraph 3.30*).
- The threshold for *standard* and *emergency* recalls should be clearly demarcated (*paragraph 3.42*).
- Area Managers should have remote access to the Probation Board IT systems for out-of-hours working (*paragraph 3.43*).
- The Probation Board should gather information on the outcomes of cases where Pre-Sentence Reports are provided to identify possible indicators of a correlation between the sentences and the options outlined in the report (*paragraph 3.48*).

Section



# Inspection Report



## CHAPTER 1:

# Introduction and background



### What is a Pre-Sentence Report?

- 1.1 Inevitably when a judge adjourns a case for reports they are referring to Pre-Sentence Reports (PSRs) prepared by the Probation Board for Northern Ireland (PBNI) (henceforth the Probation Board). A PSR is defined as *'a report in writing, prepared in accordance with Northern Ireland Core Standards and Service Requirements, and submitted by a Probation Officer or qualified Social Worker of a Board or authorised Trust, with a view to assisting the court to determine the most suitable method of dealing with a defendant and which imposes a restriction on liberty commensurate with the seriousness of the offence(s).'*<sup>1</sup>
- 1.2 The primary purpose of a PSR is succinctly described in the Probation Board's 2010-11 Business Plan as *'the risk assessment of offenders to assist judges in determining an appropriate sentence and Parole Commissioners in making decisions about release from custody.'* It also provides Sentencers with a professional assessment of the nature and causes of a defendant's offending behaviour with an assessment of the likelihood of re-offending and the risk of harm to the public. The PSR will identify any actions that may reduce the likelihood of re-

offending and should include an assessment of the nature and seriousness of the offence and its impact on the victim.

- 1.3 Thus PSRs form a considerable part of the work of the Probation Board; out of a total of 9,000 reports delivered to courts, PSRs account for around 6,000. In round terms the Probation Board dedicates between 10% and 15% of its resources to the delivery of PSRs.

### Development of Pre-Sentence Reports

- 1.4 The Probation Board (Northern Ireland) Order 1982 led to Probation Officers providing reports to the courts about offenders circumstances and home surroundings to assist them in determining the most suitable method of dealing with that person. These reports covered social history and personal circumstances to inform Sentencers but in the absence of prescriptive guidelines there was a degree of latitude. Inevitably they included a range of findings that led to an inconsistent format that tended to undermine the objectivity of the reports and also made it difficult for the Probation Board to quality assure the product and monitor or measure their use by Sentencers.

<sup>1</sup> Criminal Justice (Northern Ireland) Order 1996.



- 1.5 The implementation of the Criminal Justice (Northern Ireland) Order 1996, specifically Article 2(2), provided the legislative authority for PSRs. To ensure the consistency and quality of the reports presented to the courts the Probation Board prepared a set of written standards that incorporated the practice notes issued to staff and also the collective experience of probation staff. These Interim Standards were agreed with the Northern Ireland Office and Sentencers. Following implementation in 2000, these Interim Standards became known as the Core Standards.
- 1.6 Since 2000 the Core Standards have been revised and updated further with the latest Core Standards implemented in June 2006. Running alongside the development of the Standards by the Probation Board is the Sentencing Framework Initiative which (under the Criminal Justice (Northern Ireland) Order 2008) introduced public protection sentences, determinate custodial sentences, curfews/electronic monitoring and related structures including Parole Commissioners and the Offender Recall Unit. The Core Standards were updated with Interim Standards and practice notes governing the risk assessment of those charged with specified or serious offences who are eligible for public protection sentences introduced in 2008.
- 1.7 An abbreviated form of a PSR is known as a Specific Sentence Report (SSR) and is intended to provide the court with useful but less detailed information about a defendant and offence(s) to assist them to determine whether he/she is suitable for a specific sentence envisaged by the court. Its purpose is to speed up the provision of information to assist the court in passing sentence without delay. A SSR is most likely to be used where the court envisages a Community Service Order or a Probation Order which does not have additional requirements attached. For the purposes of Article 9(3) of the Criminal Justice (Northern Ireland) Order 1996, a SSR is equivalent to a PSR.
- 1.8 In 2009-10 a total of 325 SSRs were prepared by the Probation Board.
- 1.9 As part of the ongoing assessment of services the Probation Board completed a detailed internal review of PSRs in 2010 and concluded that they were *'efficient, effective and contributed to the delivery of justice'*.
- 1.10 The Terms of Reference for this inspection are illustrated at Appendix 1 but generally the aim of this inspection was to:
- assess how the Probation Board ensure quality control of the PSRs and develop them to reflect user requirements, changes in legislation and feedback from practice experience;
  - identify areas of good and poor performance and the underlying reasons for the performance achieved; and
  - make recommendations aimed at improving service delivery.

## CHAPTER 2:

# Quality and standards



2.1 The Probation Board's Core Standards and Service Requirements lay down all the activities of the Board and define the Service Standards for activities ranging from Pre-Sentence Reports (PSRs) to the supervision of life sentence prisoners. Ultimately, the over-riding authority for PSRs lies with the Minister of Justice, exercised by approving the Core Standards developed by the Probation Board. Monitoring and feedback informs the development of the Core Standards and a comprehensive manual, dedicated training and regular line management meetings inform staff and contribute to the maintenance of quality.

2.2 Consistently delivering a quality product or service combines, amongst other things, a relevant specification, regular testing or audits, a mechanism to prevent sub-standard delivery and development of improved products or services to reflect user feedback and best practice. Underpinning this are:

- controls such as defined quality standards, direction from management, prescribed change control procedures, audit and good record keeping;
- competence such as knowledge, skills, experience, training and qualifications; and

- cultural/business elements such as integrity, motivation, organisational loyalty, understanding customer needs and quality relationships.

Thus a good PSR can be defined in a number of ways, as a product meeting quality standards, as a provider of relevant advice and as a process to deliver the reports on time and develop them to reflect users' requirements. During the course of this inspection the monitoring, feedback and quality control mechanisms used by the Probation Board were assessed. The quality control and development processes are explored in the following sections and the efficient delivery and effectiveness of the reports are discussed in the succeeding chapters.

### Quality Control

2.3 The Core Standards define the quality model and proposed structure and content of each PSR. Using these Standards the Probation Board have developed an architecture of quality control which incorporates monitoring against standards, gateway processes, peer review, training and independent assessment.

2.4 As the PSRs have evolved to reflect changing demands from users and



also the legislative environment, the Standards have also been revised in 2006 and 2009 following their initial implementation in 2000. The Probation Board commenced a further review of their Standards in the current year, which concluded in March 2011.

- 2.5 The development of PSRs from their forerunner, Social Enquiry Reports, sees a greater emphasis on verification of the evidence presented. Medical histories, financial circumstances, personal circumstances and previous offending are all examined and validated by probation staff to provide a dependable and empirical assessment of the offender in their life setting, their likelihood of re-offending and, most recently, an assessment of their risk of serious harm to the public.
- 2.6 In the course of this inspection observation and participation in training, a review of a number of Pre-Sentence and Specific Sentence Reports, discussions with Directors, Managers and probation staff, sight of performance management measures and Business and Corporate Plans provided Inspectors with a positive overview of the extensive and comprehensive measures in place to deliver a quality product. The key elements of this - management structure, gatekeeping and development of PSRs are discussed in more detail below.

### **Management Structure**

- 2.7 Written guidance and training are the cornerstones supporting Probation Officers in presenting a quality PSR, but maintaining quality in the operational environment requires effective

management structures and oversight. The Probation Board had a clear line management structure for the PSR function. It was integrated into the line management role throughout the organisation as all the Probation Board offices deliver PSRs. A detailed process flowchart (Appendix 2) describes the assessment process for PSRs. This was included in the training and also acted as an aide memoir for Probation Officers.

- 2.8 The Area Managers are the first line of oversight and quality control and those Managers interviewed as part of this inspection demonstrated a high degree of interaction with their area staff and extensive knowledge of the Officers' caseload. This was confirmed in discussions with Probation Officers who gave positive testimonials in respect of their Line Managers.
- 2.9 A significant degree of time and effort was invested by area management and headquarters staff in oversight of the PSRs. Inspectors saw monthly validation requirements from the Board headquarters and Area Managers' reports on PSRs along with a range of performance indicators collated by the Business Planning and Development Unit. Annual internal audits had been introduced in 2006, and there was evidence of a systematic feedback loop to communicate the results of these exercises to staff. Probation staff confirmed the discussion of PSRs at local office meetings where issues of quality and caseload were discussed.

