



# Review of the Aberdeen Problem Solving Approach



**CRIME AND JUSTICE**

# **REVIEW OF THE ABERDEEN PROBLEM-SOLVING APPROACH**

**2018**

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All analysis and interpretation in this report is the responsibility of the authors.

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# Executive Summary

## The Aberdeen Problem-Solving Approach

The Aberdeen Problem-Solving Approach (PSA) has been running in Aberdeen Sheriff Court since November 2015 (for women) and since August 2016 (for young men). In line with theory and evidence on problem-solving justice, it aims to reduce the use of short custodial sentences and reduce reoffending by combining the authority of the court with support and rehabilitative opportunities to address the underlying causes of offending. Unlike traditional problem-solving courts, which target a specific crime (e.g. domestic abuse) or problem (e.g. drug use), the Aberdeen PSA's 'specialisation' is people with a history of frequent low-level offending with multiple and complex needs. Those admitted into the PSA have their sentence deferred while they engage with service providers for a specified period of time, during which they must return to court for regular judicial reviews with a dedicated sheriff.

## Review aims and methods

Ipsos MORI Scotland and the Scottish Centre for Crime and Justice Research/University of Stirling conducted an independent Review of the PSA between August 2017 and January 2018. The Review aimed to:

- Provide useful evidence about how the PSA is delivered and what (if anything) distinguishes it from normal sentencing procedures
- Identify areas for improvement, lessons learned and good practice that other areas could learn from
- Explore and describe the experiences of people with convictions who have been admitted to the PSA and, where possible, identify any emerging short term outcomes for PSA participants and the courts.

A mixed method approach was adopted. This involved primary qualitative research (interviews and focus groups with PSA participants, professionals involved in delivering the PSA and wider stakeholders), court observations, and secondary analysis of routinely collected monitoring data. The qualitative research provided rich data on participants' experiences and the perspectives of participants, professionals and wider stakeholders on: how the PSA is being delivered; what distinguishes it from other sentencing procedures; what is working well; what could be improved; and lessons for other areas. The court observations enabled further comparisons with other sentencing procedures. The analysis of the monitoring data provided some quantitative data on the profile of participants (including risk/needs assessment), engagement, compliance and sentencing outcome.

The Review reports on *perceived* short term outcomes based on interviews with PSA participants and professionals and on analysis of the monitoring data, but was not intended to draw firm conclusions about the approach's impact, and is limited by the small number of people who have been admitted to the PSA to date (30 women and 18 men).

## How problem-solving works in practice

Key features of how the PSA operates in practice include:

- Potential participants are screened by Criminal Justice Social Work (CJSW) using lists of people released on undertakings and people subject to appear from custody. The vast majority of screenings (95%) are undertaken without the need for face-to-

face contact, because individuals can be easily eliminated due to clearly not meeting the eligibility criteria. Potential cases are flagged to the Crown Office and Procurator Fiscal Service (there is a dedicated procurator fiscal depute) and if the decision is taken to proceed, a rapid report is then prepared by CJSW and sent to the PSA sheriff ahead of sentencing.

- Those admitted had a Structured Deferred Sentence (SDS) imposed. The majority (80%) of SDSs were for six months initially. Of the 48 SDSs imposed so far, nine had been extended (for between one and six months).
- At the time of this Review, the PSA had 16 current cases, which is less than the 50 per year (and 25 at any one time) anticipated at the outset. This may be, in part, because 'saturation' point has almost been reached with the women (i.e. most of the women in Aberdeen who meet the criteria will – by the nature of their offending profile – have come through Aberdeen Sheriff Court at some point since the PSA started). Whether the numbers should be increased (for example, by widening the target group) is something for consideration.
- In line with the target group, those referred had considerable offending histories (the majority had more than 10 convictions and at least three custodial sentences in the last five years), had encountered significant adversity (financial difficulties and experience of trauma and/or abuse, in particular) and most had a 'high' or 'very high' risk of re-offending (based on LS/CMI<sup>1</sup> scores).
- Individuals accepted onto the PSA are allocated a criminal justice social worker and a support worker. They usually meet with each at least once a week. CJSW provide direct one-to-one work with participants and referrals to other services (e.g. housing, or withdrawal management and rehabilitation services).
- Participants attend court reviews on a regular basis (usually monthly although this is flexible). Before the review, the sheriff receives a brief update report from CJSW which is then discussed in court. The sheriff hears from the participant's defence agent, social worker and the participant themselves, about what progress has been made since the last review and what their goals are over the next few weeks. The sheriff provides praise, warnings and encouragement as appropriate.
- Both professional respondents and PSA participants acknowledged that there were various reasons why individuals agreed to take part in the PSA. For some, the primary consideration was a desire to avoid a remand in custody or a custodial sentence. For others, the offer of support was welcome.
- Regardless of initial reasons, participants reported that once they began receiving support, their motivation to comply often increased. Workers' proactive support meant that there was an investment and desire '*not to let them down*'. Similarly, the positive encouragement from the sheriff and the interaction of the reviews increased the importance for some participants of '*doing well*'.
- Overall, participants' attendance at PSA reviews, compliance with the PSA plan and engagement with services was moderately good. Around three-quarters attended all, or all but one, of their PSA reviews and the majority complied at least 'fairly well' with their PSA plan.

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<sup>1</sup> Level of Service/Case Management Inventory – an instrument that aims to support practitioners to conduct a thorough review of a person's circumstances, difficulties and strengths. It is the common method of risk assessment within CJSW.

- PSA reviews take place between 9.30 and 10.00am (on the two to three days a week on which they were held) in a small room in a part of the court rarely accessed by the public. The only attendees are those participating in the proceedings.
- The physical layout and format of the court in which the PSA is held is moderately formal and traditional. However, the communication between people within PSA court hearings is considered less formal and more individualised and interactive than 'standard' court hearings, for example, Community Payback Order (CPO) hearings.
- At each review, the sheriff takes into consideration a participant's compliance with the PSA plan and any evidence of offending and decides to: continue the SDS; end the SDS and admonish the participant; or impose an alternative sentence (usually custodial).
- PSA participants can still access social work support (and support from other services they have been linked up with such as addiction support) on a voluntary basis following exit from the PSA – and are encouraged to do so.

Distinguishing features of the PSA, compared to the way other community sentences are used in Aberdeen, include:

- The fact that the Structured Deferred Sentence (SDS) defers sentence and is not a statutory order
- The prospect of admonition upon completion of the SDS which may act as an incentive
- The allocation of both a criminal justice social worker and a support worker and (typically) weekly appointments with each
- Judicial supervision and multiple review hearings set at regular intervals (typically every four weeks). This is similar to a Drug Treatment and Testing Order but unlike most CPOs
- Participants and professionals felt that PSA review hearings were '*more personal and motivational*' than CPO reviews
- There was broad consensus among professionals in Aberdeen that the PSA and its use of SDSs is more flexible than a CPO, especially in relation to responding to non-compliance and breach.

## **Emerging outcomes – what people think about problem-solving**

- Participants – including those who were back in custody – were overwhelmingly positive about the PSA's overall impact on their lives.
- Professionals were also very positive about the PSA overall – while acknowledging that it was less successful for those with more entrenched problems and who were not at a point where they were ready to change.
- Among the 35 participants whose cases had closed, 14 had completed their SDS and been admonished, two had completed their SDS but received another sentence and 19 had not completed their SDS (13 of these participants had received a custodial sentence). While this may not appear to be a high rate of successful completion, the profile of participants must be borne in mind – almost all



were considered at risk of custody and faced multiple problems. The fact that over half of participants were not in custody by the end of their involvement in the PSA is very encouraging – although assessing the extent to which this is sustained would require a longer evaluation.

- Positive outcomes reported by participants included: reduced reoffending, reduced substance use, improved housing situations, improved mental health and wellbeing and improved social skills and relationships. Professionals also observed these outcomes – although they acknowledged that the PSA was less successful for those with more entrenched problems.
- The barriers to successful completion identified by both professionals and participants were not, in the main, problems caused by the way the PSA operates. They were: the complexity of participants' problems; unstable substance use; the influence of family and associates; the intervention not coming at the right time in terms of readiness to change; and lack of access to services and support (such as housing and mental health services).
- Given the small numbers so far, there is a limit to what can be said about the characteristics of women who complete their SDS compared to those who do not. (The numbers of men are even lower so we cannot say anything at this stage about the characteristics of men that might predict success). Women who did not complete their SDS were slightly more likely to have been assessed as living in unstable and/or unsuitable accommodation. There was also a difference in the total LS/CMI scores (indicating that those who did not complete were 'riskier' overall), driven primarily by differences in the education/employment domain.
- Professionals agreed that, although success was less likely among those with more complex and long-standing problems, there were always 'surprises' and it was very difficult to predict who the PSA would work for.

## **Areas for future consideration or improvement**

The main areas for improvement identified in the Review were:

- Overall, most professionals thought that the eligibility criteria should be reviewed although there were mixed views about whether it should continue to target prolific offenders or whether the criteria should be changed to allow earlier interventions (i.e. also targeting those who were not – yet – such prolific offenders).
- The findings emphasise the importance of effective exit planning and, in particular, ensuring that participants understand from the outset what support will be available to them when they exit the PSA.
- Professionals should remain alert to the risk of up-tariffing. In particular, there is a risk that concerns about insufficient support after completion may lead to up-tariffing in order to keep someone on the programme (and engaged with services) for longer. As noted above, exit plans and clarity about access to continued support after completion are also important in this regard.
- For a small number of participants, the PSA had been working effectively up until they had charges called in another court, over which the PSA had no power. Although they had been making good progress on the PSA, they were re-arrested on an outstanding warrant and returned to custody. It was suggested that this requires a more 'joined up approach' across courts and data collection systems to

ensure that information on PSA participants can be passed between courts. Sheriffs and other court professionals were currently working to resolve this issue.

- While relationships between staff in the different partner agencies appeared to be good, there is scope to improve communication further to ensure that all stakeholders (and new staff, in particular) are aware of the PSA and how it works – and have the opportunity to contribute suggestions for improvement. It was suggested that the multi-agency meetings that were held during the set-up stage should be reinstated. Community justice partners could also be involved, to ensure everyone is up-to-date with changes happening in the local area and to consider any potential impact on the PSA.
- There should be more regular communications to stakeholders (particularly those not as closely involved in the PSA on a daily/weekly basis e.g. other sheriffs and defence agents who did not have clients on the PSA) to ensure they remain aware of the PSA and, in particular: criteria for admission; process; potential outcomes for participants and what their roles are in relation to it. This should help increase participation.

## **Advice and learning for other areas**

A summary of the key learning points from this Review, for stakeholders in other areas to consider, is provided below.

### **Setting up a problem-solving court**

- The set-up phase involved close partnership working among the different agencies. Professionals praised each other's commitment, enthusiasm, '*can-do*' attitude and willingness to co-operate. They stressed the importance of having the '*right people*' in place (i.e. those with a positive attitude towards the PSA concept).
- Multi-agency workshops and regular meetings are important in the development and early implementation stages to ensure buy-in, build relationships and resolve teething problems.
- The sheriff who led the set-up from the judicial side spent a considerable amount of time reading, attending conferences and talking to other professionals during the development of the PSA pilot. She advised that colleagues in other areas who were considering setting up a PSA should not underestimate the time involved – though other areas will, of course, benefit from the findings in this report.