- 2.10 The senior management team of the Probation Board regularly reviewed key performance measures to monitor the delivery of PSRs and reviewed



the results of the Sentencer surveys. These performance measures were in turn reported regularly to the Probation Board, who received reports from management on PSR related issues such as public protection sentencing and the pilot projects to extend usage of SSR.

- 2.11 The Probation Board reflects the strategic importance of PSRs by presenting them as the first objective in their Annual Business Plan 2009-10. It states that they are:

*‘1. To provide evidence-based advice to Sentencers and Parole Commissioners.*

*The Probation Board will meet the requirements of Sentencers and Parole Commissioners for reports on offenders to enable them to carry out their responsibilities.*

*The Probation Board will report on the number of Pre-Sentence Reports that are delivered to courts in accordance with the required timescales. The Probation Board will also survey Sentencers to ascertain their views on the value of its reports.’*

- 2.12 The structured elements of monitoring, surveys and feedback are further supported by regular communication between the Probation Board and Sentencers. As a case in point a Senior Manager in Belfast was in regular contact with Sentencers in the major Laganside Court to solicit views, deal with queries and provide a feedback channel for improvement and to promote the work of the Probation Board. Other managers in the rural areas also had regular contact with Sentencers.

## Gatekeeping

- 2.13 The Core Standards define the purpose of gatekeeping as:

- *‘To ensure that each report is of the required quality standard before it is submitted to the court; and*
- *to provide a progressive means of assisting all report writers to continuously improve their report writing skills.’*

The gatekeeping process requires the report writer to forward the report to a reviewer, receive feedback, if necessary amend the report and record the actions.

- 2.14 Within this process there were levels of gatekeeping applied. In the instance of PSRs allocated on murder offences, serious and/or specified offences, as defined by the Criminal Justice (Northern Ireland) Order 2008, these were subject to gatekeeping by an Area Manager. In complex cases and those where there was likely to be a high profile media interest, the level of gatekeeping extended to more senior Officers.
- 2.15 Area Managers also provided the first line of quality control through the gatekeeping process whereby every report prepared by newly qualified Probation Officers were assessed against the Standards. As Probation Officers gained experience the gatekeeping role was undertaken by Area Managers, or a peer review by experienced colleagues to ensure that all PSRs were subject to review. Area Managers further undertook regular quality reviews, and complex reports for sex offenders and serious offenders were subject to a



comprehensive check. Inspectors noted the gatekeeping proformas included in the Core Standards and evidenced completed gatekeeping proformas in a number of the probation offices. In discussion with Probation Officers in the field and at training events the importance of gatekeeping and the requirement for every report to be subject to some level of gatekeeping was evident.

- 2.16 Area Managers provided evidence to Inspectors of the type of feedback presented to report writers following gatekeeping. The use of the correct terms when describing likelihood of re-offending and risk of harm was a common theme, as was reiteration of avoiding the term *dangerous*. These terms have particular significance in the context of public protection sentencing and the gatekeeping mechanism provided valuable assurance. Inspectors noted during the training programme that emphasis of primary responsibility for a quality PSR lay with the Probation Officer writing the report, with gatekeeping acting in a secondary capacity.
- 2.17 Overlying the gatekeeping role was a formal audit of PSRs conducted by the Probation Board Business Planning Unit in conjunction with the Assistant Director for the Northern Ireland Courts and Tribunals Service (NICTS).
- 2.18 In interview with a number of Area Managers, Probation Officers and Director level staff, Inspectors satisfied themselves that gatekeeping was seen as a key step in providing a quality product and also in tailoring PSRs to meet the needs of local Sentencers.

## Developing Pre-Sentence Reports

- 2.19 The ongoing development of the Core Standards provides a practical insight into the approach taken by the Probation Board to continuously improve the reports. The original Standards rightly focused on a standard format and prescribed style and content to ensure consistency and provide a basis for comparisons. Through several iterations the Core Standards have been updated to reflect changes in legislation, the introduction of public protection sentences being a case in point, and also the findings of reviews of PSRs, experience of practice and discussions with Sentencers. The updating of the Standards is managed through line management structures before approval by Senior Management, the Board and ultimately the DoJ.
- 2.20 The most recent development of the Core Standards moves away from a series of prescriptive report descriptions and templates to a thematic approach that defines key principles but gives scope in the format and content of the reports. A key consideration in developing the new Core Standards was combining the less prescriptive guidance with the need to retain consistency, meet certain service requirements and an evidenced-based approach. The key themes in the new Standards focus on:
- sound judgement using professional knowledge and training;
  - risk assessment;
  - a realistic approach to sentence options;
  - partnership approach; and
  - reports proportionate to the user.



2.21 The various key elements of a report were defined with additional information on how each of the specific reports reflects these themes. The central point being to deliver a relevant product to the user and recognising that there is a spectrum of reports and not simply either a standard PSR or a SSR. Inspectors met with the team responsible for the revision of the Core Standards and confirmed the consultative process, the oversight by management and the process by which the new Standards would be approved, implemented and rolled out across the Service.

### **Widening use of Pre-Sentence Reports**

2.22 The revisions to the Core Standards also takes account of the widening net of PSR users. Besides those obvious users - such as defence counsel and the prosecution, the Parole Commissioners for Northern Ireland, following the introduction of public protection sentencing, necessarily require knowledge of the PSRs to impose licence conditions and review sentence recalls.

2.23 Increasingly, the Parole Commissioners use PSRs as a valuable baseline assessment of the offender during hearings, to consider suitability for release of offenders serving Extended Custodial and Indeterminate Custodial Sentences (known as ECS and ICS).

2.24 The importance of PSRs to prison authorities is also increasing where short tariff public protection sentences are made. The work to prepare sentence plans, and in the case of Short Determinate Custody Sentences licence conditions had to be prepared. Prison

staff and prison-based Probation Officers also used the PSRs to prepare relevant programmes of work and in the case of very short and time served sentences, to prepare release plans. Inspectors met with and discussed the role of PSRs with these staff. These recipients provided positive feedback in respect of the timeliness of delivery of PSRs and the quality of the reports.

2.25 A number of other organisations (third party providers such as NIACRO and Extern) supply services to offenders pre and post-release and benefit from information about offenders. They are provided with extract information from the PSR and would welcome a dialogue with the Probation Board to apply some structure to the extent and nature of the information provided. Perhaps by defining a specific format for third party providers to comply with data protection regulations.

2.26 **The Probation Board should usefully discuss with third party service providers how best to deliver relevant data from Pre-Sentence Reports.**

### **Sentencing Framework Initiative**

2.27 At strategic level, DoJ not only approve, but also greatly influence the development of the Core Standards. The most recent example of this is afforded by the Sentencing Framework Initiative and the Criminal Justice (Northern Ireland) Order 2008 which introduced public protection sentences mirroring similar arrangements implemented in England and Wales under the Criminal Justice Act 2003. The major elements of the Criminal



Justice (Northern Ireland) Order 2008 with implications for the Probation Board were:

- the statutory definition of serious harm posed by an offender;
- the concept of dangerousness;
- the role of the Parole Commissioners and Offender Recall Unit in determinate sentence recalls; and
- the role of Parole Commissioners in setting licence conditions.

2.28 The legislation<sup>2</sup> defined *serious harm* as ‘death or serious injury, whether physical or psychological’ and *dangerousness* as ‘whether there is a significant risk to members of the public of serious harm occasioned by the commission by the offender of further such offences.’

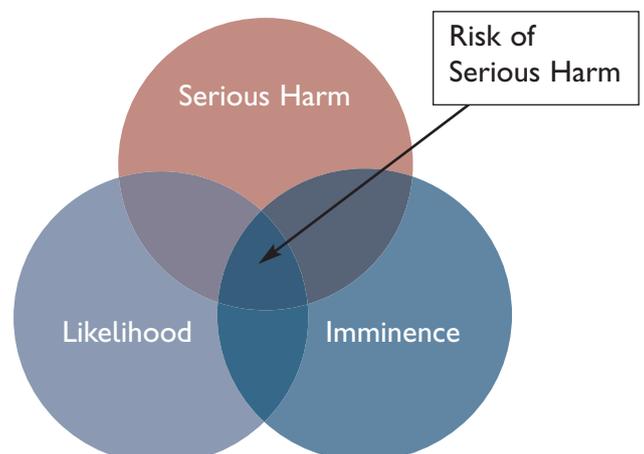
2.29 In turn Sentencers assessed the dangerousness of an individual when deciding upon the nature and extent of the public protection sentence to be awarded and required this to be presented in PSRs.

2.30 The issue for the Probation Board was to provide an evidence-based assessment of risk of serious harm issues to assist the court in its determination of dangerousness without specifically assessing or indicating dangerousness in the PSR. In an interview with senior Probation Board staff and during training events Inspectors were led through the Probation Board process using an actual case study.

2.31 In the first instance the Probation Board ACE<sup>3</sup> risk assessment tool was used to judge likelihood (will an incident

happen), imminence (when will it happen), as well as a risk of serious harm threshold. Where the threshold was reached it triggered, a complete risk of serious harm assessment using the Risk Assessment 1 – risk assessment tool. Any indication of a risk of serious harm had to be validated by the Area Manager within two days of completion of the risk assessment. Following that, the Probation Officer had to convene a risk management meeting within five days. This was a multi-agency meeting including the Probation Board psychology staff and the PSNI. The decision of the risk management meeting was also included in the PSR.

2.32 The combination of likelihood, imminence and risk of serious harm factors gives rise to the Probation Board Risk of Serious Harm Model (see diagram below). Where all three factors converge, meets the concept of significance risk of serious harm in the legislation whilst leaving the decision on dangerousness to the Sentencers. This approach preserves the neutral role of probation, providing the Sentencers with relevant information without impinging on their primacy in determining dangerousness.



<sup>2</sup> Criminal Justice (Northern Ireland) Order 2008.

<sup>3</sup> Assessment, Case management and Evaluation system.



2.33 The importance of the assessment of risk of serious harm lies in the direct influence this has on the nature and extent of the sentence imposed on the offender. The Probation Board have invested significantly in clarifying this assessment. It was a specific feature in the induction training attended by Inspectors and is encapsulated in a process flowchart as an aide memoir to staff. (Appendix 7).

2.34 Some Probation Officers suggested changes in the sentencing framework altered their relationship with the offender and in some way aligned the Probation Board more with the prosecution. There was also sentiment that post-release supervision could be more problematic as the previous Custody Probation Orders were predicated on the offenders acceptance of the conditions whereas, the new sentence licensing conditions were imposed. In practical terms the adherence to the conditions is not that much different but the relationship between the Probation Officer and the offender is deemed to have become more formal. It remains to be seen whether these concerns are realised.

### **Training and Development**

2.35 The Probation Board Corporate and Business Plan 2008-11 explicitly recognises the importance of training and stated one of the primary values of the Probation Board as *'the ongoing development of a learning culture will allow us to review our practice and use all opportunities to develop as a professional organisation.'*

2.36 This is reflected in the provision of a dedicated Learning and Development Unit and Inspectors attended elements of the induction programme covering PSRs, assessing risk of serious harm and public protection sentences. The training was of a consistently high standard and delivered by practitioners who are qualified trainers. The group element of the training was particularly informative allowing the discussion of theory to be interspersed with the experiences of probation practitioners working in the community. The mix of experienced Officers and trainees also provided a valuable cross fertilisation and underpinned the practical relevance of the training. Of particular meaning was the requirement for trainees to prepare a PSR using a case study followed by a live presentation to the presiding District Judge of Belfast. The general view of participants was that the opportunity to practice delivery of a PSR in a courtroom environment was invaluable despite being a challenging task.

2.37 To complement the induction training the Probation Board provided 17 separate training events attended by 188 staff to clarify the organisational response to the changes in sentencing introduced by the Criminal Justice (Northern Ireland) Order 2008.



## CHAPTER 3:

# Delivering a quality service



### Measuring Performance

3.1 The Probation Board utilise a series of performance measures to ensure quality and user satisfaction, the key element of which is adherence to the Core Standards containing clear guidance to Probation Officers, and defining the structure style and suggested content of the Pre-Sentence Report (PSR). The Standards are supported by quality targets, consistency through gatekeeping, compliance audits, user surveys and performance management.

3.2 As part of its overall monitoring arrangements, the Probation Board had implemented a regular audit of PSRs in 2006. These audits were comprehensive and generated useful data which was presented to staff via regular team meetings. Most recently audits were carried out in February 2009, February 2010 and August 2010. The audits focused on the number of interviews, home visits, sight of report and suitability for Specific Sentence Report (SSR).

### Comparison of audit of Pre-Sentence Reports 2009-10

Area	2009	2010
PSR prepared with two or more interviews	52%	71%
Explanation on PSR if less than two interviews	34%	57%
At least one interview conducted at offender's home	33%	51%
Offender had opportunity to have sight of report prior to sentence	48%	76%
PSR was suitable to have been an SSR	24%	15%
PSR recommends additional requirement or programme	35%	30%
PSR might have included a further additional requirement or programme	10%	6%
PSR with no additional requirement that might have included an additional requirement or programme	20%	20%



3.3 Overall there is an improvement in the areas covering interviews, home visits and sight of the reports by offenders. The area of programme recommendations remained more or less the same. The fall in the number of reports deemed suitable for SSRs is worthy of more examination. Only 5% of reports are SSRs suggesting that this figure should have risen, not fallen.

3.4 Area Managers also gave feedback regularly in respect of the PSRs and staff contributed to the continuous improvement programme. This process seemed to work well and interviews with probation staff confirmed that the feedback from staff and managers gave rise to tangible action, ranging from advice on the preferences of local Sentencers to suggested improvements regarding the main Standards.

3.5 Treading the line between writing a report that is relevant to sentencing but is not seen by the Sentencers as impinging on their independent sentencing role is a learned skill, and whilst Core Standards give guidance, the input of an experienced colleague provides added value. Inspectors assessed the graduated level of support provided from a practice teacher overseeing trainees and the mentoring of newly qualified staff by Area Managers to the peer review process for more experienced staff. Inspectors conclude it matched support and supervision to the relevant needs of the individual Officer. It is an efficient use of resources and Inspectors commend this approach.

### Sentencer Surveys

3.6 Pre-Sentence Reports are mostly seen as court reports with the Sentencers

### Survey of Sentencers regarding value of Pre-Sentence Reports

Relevant area: Pre-Sentence Reports	2002	2004	2007
Analysis of offence: risk to public	100%	96%	Not available
Analysis of offence: risk of re-offending	98%	96%	Not available
Analysis of offender: risk to public	98%	98%	97%
Analysis of offender: risk of re-offending	91%	94%	94%
Quality and detail of sentencing proposal	98%	90%	98%
Appropriateness of sentencing proposal	98%	85%	92%
Objectivity of PSR	96%	91%	100%
Overall value in reaching a sentencing decision	98%	84%	94%
On time delivery of report	96%	89%	97%
Length of report	95%	79%	95%
Requests for Specific Sentence Reports	2002	2004	2007
Regularly request	10%	9%	38%
Occasionally request	54%	46%	30%
Never request	36%	44%	32%

being the primary users. The Probation Board conducts regular surveys of Sentencers to gauge the value of the reports. The response from Sentencers is very positive with results for the last three surveys shown on previous page.

3.7 Absolute comparisons with other jurisdictions rely on like for like data and this is skewed by differences in the volume of reports delivered, legislation and the courts in which certain cases are heard. Whilst not a definitive comparison, a recent inspection, following the introduction of indeterminate sentences for public protection in England and Wales, reviewed the quality of PSRs for these cases and found<sup>4</sup>:

Assessment criteria	2010
Overall value in reaching a sentencing decision	65%
Analysis of offender: risk of re-offending	83%
Analysis of offender: risk to the public	62%
Analysis of offence: risk to the public	76%

On the face of it these findings support the views of the Sentencer surveys that the quality of reports presented to courts by the Probation Board for Northern Ireland are of a high standard. Inspectors were told that the number of requests to Probation Officers to appear in court and explain their reports had fallen.

3.8 An interesting statistic in the Northern Ireland survey results was the fourfold

increase in the number of Sentencers regularly requesting SSRs from 2004 to 2007. As discussed in subsequent sections of this report, the number of SSRs delivered to courts has not greatly increased with 256 SSRs in 2008-09 and 284 SSRs in 2009-10.

3.9 Whilst primarily a court report, discussions with other users of PSRs confirmed their value to a wider audience, including prosecutors, the Parole Commissioners and prison authorities. With the advent of public protection sentences the extent of usage of PSRs will increase and the Probation Board should survey these other users in conjunction with their Sentencer survey.