### **Running a problem-solving court**

- Sheriffs and defence agents actively identifying potential participants helps to improve engagement as potential participants can be given information about the PSA and what participation might offer at a significant point in the process (i.e. when appearing in front of a sheriff or meeting with the defence agent). This reinforces the importance of raising awareness of the PSA among relevant professionals.
- The PSA process can bring all outstanding charges together to be dealt with at one point, which both professionals and PSA participants saw as an important feature of the process. With all cases rolled together, the participant could be admonished in relation to some of the charges to recognise and reward compliance, thus increasing incentives.

- The rapid report (produced within seven days of the offence compared to 28 days for other orders) is a key benefit of the PSA. This enabled swift sentencing: there was an average of 15.5 days (for women) and 11.3 days (for men) between the case's first calling and sentencing.
- Time-tabling participants' monthly reviews required considerable organisation to fit them into the court schedule and sheriffs' rotas.
- The fact that only those directly involved in the participant's case were present at the hearings, and that there were no onlookers in the public gallery, was very important to participants. They felt that this facilitated more open and honest discussion.

### **Making it work in a local context**

- The PSA's success is reliant on having appropriate local services to which PSA participants can be referred. For example, having the Women's Centre already established in Aberdeen was considered to be hugely valuable.
- The benefit of having a predisposal social work team based in council premises adjacent to Aberdeen Sheriff Court was noted. This facilitated access to potential participants and communication among the professionals involved.
- It was suggested that transport issues (in relation to participants attending meetings and reviews) could present a potential issue for effective operation in rural areas. Criminal Justice Social Work in Aberdeen provided participants with bus tokens which they felt worked very well to help them attend meetings and reviews.

### **Estimating the resources required**

#### *Estimating numbers of participants*

- The data on numbers screened and referred (3644 screened of which 48 were deemed suitable and had an SDS imposed) and on current cases (16), provides a rough guide that other areas could use to estimate the likely numbers of cases. However, there may be differences in the demographic/criminogenic profile in different areas and any proposed differences in criteria should also be borne in mind.

#### *Estimating the staff resource required*

- The PSA was supported by Scottish Government funding of £78,721 p.a. for CJSW activity (2016/17 and 2017/18<sup>2</sup>). This funding was used to employ a social worker and a support worker. This resource was fully utilised. Although the total numbers have been less than anticipated, professionals reported that the amount of support that participants have required has been greater.
- The data on the time input required per case from different professionals could be used as a rough guide by other areas. Again, however, differences in local processes (both existing processes and the agreed process for the PSA) should be taken into account. A case with six review hearings required an estimated 28 hours of PSA-specific work, the majority of which was undertaken by social work (14 hours). The sheriff also contributes approximately 4 hours per case. (Note that this does not include the ongoing support provided by social workers and support workers).

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<sup>2</sup> As at February 2018, the same funding has been agreed in principle for 2018/19.

## **Conclusions**

The PSA in Aberdeen has been successfully implemented and is running as intended (albeit with lower numbers than were originally anticipated). Relatively intensive support is combined with the authority of the court (through regular court reviews involving personal interaction with the sheriff). Both elements are important in supporting participants to address the causes of their offending and reduce their offending.

Overall, the PSA shows promise and we recommend that Community Justice Partners in other parts of Scotland give consideration to the benefits of a problem-solving approach in Scottish courts. In doing so, the local context, in comparison with Aberdeen, should be taken into account. Given the lack of robust impact measures currently available, it will be particularly important that robust monitoring and evaluation processes are built into any new pilots, to continue to grow the Scottish evidence base.

# 1 Introduction and aims of the Review

## 1.1 The Aberdeen Problem-Solving Approach

The Aberdeen Problem-Solving Approach (PSA) has been running in Aberdeen Sheriff Court since November 2015 (for women) and since August 2016 (for young men). It aims to reduce the use of short custodial sentences and reduce reoffending by combining the authority of the court with support and rehabilitative opportunities to address the underlying causes of offending. Unlike traditional problem-solving courts, which target a specific crime (e.g. domestic abuse) or problem (e.g. drug use), the Aberdeen PSA's 'specialisation' is people with a history of frequent low-level offending with multiple and complex needs. Those admitted into the PSA have their sentence deferred while they engage with service providers for a specified period of time, during which they must return to court for regular judicial reviews with a dedicated sheriff.

The PSA is a partnership project, funded by Scottish Government, involving the Scottish Courts and Tribunals Service, Aberdeen City Council Criminal Justice Social Work (CJSW), the Crown Office and Procurator Fiscal Service, and Police Scotland. Support services for participants are provided by a range of different organisations including Aberdeen Women's Centre and the Venture Trust.

## 1.2 Aims of the Review

In August 2017, the Scottish Government's Justice Analytical Services Division commissioned Ipsos MORI Scotland and the Scottish Centre for Crime and Justice Research (SCCJR)/University of Stirling to conduct a Review of the PSA. The aims of the Review were to:

- Provide useful evidence about how the PSA is delivered and what (if anything) distinguishes it from normal sentencing procedures
- Identify areas for improvement, lessons learned and good practice that other areas could learn from
- Explore and describe the experiences of people with convictions who have been admitted to the PSA and, where possible, identify any emerging outcomes for PSA participants and the courts.