3.10 **The Probation Board should survey other users of Pre-Sentence Reports in conjunction with the Sentencer survey.**

### Timeliness

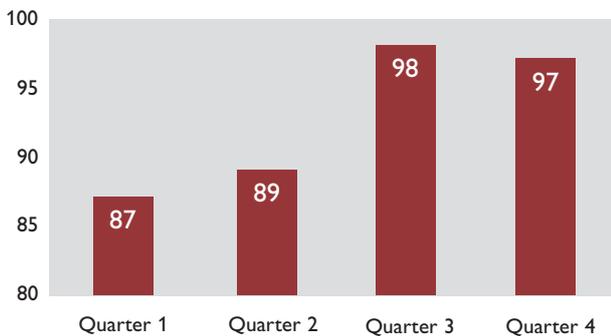
3.11 The timely delivery of a PSR assists the Sentencers and also contributes to the efficient delivery of court business. The Core Standards indicate PSRs should be prepared within 20 days of request, but in practice the courts specify the date on which a report should be available. In 2009-10 this varied between 23 and 26 days from the date requested to the date required. The survey data for 2008-09 and 2009-10 is shown on the following page.

The most significant trend is an improvement in the timeliness figures from 87% in Quarter 1 of 2008-09 to over 95% throughout 2009-10. These

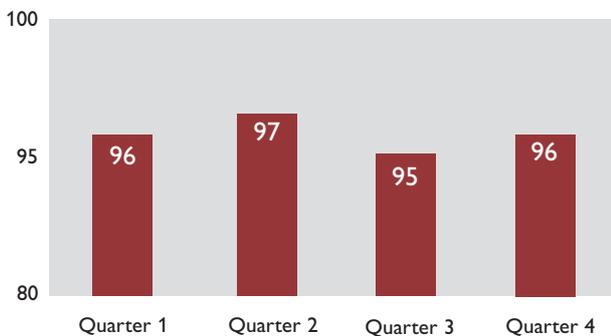
<sup>4</sup> Indeterminate sentences for public protection. A joint inspection by HMI Probation and HMI Prisons, March 2010.



Proportion of PSRs sent on time in 2008-09 (%)



Proportion of PSRs sent on time in 2009-10 (%)



figures indicate a very high level of timeliness and improvements over time, although there may be anomalies within the overall statistics that benefit from detailed analysis.

3.12 An earlier CJI inspection of avoidable delay<sup>5</sup> reported that during 2007-08 year, 8% (30 cases), of the total number of Crown Court reports delayed, could be attributed to the Probation Board. A subsequent audit of the 30 cases indicated that the Probation Board only contributed to delay in nine of these cases constituting responsibility for less than 3%.

3.13 Inspectors reviewed the monitoring of the timeliness data and concluded that the reporting of statistics to the Management Board and regular liaison

between PBNI and the NICTS are essential to maintain this level of performance. One issue arose – the delivery target of 20 days is attained in around 50%-55% of cases whereas, as observed above, delivery to the court on time is the reported target and the figure uppermost in the minds of Sentencers and probation staff. **The Probation Board should restate the Core Standards objective as delivering the Pre-Sentence Report to the court on time. (A target of 95% to 100% should be set).**

## Resources

3.14 The Probation Board received additional funding during 2008-11 to increase its capacity in relation to addressing anticipated rises in workload due to the new legislation. They made structural changes replicating the Intensive Supervision Unit structure across all areas of Northern Ireland, and also invested in front line service delivery, with the recruitment of Probation Officers and Area Managers. (The annual budget from the Northern Ireland Prison Service (NIPS) is £1.6 million to fund probation services in all three prisons to undertake a wide range of duties, underpinned by a Service Level Agreement in each prison).

3.15 The Probation Board has realised economies of scale through the establishment of a Specialist Assessment Unit in Belfast that produces 70% of the PSRs in the Belfast area and one third of all the Probation Board PSRs. The juxtaposition of the Laganside Magistrates' Courts and the Crown and High Courts to the Assessment

<sup>5</sup> Criminal Justice Inspection report on Avoidable Delay, June 2010. [www.cjini.org](http://www.cjini.org)



Unit also facilitates the timely transfer of the reports to the Sentencers.

3.16 Time spent preparing PSRs reduces the time available for other core activities, especially supervision. The new Justice Bill introduces conditional cautions and new partnerships for community safety. The availability of curfews and electronic tagging since 2009 can also increase the workload of Probation Officers. Add to this the increasing pressure on financial resources in the wider Northern Ireland public sector and any efficiencies in the sphere of report writing in the Probation Board would be very welcome.

3.17 In rural areas staff combine preparation of PSRs with their other duties. Almost half of the PSRs are prepared in rural areas.<sup>6</sup> Two issues were raised with Inspectors. These were:

- the lack of remote access to the Probation Board IT system in rural courts made it more difficult to respond to court requests for SSRs; and
- increases in workload required Area Managers to prepare PSRs.

The first issue should be rectified through the proposed implementation of encrypted laptops and remote access. The second issue could also be regarded as a positive factor in maintaining practical skills of Area Managers.

3.18 SSRs are an abbreviated form of PSRs which are intended to provide the sentencing court with useful but limited information about a defendant and offence(s) to assist the court in

determining the suitability of the defendant for a specific sentence envisaged by the court. Its purpose is to speed up the provision of information to assist the court in passing sentence without delay. SSRs are most likely to be used where the court envisages a Community Service Order or a Probation Order without additional requirements attached.

3.19 Despite a number of initiatives, including pilot projects, to encourage the use of SSRs their uptake has remained stubbornly low. In 2010 the Probation Board prepared almost 6,000 PSRs but only 325 SSRs representing less than 5% of the total. Even though the uptake is low there is some evidence to show that it does increase following Sentencer surveys indicating that raising awareness among Sentencers can be beneficial.

3.20 Inspectors discussed the possible reasons for a low uptake with some Sentencers and the Probation Board staff. Whilst no quantitative analysis of the reasons is available the general concerns mentioned included:

- a preference for PSRs due to the greater amount of social history and offence analysis compared with the SSR;
- a perception that a request for a SSR precludes a PSR;
- Sentencers preferring a PSR as it leaves open the full range of sentencing options;
- the need for a visible presence of a Probation Officer in court;
- facilities to access necessary data in court and to hold interviews with offenders;

<sup>6</sup> Appendix 5 provides a breakdown of PSRs by area.



- SSRs failing to flag up previous convictions or give enough information in respect of likelihood to re-offend;
- Sentencers' awareness of the availability of SSRs;
- PSRs include a full risk assessment that will detect risk of serious harm;
- a preference for SSRs that are more than one sentence; and
- a concern that the SSRs do not adequately address the issue of risk of serious harm.

### Experience in England and Wales

3.21 Direct comparisons of the process and outcomes in England and Wales should be treated with caution and is indicative rather than definitive. Thus it is within that frame of reference that evidence of changes to reporting in England and Wales should be treated. Pre-Sentence Reports and Specific Sentence Reports are available to courts in England and Wales and a policy of promoting the use of SSRs has seen a dramatic shift towards the shorter reporting format. In Manchester 80% of court reports are SSRs<sup>7</sup>.

3.22 In recent years the Probation Service of England and Wales has promoted the use of a *fast delivery* PSR, which follows the same structure as a PSR but is shorter and can be delivered orally.

3.23 Comparing 2009 to 2010, the number of court reports prepared by the Probation Board in England and Wales remained stable at 230,000 reports per year. Within this the number of *standard* PSRs written in Quarter 1 2009 compared to Quarter 1 2010 fell 23% (from 32,057

to 24,766) and in the same periods the number of *fast delivery* Pre-Sentence Reports rose 27% (up from 23,100 to 29,292).

3.24 Increasing the usage of SSRs delivers efficiency savings to the Probation Board as estimates of the time taken to prepare the two reports indicates that a SSR requires six hours less than a PSR.

3.25 On the basis of 6,000 sentence reports per year increasing the proportion of SSRs to 25% would release the availability of Probation Officers for other core duties.

3.26 In preparing new Standards the Probation Board are considering options for court reports. They have identified that 85% of PSRs for offenders indicate there was no risk of harm. The ACE assessment identifies low, medium and high categories in assessing likelihood of re-offending. Thus a *one size fits all* PSR may be inappropriate. Rather than selecting either a PSR or a SSR a spectrum of reports could be prepared based upon the risk assessment and the seriousness of the offence.