This report sets out the findings of that Review. The report is intended to provide feedback on the Aberdeen PSA to policy makers and the Aberdeen Court Service, and to give insights that will be useful to Community Justice Partners in other areas of Scotland who are considering using problem-solving approaches in summary courts.

The next section describes the methods used in the Review. Section 3 provides background information on the concept of problem-solving justice, the Aberdeen pilot's aims, and the target group. In Section 4 we describe the different stages of the PSA process. The emerging outcomes are discussed in Section 5. Throughout the report, we identify issues for local partners in Aberdeen to consider (in blue shaded boxes) and highlight key messages for other areas considering setting up a PSA (in peach shaded boxes), all of which are collated in Section 6.

Four anonymised case studies (on pages 9, 29, 42 and 56) illustrate the different experiences of PSA participants.

## **2 Methods**

This chapter details the methods used to address the aims of the Review.

### **2.1 Summary**

A mixed method approach was adopted which combined primary qualitative data with secondary analysis of routinely collected monitoring data. The primary research undertaken is summarised in Table 2.1. It provided rich data on participants' experiences, and the perspectives of participants, professionals and wider stakeholders on: how the PSA is being delivered; what distinguishes it from other sentencing procedures; what is working well; what could be improved; and lessons for other areas. The court observations enabled further comparisons with other sentencing procedures. The analysis of the monitoring data provided some quantitative data on the profile of participants (including risk/needs assessment), engagement, compliance and sentencing outcome.

**Table 2.1: Summary of methods**

| <b>Audience/court proceeding</b>   | <b>Method</b>                               | <b>Number</b>   | <b>Length of interview/ group/ observation</b> |
|--|---|---|--|
| PSA participants   | Face-to-face individual in depth interviews | 11 (2 men in the community, 3 men in custody, 4 women in the community, 2 women in custody) | Maximum of 45 minutes                          |
| Sheriff Clerk Depute and Procurator Fiscal   | Paired depth interview                      | 1 (2 participants)  | 1 hour, 50 minutes                             |
| CJSW social workers and support workers  | Mini group                                  | 1 (4 participants)  | 1 hour, 20 minutes                             |
| CJSW manager   | Face-to-face individual in depth interview  | 1   | 50 minutes                                     |
| Sheriffs   | Face-to-face individual in depth interviews | 3   | 40 minutes – 1 hour, 50 minutes                |
| Defence agents   | Mini group                                  | 1 (4 participants)  | 45 minutes                                     |
| Wider stakeholders   | Face to face individual in depth interviews | 4 (2 x Aberdeen Women's Centre, 1 x Police Scotland and 1 x Venture Trust)                  | Maximum of 45 minutes                          |
| PSA review/sentencing hearings   | Observation                                 | 7 (includes 2 where the PSA participant failed to attend)                                   | 5 – 15 minutes                                 |
| Community Payback Order (CPO) / Drug Treatment and Testing Order (DTTO) review/sentencing hearings | Observation                                 | 13 (6 CPO sentencing hearings, 5 CPO review hearings, 2 DTTO review hearings)               | 5 – 12 minutes                                 |

## 2.2 Qualitative research

A total of 11 PSA participants and 18 professionals were consulted in this research, and 20 court observations were undertaken. All qualitative research was conducted face-to-face by members of the research team between October 2017 and January 2018. The interviews and focus groups were structured around discussion guides (see Appendix 1), designed by the research team in consultation with the Scottish Government. Interviews were audio-recorded (with participants' permission). The transcripts of recordings and interviewer notes were then systematically analysed to address the Review's aims.

### 2.2.1 PSA participants

The total number of PSA participants is still relatively small: at the time of the Review fieldwork, 35 cases had been closed and there were 16 live cases. Eleven PSA

participants were recruited to the research via members of the CJSW team. The research team liaised with CJSW to outline the desired number and profile of PSA participants. The aim was to conduct 14 interviews and to cover a spread in terms of:

- gender
- outcomes (including those who had successfully completed and those who had not)
- whether they had exited the PSA or were still on it.

As anticipated, the recruitment of PSA participants was challenging due to the difficult circumstances many of them faced. Social workers were unable to contact some of the potential participants while others did not consent to take part. By the end of the fieldwork period, 11 interviews had been conducted. A spread was achieved in terms of the above factors. The Scottish Prison Service assisted in arranging the five interviews with PSA participants who were in custody. These interviews took place in four prisons/ young offender institutions across Scotland.

All potential research participants were provided with an information sheet (Appendix 2) in advance of the research which explained: the purpose of the research, what taking part would involve and that everything they said would be confidential and anonymous. They all also signed consent forms (Appendix 3) immediately before the interviews.

The anonymised stories of four participants have been used to form case studies to illustrate points made throughout the report (see pages 9, 29, 42 and 56).

## **2.2.2 Professionals involved with the PSA**

Court and CJSW staff assisted the research team in the identification and recruitment of key professionals. All professionals who were invited agreed to participate (Table 2.1). Professionals consented to participate, understanding that, given the limited number of professionals involved with the PSA, complete anonymity could not be guaranteed in reporting their views, although names have not been used.

## **2.3 Court observations**

The research team observed court proceedings in Aberdeen Sheriff Court on six separate days between 11 October and 8 November 2017.

Seven PSA review hearings were observed. This allowed for both of the current PSA sheriffs, as well as both male and female PSA participants, to be observed.

As a comparison, 13 Community Payback Orders (CPOs), or Drug Testing and Treatment Orders (DTTOs) were also observed (Table 2.1). The CPO hearings took place in the mainstream court while the DTTO and PSA hearings took place in a smaller court.

The aim of the observations was to collect information on:

- the processes, timings and physical context of the hearings
- the topics discussed
- the communication styles used
- the level and type of participation of those in attendance.

To guide the observations a court observation tool was developed by the researchers in collaboration with the Scottish Government.



## 2.4 Analysis of monitoring data

Data routinely collected by the CJSW team was analysed as part of the Review. An anonymised dataset containing all monitoring data collected from the inception of the PSA until September 2017 was provided to the research team. The data was cleaned and analysed using SPSS software. The analysis was descriptive in nature (due to the small numbers involved).

## 2.5 Interpreting findings

The research took the form of a review. This approach was considered the most appropriate means of meeting the research aims i.e. to provide feedback on the Aberdeen PSA to policy makers and the Aberdeen Court Service and to inform Community Justice Partners about the potential use of problem solving approaches in other summary courts in Scotland. The Review was conducted as planned. However, the following are possible limitations of the research design and the available data:

- the Review was restricted to reporting on perceived short term outcomes. This means that analysis was informed by qualitative data on PSA participants' and professionals' *perceptions* of the outcomes. Other than the routine monitoring data (which included social workers' assessments on factors such as engagement, compliance and final outcome), there was no quantitative data available on outcomes.
- the extent to which the Review can draw firm conclusions about the approach's impact is also limited by the small number of participants who have taken part in the PSA. This is particularly true for men as the men's programme has been running for a shorter time. The women's PSA started in November 2015 and the men's in August 2016. By September 2017, 30 women and 18 men had participated.

In relation to the monitoring data, it is worth noting that:

- unique IDs for each individual were deliberately not included in the monitoring data for data protection reasons; given the small size of the sample, they may have allowed the identification of individuals. The absence of unique IDs meant that it was not possible to identify how many people had been screened for the PSA on how many occasions though this was otherwise not a problem for this Review.



### ***APSA area for improvement***

**Tracking longer-term outcomes, including reoffending, would require a means of linking the relevant data. It may be possible to access Scottish Offenders Index data anonymously with the relevant URN once the numbers of cases grow to the point that an individual possibly becoming identifiable is no longer an issue.**

- there may also have been data entry errors that could not easily be identified. We undertook a number of cross-checks on the data and made a very small number of adjustments when inconsistencies emerged. In a few cases, we went back to CJSW for further information or to check that the assumptions we made were correct.

## 3 Background, aims and set-up

### Key messages

- In line with theory and evidence on problem-solving justice, the Aberdeen Problem-Solving Approach (PSA) aims to reduce the risk of reoffending by combining the authority of the court with support and rehabilitative opportunities provided by other agencies.
- It targets women, and young men under the age of 26, who already have seven or more convictions and are at risk of custody. They have their sentence deferred during which time they must engage with service providers and return to court regularly for judicial review.
- The set-up phase involved close partnership working among the different agencies. Professionals praised each other's commitment, enthusiasm, '*can-do*' attitude and willingness to co-operate. They stressed the importance of having the '*right people*' in place (i.e. those with a positive attitude towards the PSA concept).
- The time required from lead professionals in the set-up phase should not be underestimated.
- Now that the PSA has bedded in, local partners should review the eligibility criteria including whether it might be appropriate to target people with fewer than seven convictions but at risk of accumulating many more.

### 3.1 What is problem-solving justice?

Problem-solving justice is an approach where contact with the criminal justice system is used to combine punishment and support in an attempt to reduce crime. Internationally, attempts to increase innovation in criminal justice have seen developments in court-based approaches aimed at solving offenders' underlying problems. Judges play a central role in problem-solving courts; the aim being to support rehabilitation by integrating the court's authority with other services. The key features (Bowen and Whitehead, 2016) of problem-solving courts include:

- Specialisation of the court model around a target group
- Collaborative intervention and supervision
- Accountability through judicial monitoring
- A procedurally fair environment
- A focus on outcomes.

Scotland has been at the forefront of developing problem-solving approaches within the criminal justice field. This has included developing specialist problem-solving courts for problematic drug use (McIvor, 2009; 2010), domestic abuse (Reid Howie Associates, 2007) and, more recently, problematic alcohol use.

Glasgow and Fife drug courts were introduced in 2001 and 2002 respectively (McIvor et al., 2006). Evaluation of the Scottish Drug Courts indicated that pre-court review meetings and court-based reviews were a crucial element of the Drug Court process, with the dialogue between sheriffs and participants serving to 'encourage, motivate and sanction' those who were on court orders. Identified strengths of the Drug Court included 'fast-

tracking' individuals, a trained and dedicated team who had regular contact with participants, and the system of pre-court review meetings and reviews. Challenges highlighted by the review included a reliance on particular forms of intervention (for example substitute prescribing) with less scope for others (notably abstinence based provision). The difficulty of engaging some individuals beyond initial contact with the drug court team also proved a challenge, highlighting the importance of comprehensive assessment at the outset.

Similar findings are evident from evaluation of Domestic Abuse Courts, initially established in Glasgow, in 2004, and subsequently Edinburgh, in 2012. Evaluation of the first Domestic Abuse Court (Reid Howie Associates, 2007) found that the pilot made a number of improvements to the process and practice for dealing with domestic abuse. It also evidenced high satisfaction, in comparison to traditional courts, from victims, witnesses and other stakeholders. Many benefits were identified in comparison to traditional courts including increased effectiveness of the response to domestic abuse, increased level of guilty pleas, higher rates of conviction and reduced case attrition. The Reid Howie Associates (2007) evaluation, like the evaluation of the Scottish Drug Courts, also provided evidence of increased efficiency, with faster processing, development of an appropriate and consistent response based upon expertise and increased multi-agency working, which was supported by appropriate information sharing. The alcohol problem-solving court established in Edinburgh in 2016 has also shown initial benefits such as quicker and more focused assessment; and benefits through partnership work, holistic response and ongoing judicial oversight (Centre for Justice Innovation, 2017).