3.27 Addressing the concerns of Sentencers is necessary if any initiative to increase usage of alternatives to PSRs is to succeed. Some of the answers already exist, as SSRs include a risk assessment and have a trigger point leading to a full PSR where required. The reports do not have to be a single sentence and some probation staff state that Sentencers prefer reports with offender and offence analysis. SSRs could be repackaged as a less detailed PSR providing Sentencers with the range of data but in an abridged format.

<sup>7</sup> CJI inspection report on Avoidable Delay, June 2010. www.cjini.org



3.28 There is ongoing dialogue between the Probation Board and Sentencers at local level as mentioned earlier, with significant support from the presiding District Judge. The Probation Board has presented the case for SSRs at the Judicial Studies Board and at the Criminal Justice Issues Group. The Director of Probation and the Lord Chief Justice have discussed increasing usage of SSRs.

3.29 Against this positive backdrop, in respect of streamlining the delivery of court reports and discourse between the Judicial Studies Board and the Probation Board, to bottom out issues and address them would be useful.

3.30 **The Probation Board need to identify the specific reasons for poor uptake of Specific Sentence Reports and if necessary, develop reports that meet the requirements of Sentencers but are less resource intensive.**

3.31 **The Probation Board should increase the usage of Specific Sentence Reports (or other suitable reports). A target of 35% per annum should be set.**

### **Public Protection Sentencing**

3.32 The legislative basis for PSRs was significantly amended by the Criminal Justice (Northern Ireland) Order 2008 where the risk of serious harm to the public was defined and a range of deterrent and public protection sentences was introduced. The impact on PSRs is two fold – firstly pre-

sentence the analysis of risk of serious harm defines the nature of the public protection sentence made. Secondly, post-sentence, the Parole Commissioners, the NIPS and the DoJ have access to PSRs for recall, release and sentence planning purposes.

3.33 There are three new types of sentences introduced by the Criminal Justice (Northern Ireland) Order 2008, two of which are public protection sentences (ECS and ICS) which had specific implications for the writers of PSRs.

- **Determinate Custodial Sentence** - the sentence comprises a custodial term and a term on licence. The custodial term shall not exceed one half of the term of the sentence. Upon completion of the custodial element of the sentence the offender will be released on licence.<sup>8</sup>
- **Extended Custodial Sentence (ECS)** - the sentence is the aggregate of a custodial term and an extended period where the offender is subject to licence. The custodial term is one half of the period determined by the court as the appropriate custodial term and the licence remains in force until expiration of the whole sentence.
- **Indeterminate Custodial Sentence (ICS)** - the court imposes a minimum period of custody. The offender is subject to licence until completion of a qualifying period and the Parole Commissioners direct that the licence may be revoked.<sup>9</sup>

<sup>8</sup> A licensing panel working within the prison will dictate licence conditions.

<sup>9</sup> The Parole Commissioners impose licence conditions for both ECS and ICS offenders.



- 3.34 Probation Officers raised a number of issues arising from the new sentences directly or indirectly related to how they write their PSRs. These include:
- the breach of licence conditions proposed in the PSRs are no longer referred to the court that imposed the sentence;
  - the Parole Commissioners now consider recalls using recall reports along with PSRs;
  - the extended use of PSRs by prison-based Probation Officers, the Resettlement Unit and Offender Management Unit; and
  - clarity surrounding the relative roles of the Offender Recall Unit and the Parole Commissioners in recall cases.

Whilst stating that these were issues raised by Probation Officers, Inspectors after discussions with Probation Board Management, felt that only the final point gave rise to further consideration and sentence recalls are looked at in further detail below.

- 3.35 The Criminal Justice (Northern Ireland) Order Article 28 states that in the case of a:

*‘prisoner who has been released on licence... the Secretary of State may revoke (the) prisoner’s licence and recall (the) prisoner to prison:*

- a. if recommended to do so by the Parole Commissioners; or*
- b. without such a recommendation if it appears to the Secretary of State that it is expedient in the public interest to recall (the) prisoner before such a recommendation is practicable.’*

- 3.36 The clauses in Article 28 give rise to definitions of recall that have been classified as *standard* – conforming to clause (a) and *emergency* clause (b). In the case of a *standard* recall the probation staff must submit a recall report to the Parole Commissioners which is required to be reviewed by a Parole Commissioner within 48 hours of the recall. Necessarily the Parole Commissioner will require documentation to support the breach and request for recall including the PSR. In the instance where a recall is deemed *emergency*, the breach report and request for recall is forwarded to the Offender Recall Unit of the DoJ. The Offender Recall Unit provides an out-of-hours facility for emergency recalls. Subsequently the recall request is sent to the Parole Commissioners for review.

- 3.37 On the face of it the process appears clear cut<sup>10</sup> but in practice there are some issues surrounding the outworking of these new arrangements. The Probation Officer faced with a decision to breach an offender is not often presented with a simple clear cut case. Whilst there is a threshold of behaviour and actions that once crossed, signals a breach, this requires a professional judgement by the Probation Officer in consultation with their Manager.

- 3.38 Similarly, the classification of a recall into *emergency* or *standard* is not black and white but lies within a spectrum. Serious behaviour intimating imminent risk of harm to the public is easily identified as an emergency and at the other end, an offender remanded into custody for a further offence is clearly not an *emergency*.

<sup>10</sup> A process flowchart of the recall process is given in Appendix 7.



3.39 Between these poles other circumstances can arise. A common enough situation quoted to Inspectors was that of a Probation Officer on a Friday night faced with a report from a hostel that an offender had not returned, or had done so but was suspected of being under the influence of alcohol. Strictly, it would not be classified as an *emergency* and thus should be referred to the Parole Commissioners, potentially leaving the situation unresolved until after the weekend. However, often a Probation Officer faced with this will believe the risk is too high and will want a more immediate recall. A small number of cases fell into this grey area and led to a middle category of cases unofficially known as *urgent* cases.

3.40 As a consequence of these types of cases the Parole Commissioners provided the Probation Board with a list of Commissioners who may be contacted out-of-hours to deal with cases that warrant prompt action whilst not being an actual *emergency*. This has gone some way to resolve the problem and it is noted that the arrangements are still a work in progress therefore the DoJ, the Probation Board and the Parole Commissioners should maintain a dialogue to aid continuous improvement.

3.41 Allied to the classification of a recall request as *urgent* or *emergency* is the physical process of accessing records via the local office.

3.42 **The threshold for standard and emergency recalls should be clearly demarcated.**

3.43 **Area Managers should have remote access to the Probation Board IT systems for out-of-hours working.**

### Measuring Outcomes

3.44 The delivery of a PSR that is objective, evidence-based, reliable and provides useful advice to a Sentencer, whilst meeting the Core Standards is adjudged to have met the criteria for delivery of a successful report. The internal audits, performance measures and gatekeeping reviews contribute to the maintenance of the quality standards and Sentencers' surveys provide a measure (albeit fairly subjective) of user satisfaction.

3.45 In a perverse way the value of PSRs is highlighted in cases where they are not prepared. Where a sentence is time served on remand a prisoner may be released from custody into supervision without a PSR. In these instances Probation Officers and Licensing and Sentence Planners were unanimous in describing the difficulty in assigning licence conditions, identifying programmes and gaining a positive engagement with the offender.

3.46 The preponderance of these measures are weighted towards assessment against defined quality standards and delivery targets, which are important but do not measure wider outcomes. The practice in England and Wales is to measure the relative concordance of sentences proposed in court reports with the actual sentences awarded. The idea being that relevance of a PSR to a sentence decision is demonstrated by how often the Sentencers and the PSR agree. The figures up to 31 March 2010 presented by National Offender



Management Service indicate the following levels of concordance:

- 89% for custodial sentences;
- 70% for community sentences; and
- 53% for suspended sentence orders.

3.47 The probation services in England and Wales measure the concordance between the recommended sentence in the PSR and that made by the court. The concordance rates quoted range for just over 50% for suspended sentence orders to over 90% for custodial sentences. They also quote lack of concordance. Recent figures for 2009-10 quoted by the England and Wales Probation Service<sup>11</sup> showed that on 53 occasions, the PSR indicated a custodial sentence but the sentence outcome was an absolute/conditional discharge, and in 79 cases where the PSR indicated a fine, the outcome was custody. This is a wide disparity between the Probation Officer's assessment and that of the Sentencer and provides the basis for some more detailed analysis.

3.48 In Northern Ireland writers of PSRs do not make a single recommendation giving preference to one sentence versus another but rather outline a range of appropriate sentencing options. Measuring concordance rates would be problematic and probably misleading if comparisons with England and Wales were made. Even so there is merit in gathering information regarding the outcomes of cases where PSRs were provided to identify possible indicators of a correlation between the sentences and the options outlined in the PSR. This could be used for internal analysis and contribute to training and development.

**The Probation Board should gather information on the outcomes of cases where Pre-Sentence Reports are provided to identify possible indicators of a correlation between the sentences and the options outlined in the report.**

3.49 In Northern Ireland there is no presumption to use court reports to influence the decisions of Sentencers towards non-custodial sentences. As described earlier the Core Standards list the virtues of a good report as:

- relevance;
- neutrality;
- clarity;
- impartiality;
- evidenced evaluation;
- avoidance of moral judgement;
- assessment of character;
- risk assessment; and
- where appropriate, risk of serious harm.

3.50 This is not the case in other jurisdictions where the outcomes of pre-sentence reporting extends into the realm of influencing the Sentencer in a particular direction. This ranges from a policy aim that court reports will influence Sentencers towards non-custodial disposals to legislation, where the presumption is that community service will be awarded where short custodial sentences are considered.

3.51 A recent four-year study in Scotland postulated that some of the general virtues of PSRs (neutrality, impartiality) appeared to collide with others (relevance, risk assessment) concluding that a good report is relevant to the

11 Probation statistics quarterly brief, January to March 2010; England and Wales - Table 11.



sentence when it encourages Sentencers to award particular disposals<sup>12</sup>. The report also looked at the development of sentencing policy and how that is influenced by pre-sentence reporting concluding that:

*'Policy development has been predicated on the view that higher quality (pre-sentence) reports will help to 'sell' community penalties to the principal consumers of such reports (judges).'*

3.52 This general policy drive has culminated in The Scottish Executive legislating for a presumption against custody of three months or less (Criminal Justice and Licensing (Scotland) Act 2010). In the context of PSRs this policy directive forms the basis for a specific outcome measure, and the reports will be a primary vehicle to condition opinion and influence action, rather than merely provide information.

3.53 The Minister of Justice has pledged to a major reshaping of the criminal justice system in Northern Ireland and central to the reforms is the development of a Reducing Offending Strategy, which aims to reshape fundamentally our approach to tackling the factors leading people into the criminal justice system and the obstacles which hinder them from getting back out of it.

3.54 Diversion from the justice system is already recognised in proposals in the Justice (Northern Ireland) Bill 2011 and community restorative justice schemes. A major driver in the sentencing initiatives is the data indicating that community disposals are more

successful than short custody sentences in reducing re-offending by adults convicted of less serious offences. This coupled with a resultant reduction in the prisoner population make community-based disposal sentences a viable alternative to custody.

3.55 Reconviction research published by the Northern Ireland Office in April 2008 showed that seven in 10 people commencing supervision by the Probation Board during 2004 were not reconvicted within two years. For those completing unpaid work, three in every four people were not reconvicted. An analysis of reconviction rates in respect of people given a community-based court disposal during 2004 and released from custody in that year is given below.

**Adult Two - Year Reconviction Rates**

Disposal	Reconviction Rate
Combination Order	43%
Community Service Order	25%
Probation Order	32%
Community Supervision	31%
Custody Probation Order	38%
Immediate Custody	48%

3.56 The Minister of Justice has issued a consultation on a review of community sentences. The consultation paper highlights the level of community sentencing is lower than expected with resultant higher levels of custody sentences. As the consultation paper states this is despite the fact 'statistics

12 The Pursuit of 'Quality' in Pre-Sentence Reports, Tata et al Brit. J. Criminol. (2008) 48, 835-855



show that community sentences do impact on re-offending. The one year re-offending rate for adult offenders (18+) sentenced to community disposals in 2007 is as follows:

Community Service Order	23.5%
Probation Order	24.4%
Combination Order	34.0%

(based on small numbers)

The one year re-offending rate for adult offenders discharged from custody, having served a sentence of six months or less, is 40.2%.

The consultation paper concludes:

*'It would appear that community disposals are more effective than custody at tackling re-offending in adults convicted for less serious offences.'*

- 3.57 A move to increase community sentencing, be it persuasive or presumptive, could potentially influence the role of the PSRs. It is worth noting here the view of the Probation Board that PSRs are of value in assisting the court in determining the most suitable method of dealing with an offender. It remains the role for judges to decide the most suitable disposals for an offender considering the nature and seriousness of their offending.

Section



# Appendices



# Appendix 1: Terms of Reference

## An inspection of Pre-Sentence Reports

### Background

Article 2(2) of the Criminal Justice (Northern Ireland) Order 1996 is the legislative authority for providing a Pre-Sentence Report (PSR) to a court and now almost 6,000 PSRs are prepared in Northern Ireland every year. In 2000, the Probation Board Northern Ireland (PBNI) agreed interim standards for probation practice with the Northern Ireland Office. These interim standards covered, *inter alia*, the preparation of PSRs and following implementation on 1 November 2000 became known as the Core Standards. At that time it was also agreed that over time the interim standards would be subject to review and revised to give a comprehensive set of Northern Ireland Standards for the assessment, management and supervision by the Probation Board of all offenders subject to Community Sentences, Custody Probation Orders, Statutory Licences as well as the provision of reports to the Northern Ireland Courts and Tribunals Service (NICTS) and The Parole (formerly the Life Sentence Review) Commissioners. These Standards were implemented in the Probation Board from 1 September 2006.

To ensure continued applicability of organisational standards, in particular in relation to the implementation of the Criminal Justice (Northern Ireland) Order 2008, the Probation Board have recently revised and updated specific sections of the Standards. Interim standards for PSRs were implemented in 2009 and revised guidance issued to staff. This took into account:

- additions and changes to criminal justice and related legislation;
- increasing demands for protection of the public from crime and its effects (Criminal Justice (Northern Ireland) Order 2008);
- lessons learned from application of the Standards to daily practice;
- the outcomes of monitoring practice and periodic internal audits; and
- recommendations which reflect the findings of successive external reviews and inspections.

Within the Standards, there is a requirement for Probation Officers to self-regulate their own practice, and for Area and Senior Managers to quality assure work undertaken. This framework of review and feedback provides a mechanism to implement changes and improvements reflecting the views of practitioners, Sentencers and other users.



## **Aims and Objectives**

This inspection aims to assess the extent to which the Probation Board implements its legislative mandate, meets the Northern Ireland key standards and assesses and meets the needs of users of PSRs.

Specific areas will be:

- a review of the effectiveness of systems and processes to maintain and improve performance in accordance with standards, maintain quality and ensure consistency across the Probation Board;
- how the Probation Board communicates with Sentencers and other users of PSRs and meets their developing needs;
- the management of the PSR process – resourcing, staff deployment and training, internal monitoring, quality assurance, audit, timescales for starting/completing reports;
- how the Probation Board is meeting the additional requirements of the Criminal Justice Order 2008 and ensuring consistency across Northern Ireland;
- the work of the Case Management Group on avoidable delay and the delivery of reports in shorter timescales; and
- how the Probation Board seeks to continuously develop its practice requirements and staff skills.

In general terms the inspection will focus on the three main elements of CJI's framework and how they apply to PSRs. These areas are strategy and governance, delivery and outcomes.

During the fieldwork there will be an opportunity for staff, Sentencers and other users/stakeholders to surface issues surrounding the implementation of the 2009 Standards, the quality and timeliness of PSRs provided by the Probation Board, and any other issues as appropriate.

In light of findings, the inspection report will make recommendations.

## **Methodology**

1. Background reading - existing legislation, policies, procedures, Core Standards, service requirements relevant to the Probation Board and other papers.
2. Discussions with the Probation Board to set Terms of Reference, understand the role of PSRs and SSRs and identify the key issues.
3. Data analysis covering period April 2007 – to most recent: the Probation Board data regarding PSRs, trends across courts and offences, compliance and breach rates of orders supervised, internal audit and monitoring reports, costs, volume data.
4. Sample PSRs and SSRs, internal quality audits, evidence of continuous improvement and user feedback.



5. Structured interviews/questionnaires/focus groups of practitioners and Managers, with:

- relevant Probation Board staff from Belfast and rural areas;
- defence and prosecution representatives; and
- Sentencers: Crown and Magistrates' Courts.