More broadly, the use of judicial progress review is evident as a form of problem-solving justice (Mclvor, 2010b; 2012) for example, in relation to Drug Treatment and Testing Orders (Eley et al., 2002) and with potential for use in Community Payback Orders. The Criminal Justice and Licensing (Scotland) Act 2010 contains provisions for judges to undertake regular reviews of Community Payback Orders, although there was initially evidence of limited use (Mclvor, 2012). The evaluation of pilot drug courts and youth courts in Scotland has, however, highlighted that sentencers' approaches to reviewing orders are highly individualised and context-specific with markedly contrasting practices observed (Mclvor, 2012).

International evidence that problem-solving courts reduce reoffending and improve compliance with court orders is promising. Overall however, it would appear that specialist problem-solving courts are effective in some contexts while less so in others. Bowen and Whitehead (2016) in an evidence review of problem-solving courts highlighted somewhat mixed evidence regarding problem-solving courts' effectiveness more broadly. While there was evidence that adult drug courts reduced substance misuse and reoffending, evidence from US studies on juvenile (under 18) drug courts was that they appeared to have either minimal or harmful impacts on young people. Family treatment courts and family drug and alcohol courts appeared to be effective in reducing parental substance misuse and could reduce the number of children permanently removed from their families. Mental health courts were likely to reduce reoffending, although they may not directly impact on participants' mental health. Importantly, Bowen and Whitehead (2016) noted promising evidence in a UK context to support the application of the key features of problem-solving courts to two specific groups where multiple and complex needs were identified: women who were at risk of custody and young adults (aged between 18-25). While using PSA with younger people (under 18) in a youth court context may have some benefits, a strong caveat was the potential harm that formal criminal processing can have on outcomes for young people. However, more broadly, Bowen and Whitehead concluded that the evidence on the distinctive needs of young adults (i.e. those aged between 18-25) suggests that there is potential for a specialised PSA to improve outcomes. They note,

however, that at this time there is no 'evidence-backed model' to demonstrate the impact of it working in this way.

### **3.2 Rationale for the Aberdeen Problem-Solving Approach**

The Angiolini Commission on Women Offenders, whose remit was to consider the evidence on how to improve outcomes for women in the criminal justice system, reported in 2012<sup>3</sup>. One of its recommendations was to pilot a problem-solving court for both women and men:

*In order to provide a broader evidence base than is currently available on the effectiveness of the Problem-Solving approach, a pilot of a Problem-Solving summary criminal court should be established for repeat offenders with multiple and complex needs who commit lower level crimes. This pilot should run for male and female offenders.*

The Aberdeen Problem-Solving Approach (PSA) was developed in response to this recommendation.

### **3.3 Aims of the Aberdeen Problem Solving Approach**

In line with the theory and evidence described in section 3.1 above, the Aberdeen Problem-Solving Approach (PSA) aims to reduce use of short custodial sentences and to reduce the risk of reoffending by combining the authority of the court with support and rehabilitative opportunities provided by other agencies.

Specific groups for intervention are identified (i.e. women, and young men under the age of 26, who already have seven or more convictions and are at risk of custody). Those accepted onto the PSA receive a structured deferred sentence (SDS) for a specified period of time during which they must engage with service providers and return to court regularly for judicial review.

It is intended that the consequences of non-compliance (including the possibility of a custodial sentence) are made clear to participants, so that this motivates them to engage with services (which they might not otherwise engage with) and they perceive the process as fair.

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<sup>3</sup> Commission on Women Offenders: Final Report 2012 page 9.  
<http://www.gov.scot/About/Review/commissiononwomenoffenders/finalreport-2012> . Accessed 25 January 2018.

## Jillian's Story

Jillian is 44. She started using heroin in her early twenties and, from then onwards, served a succession of short and medium-term sentences for drug-related offences and shoplifting. Since she started using heroin, she had never been out of prison for longer than around nine months at a time.

She doesn't really remember what she was told about the PSA when she agreed to take part: **"they probably did tell me – but I was probably off my face"**. But her motivation to take part was the chance to access support which would, she hoped, help her come off drugs and stop offending. She was given a nine month structured deferred sentence.

Jillian had scheduled appointments with her social worker once a week and with her Aberdeen Women's Centre support worker once a week – although there was considerably more contact with both of them than that (by phone and in person). She was extremely positive about both workers. They were **"great. [...] really, really good, really helpful, really supportive"**. They provided practical help (e.g. to move out of hostel accommodation and into her own flat, and to register with a GP) and worked with her (through a mix of talking and different resources/tools) to help her deal with her drug use and offending. She felt that she now understood much better the risks, the consequences and the impact on others of her drug use and offending. They also referred her to a third sector organisation which works with people to help them sustain their tenancies.

Jillian had monthly reviews in court with the same sheriff. She remembers being **"so nervous"** about the first couple of reviews because **"I've never spoken to a sheriff in my life... [but after a couple of hearings] you realise they are human"**. She described the sheriff as **"fantastic... she spoke to me on a personal level"**. Jillian felt that the sheriff could see that she was making an effort and the sheriff's praise and encouragement mattered a lot to her:

***She did praise me a lot.... That's a really BIG thing when you're standing in a court... she said that "I can see that you're making a big change in your life".***

Jillian made very good progress and was able to greatly reduce her drug use and her offending. The longer she was able to stay out of prison, the more determined she was to stay out: **"jail is so easy but you don't realise how great it is to have your freedom"**.

There were some difficulties along the way including a couple of weeks when – having met up with an old friend – she returned to heroin use again. However, at her next review the sheriff said **"you've had a set-back but don't let this put you back to the beginning"**.

At her final review after nine months, she was admonished. Since then, she has started a course at the Women's Centre which she is finding useful **"it's brilliant... it's about thinking about what would you do in different situations"**. And she is still in regular touch with her social worker and support worker.

She thinks that without the PSA **"I would be just the same as before"**.

### 3.4 How was it set up?

The set-up phase involved close partnership working among the different agencies involved and professionals praised each other's' commitment, enthusiasm, 'can-do' attitude and willingness to co-operate.



#### ***Lesson for other areas***

**The importance of having the 'right people' in place (at the set-up stage and beyond) was stressed – which generally meant those with a positive attitude towards the PSA concept.**

An all day workshop was held to enable the different agencies to discuss their respective roles in the PSA and their views on how it should operate (e.g. what the eligibility criteria should be and what the rewards and sanctions should be). This was chaired by the sheriff principal and involved representatives from partner agencies including social work, procurators fiscal, court staff, the police and the Scottish Government. The Centre for Justice Innovation were also involved and provided guidance on the PSA evidence base. The sheriff who led on the set-up felt this workshop worked extremely well in ensuring that those involved had a stake in the pilot and '*wanted it to work*'.



#### ***Lesson for other areas***

**The sheriff who took the lead on set-up from the judicial side spent a considerable amount of time reading, attending conferences and talking to other professionals during the development of the PSA pilot – she advised that colleagues in other areas who were considering setting up a PSA should not underestimate the time involved – though other areas will, of course, benefit from the Aberdeen findings in this report.**

All key stakeholders met a number of other times during the development and initial implementation stages. One of the CJSW professionals noted the importance of these meetings for discussing and resolving issues. In addition to the benefits for the PSA, she felt there were wider benefits in terms of helping build relationships and strengthen communication among partner agencies.



#### ***Lesson for other areas***

**Multi-agency workshops and regular meetings are important in the development and early implementation stages to ensure buy-in, build relationships and resolve teething problems.**

Guidance documents were produced and awareness raising and training sessions were held with staff from the key stakeholder groups involved: CJSW, the Scottish Courts and Tribunals Service, the Crown Office and Procurator Fiscal Service, Police Scotland, and defence agents.

The resources required for the PSA's delivery (including estimates of the time input from the different professionals involved) are described in Section 4.4.

## 3.5 What are the eligibility criteria?

### 3.5.1 Eligibility criteria and target groups

The PSA target group is women and men who have a prolific offence history and have complex needs. What counts as 'complex needs' encompasses the types of individual experiences and social-structural issues identified in the Angiolini Report (2012): addictions and substance misuse; mental health issues and trauma; histories of abuse (including physical and sexual abuse, and abusive relationships); and social circumstances such as issues with housing, state benefits, unemployment, or lack of education.

The specific eligibility criteria for the Aberdeen PSA are shown in Table 3.1. The criteria for the men were based on those for the women with the key difference being that the men's pilot was aimed at young men aged 16-25.

**Table 3.1: Eligibility criteria**

|   | Women        | Men               |
|---|--------------|-------------------|
| Summary complaint in Aberdeen Sheriff Court                                       | ✓            | ✓                 |
| Aberdeen City Council residents aged 16 or over                                   | ✓ 16 or over | ✓ 16-25 years old |
| Prolific offenders with multiple and complex needs                                | ✓            | ✓                 |
| First appear for a matter on or after a set date                                  | ✓ 2/11/2015  | ✓ 15/8/2016       |
| Not on an existing Community Payback Order <u>with a supervision requirement</u>  | ✓            | ✓                 |
| Seven or more substantive criminal convictions in the recent past                 | ✓            | ✓                 |
| Or: Two or more assault convictions if they would benefit from early intervention | ✗            | ✓                 |
| Assessed by a Social Worker as medium to high risk in terms of needs/re-offending | ✓            | ✓                 |

|   |   |   |
|---|---|---|
| Amenable to and might benefit from the problem-solving approach and having progress reviews | ✓ | ✓ |
| At risk of custody  | ✓ | ✓ |
| Others who do not meet all of the criteria but, for exceptional reasons, may be suitable    | ✓ | ✓ |

Certain types of offences are excluded from the PSA: Department of Work and Pensions (DWP) fraud; breaches of bail conditions or court orders; and more serious assaults (with the rationale that custody is probably required for more serious assaults). Drink driving offences are excluded for women, but are not excluded for men.

The PSA's operation was flexible, and there was some scope for discretion to admit individuals onto it (for example, men who may be slightly older than the 25 years stipulated in the criteria). Initially, participants were drawn from custody but the PSA was then opened to those appearing on citation or undertaking. It was also agreed that those subject to or in breach of CPOs could be transferred onto the PSA – generally in circumstances where they were coming to the end of a supervision order or when the sheriff considered PSA might be useful and this has happened a number of times.

At the time of this Review (November 2017), the PSA had 16 current cases: nine women and seven men. Overall, the number of participants has been less than the 50 per year anticipated at the outset which would have been 25 current cases at one time (assuming six months per case). This may be, in part, because 'saturation' point has almost been reached with the women (i.e. most of the women in Aberdeen who meet the criteria will – by the nature of their offending profile – have come through Aberdeen Sheriff Court at some point since the PSA started). Whereas we might speculate that there would be more of a steady stream of young men who meet the criteria coming through.

Whether the numbers should be increased (for example, by widening the target below) is something for consideration and is discussed below.