6. Analysis of fieldwork and drafting of report.

**Process and Outcomes of the Inspection**

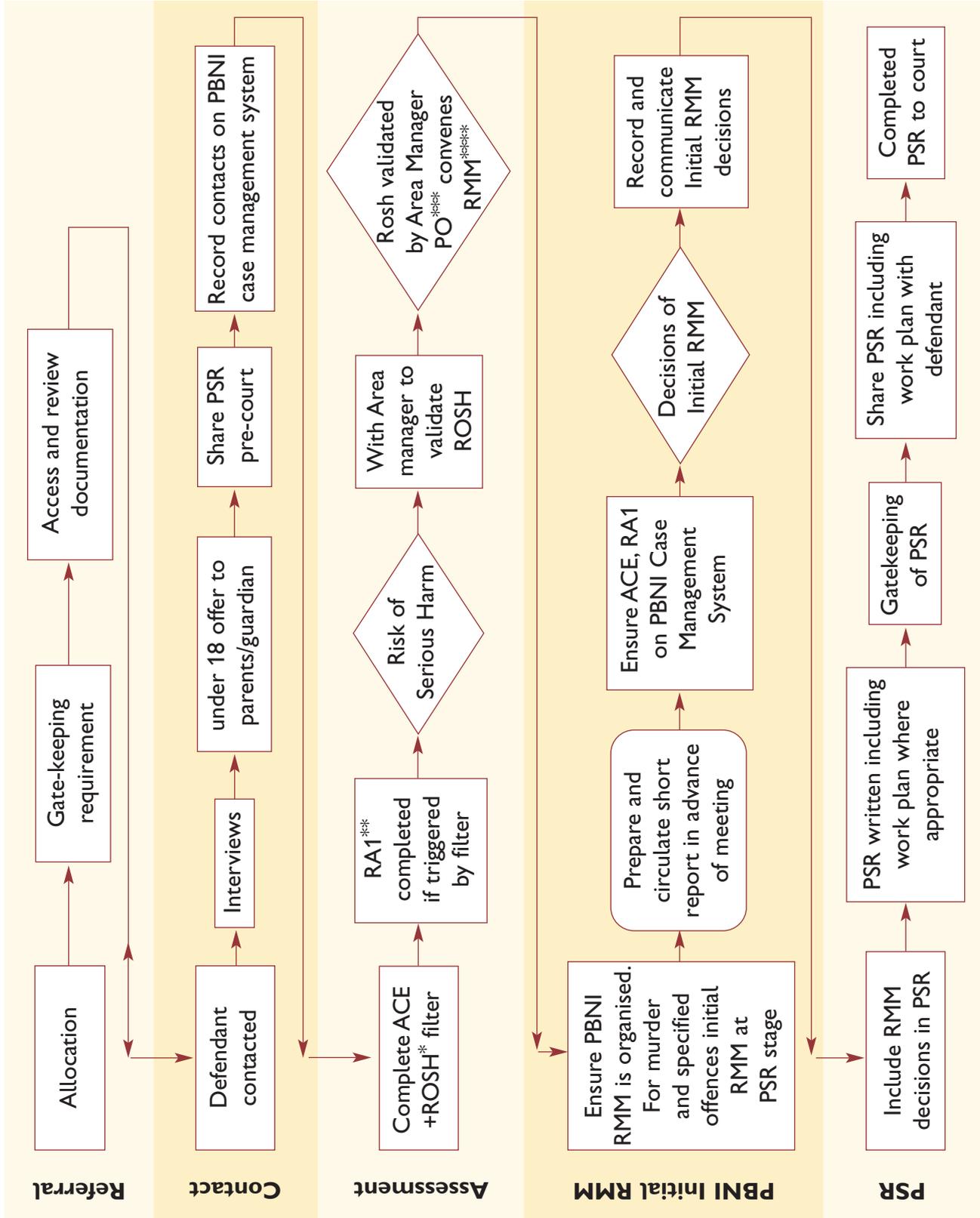
The inspection will be led by Stephen Dolan and Tom McGonigle. It will be carried out in accordance with the principles set out in the CJI Operational Guidelines for Inspection.

A draft report will be made available to the Probation Board for factual accuracy check and the final report will be a published document. The Probation Board will be asked to produce an Action Plan in response to the inspection recommendations and a follow-up inspection will be scheduled by CJI to assess progress against the Action Plan.

**Proposed CJI Schedule**

	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Scoping							
Research							
Fieldwork							
Analysis							
Writing up report							
Publication							◆

## Appendix 2: Initial Assessment Process for Pre-Sentence Reports



\* ROSH - Risk of Serious Harm  
 \*\* RA1 - Risk Assessment 1  
 \*\*\* PO - Probation Officer  
 \*\*\*\* RMM - Risk Management Meeting



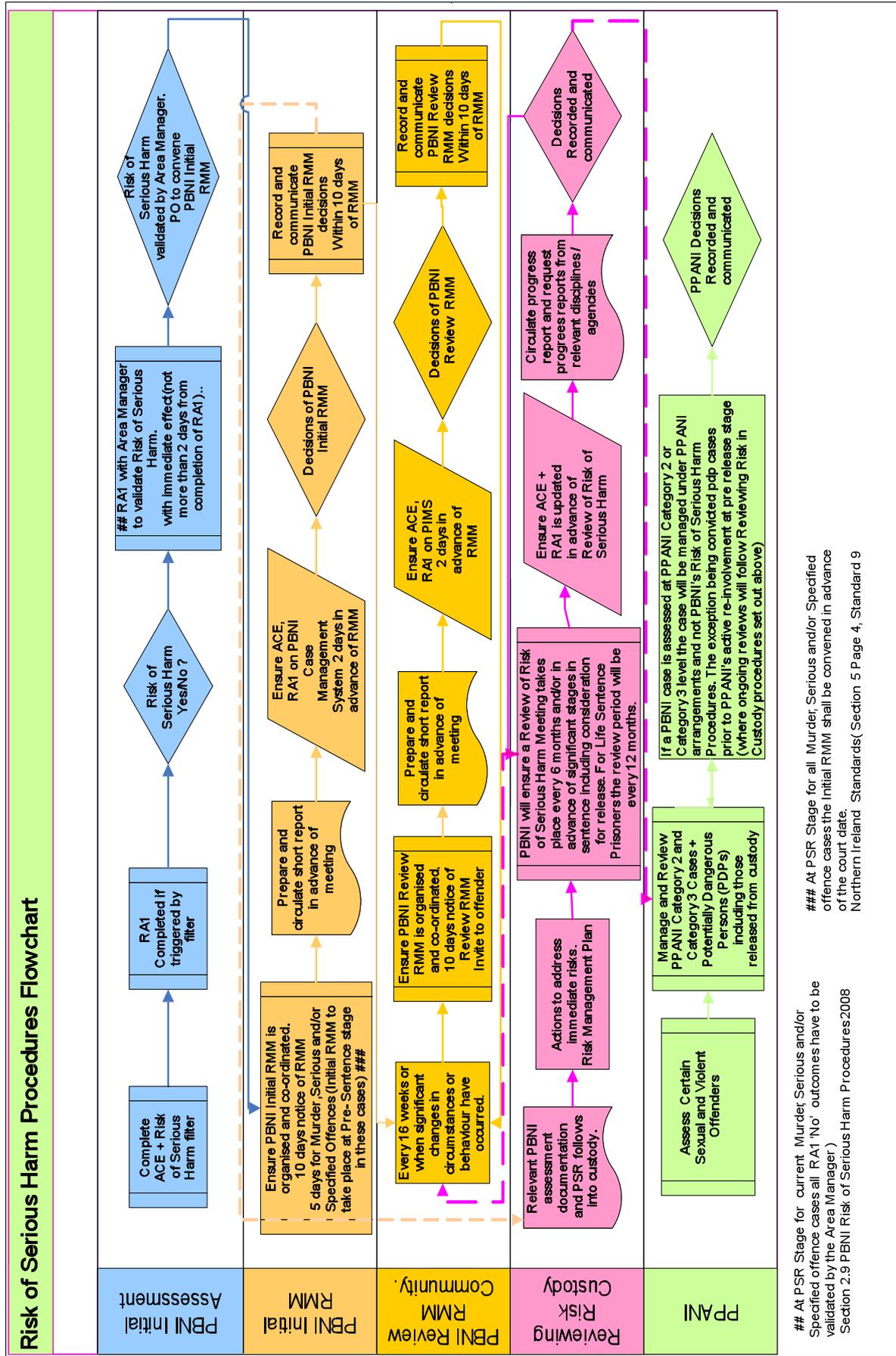
## Appendix 3: Public Protection Sentences

A **Determinate Custodial Sentence** requires an offender to serve a period of imprisonment followed by a period of supervision in the community. The court will specify the length of both custody and community supervision at sentencing. This will be the standard determinate sentence for all offenders, and has been available to the courts from 1 April 2009.

An **Extended Custodial Sentence** may be given at court if the offender has been convicted on indictment of a specified offence, where a life sentence or Indeterminate Custodial Sentence is not appropriate. The court must be of the opinion that there is a significant risk that the offender will re-offend and that such re-offending is likely to cause serious harm to members of the public. The court will specify the maximum length of custody and length of time to be served on licence into the community. Halfway through the custodial element of their sentence offenders may apply to the Parole Commissioners for early release.

An **Indeterminate Custodial Sentence** may be given at court if the offender has been convicted on indictment of a specified offence, where a life sentence is not appropriate but an Extended Custodial Sentence is not sufficient. The court must be of the opinion that there is a significant risk that the offender will re-offend and that such re-offending is likely to cause serious harm to members of the public. The court will specify the maximum length of custody that an offender must serve before being released on licence into the community. Offenders may remain on licence for the rest of their natural lives. On reaching a tariff date, offenders may apply to the Parole Commissioners for early release.

# Appendix 4: Risk of Serious Harm Procedures





## Appendix 5: Pre-Sentence Reports by Probation Board office

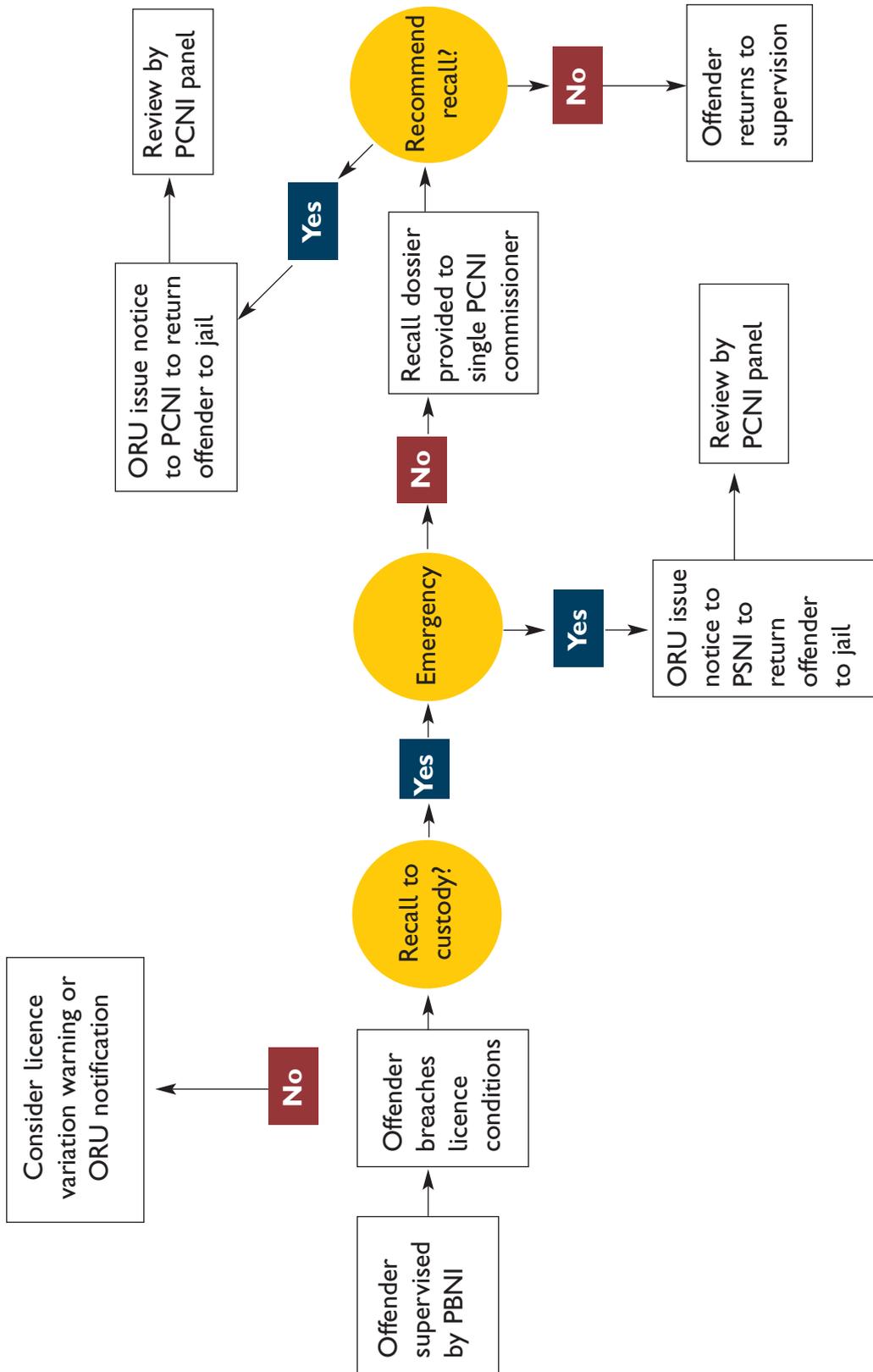
Location	Author Team	2009-10
<b>Belfast</b>	Assessment Unit	1,950
	Inspire Project	38
	NBSA Antrim Road	151
	NBSA Larne	280
	PYOP	143
	SENDA N'ards	47
	SENDA N'ards Road	34
	SENDA Ormeau Road	90
	West Belfast A'town Road	115
	West Belfast Lisburn	76
	<b>Total</b>	<b>2,924</b>
<b>Prisons</b>	Hydebank Wood	7
	Maghaberry	3
	Magilligan	2
	<b>Total</b>	<b>12</b>
<b>Rural</b>	Armagh	207
	Dungannon	102
	Magherafelt	324
	Antrim	154
	Ballymena	234
	Coleraine	242
	Crawford Square	335
	Limavady Road	275
	Newry	298
	Portadown	352
	Enniskillen	152
	Omagh	220
	Other	15
	<b>Total</b>	<b>2,910</b>
<b>Specialist</b>	Intensive Supervision Unit	107
	Public Protection Team	13
	<b>Total</b>	<b>120</b>
<b>Total</b>		<b>5,966</b>

## Appendix 6: Probation Board for Northern Ireland Action Plan

Rec No	Recommendation	Accepted by PBNI?	Agreed Action
1	The Probation Board should usefully discuss with third party service providers how best to deliver relevant data from Pre-Sentence Reports	Y	To have in place agreed mechanisms for the sharing of information relevant from PSRs with third party service providers by December 2011.
	The Probation Board should survey other users of Pre-Sentence Reports in conjunction with the Sentencer survey	Partially	To complete a Parole Commissioners survey regarding services provided by PBNI by March 2012. PBNI would not include other users of PSRs (prosecutors and prison authorities) in such surveys.
2	The Probation Board should restate the Core Standards objectives as delivering the Pre-Sentence Report to court on time (target of 95-100% should be set)	Y	To include targets for timely provision of PSRs in 2011-14 PBNI Corporate Plan and 2011-12 PBNI Business Plan by June 2011.
3	The Probation Board need to identify the specific reasons for poor uptake of Specific Sentence Reports and if necessary develop reports that meet the requirements of Sentencers but are less resource intensive.	Y	To identify reasons for poor uptake of SSRs by March 2012.
4	The Probation Board should increase the usage of Specific Sentence Reports (or other suitable reports). A target of 35% per annum should be set	Y	To increase the proportion of SSRs provided to courts to 35% over the next two business years.
5	The threshold for <i>standard</i> and <i>emergency</i> recalls should be clearly demarcated	Y	To agree with Parole Commissioners and Offender Recall Unit the thresholds for <i>standard</i> and <i>emergency</i> recalls by September 2011.
6	Area Managers should have remote access to the Probation Board systems for out of hours working	Y	To complete a pilot of remote secure access to PBNI IT systems out of hours by March 2012.
7	The Probation Board should gather information on the outcomes of cases where Pre-Sentence Reports are provided to identify possible indicators of a correlation between the sentences and the options outlined in the report.	Y	To be incorporated into the specification for the new case management system.



## Appendix 7: Recall Process Flowchart









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