### 3.5.2 Were criteria fit for purpose?

Criminal justice social workers and defence agents held similar views about the appropriateness of the eligibility criteria. They called for a more discretionary approach to PSA admissions to be considered, particularly for young men: *"I think the key here is the complex needs not the number of offences"* (criminal justice social worker). Some would therefore like formal revision of the criteria to enable less heavily convicted people to be admitted to the PSA if they fulfilled other criteria and had clear issues that the PSA might address. They saw this as an opportunity to address the complex needs and problems implicated in a person's offending *before* they become more 'entrenched'. One of the sheriffs was also keen that it should be about 'individual tailoring' rather than the formal criterion of a minimum number of offences: *"It is for complex needs and you can identify the complex needs before they have been through the system as many times as they have"*.

However, another view was that it should remain focused on *"prolific offenders to justify the extra resource input"*.



Overall, most professionals thought that the eligibility criteria should be reviewed although there were mixed views about whether it should continue to target prolific offenders or whether the criteria should be changed to allow earlier interventions (i.e. also targeting those who were not – yet – such prolific offenders).

Revision to the criteria would clearly, however, have resource implications if this resulted in increased numbers at points of assessment and admission.



***APSA area for improvement***

**Now that the PSA has bedded in, local partners should review the eligibility criteria – including whether it might be appropriate to target people with fewer than seven convictions but at risk of accumulating many more.**

## 4 Delivering the PSA in practice

### Key messages

#### Screening, referrals and sentencing

- The vast majority (95%) of screenings were undertaken without face-to-face contact, because ineligible individuals could easily be eliminated (e.g. those with fewer than seven convictions).
- In line with the target group, those referred had considerable offending histories, had encountered significant adversity, and were at high risk of reoffending.
- Rapid reports (the target is within seven days of referral) enabled swift sentencing.
- It was seen as important (by defence agents, for example) to assess the extent to which an individual wants and is able to change. However, this was not always evident at the point of assessment where the potential participant may appear highly motivated but the basis of this (avoiding custody, accessing services or more likely a combination of both factors) is difficult to determine.
- The PSA process can bring all outstanding charges together to be dealt with at one point, which both professionals and participants saw as an important feature.
- For a small number of participants, the PSA had been working effectively up until they had charges called in another court, over which the PSA had no power. Although they had been making good progress on the PSA, they were re-arrested on an outstanding warrant and returned to custody. It was suggested that this requires a more 'joined up approach' across courts and data collection systems to ensure that information on PSA participants can be passed between courts. Sheriffs and other court professionals were currently working to resolve this issue.

#### Support services

- Regardless of initial reasons, participants reported that once they began receiving support (including the proactive support of workers and positive encouragement from the sheriff), their motivation to comply often increased.
- One perceived advantage was that, while other statutory orders such as CPOs do involve regular contact with social workers, PSA participants had more workers available to them, tended to see workers more regularly, and were also likely to have more informal contact.
- Availability of resources and adequately funded support services was seen as crucial. Housing and mental health support, in particular, were identified as being important for participants, yet often difficult to access.

#### Review hearings

- The fact that only those directly involved in the participant's case were present at the hearings, and that there were no onlookers in the public gallery, was very important to participants. They felt that this facilitated more open and honest discussion.

- **Engagement with the sheriff, and the relationship this developed within the court itself, seemed to help encourage some individuals to make an effort to change their behaviour.**
- **The communication between people within PSA court hearings is consistently perceived by participants and practitioners as less formal and more individualised and interactive than 'standard' court hearings.**

#### **Exit planning**

- **The findings emphasise the importance of effective exit planning and, in particular, ensuring that participants understand from the outset what support will be available to them when they exit the PSA.**
- **There is perhaps an inherent tension in the problem-solving model in that the length of judicial oversight justified by the offences committed may often be shorter than the length of time required to solve the underlying problems. Professionals should therefore remain alert to the risk of up-tariffing. Exit plans and clarity about access to continued support are important in this regard.**

#### **Partnership working**

- **While relationships between partner agencies appeared to be good, there is scope to improve communication further to ensure that all stakeholders (and new staff, in particular) are aware of the PSA and how it works. The multi-agency meetings that were held during the set-up stage should be reinstated.**
- **There should be more regular communications to wider stakeholders (particularly those not as closely involved on a daily/weekly basis) to ensure they remain aware of the PSA and their roles are in relation to it.**

As evaluations of other PSAs have highlighted (for example McIvor et al, 2006) the practical aspects of implementation and co-ordination require time to become embedded. This was also the case for the Aberdeen PSA. This section describes the PSA process, emphasising contextual features and enablers which affect its delivery in practice (a detailed process map illustration and the logic model are available in Appendices 4 and 5).

### **4.1 Stage 1 – Arrest to first calling (screening and admissions)**

Potential PSA participants are screened by CJSW using two lists: people released on undertakings and people subject to appear from custody. The numbers fluctuate but, on average, approximately two women's cases and seven men's cases are screened each day. The screening is undertaken by a social worker and takes around an hour each day. A social work administrator collates data on convictions (and passes this to the social worker undertaking the screening) and this takes around half an hour each day. The screening form is shown in Appendix 6.

A list of people detained in custody overnight is passed to the CJSW pre-disposal team (using a secure electronic system) by Police Scotland early each morning for eligibility screening. The confidential list from Police Scotland contains personal information, charge(s), as well as details of any identified risk factors and complex needs. It is usual that some of the people on the list will already be known to CJSW services.

Criminal justice social workers flag suitable cases to the Crown Office and Procurator Fiscal Service marking team. Practitioners interviewed reported that Stage 1 (screening people for admission to the PSA) depends on access to sufficient information – noting that current information-sharing is mostly working well. A representative of Police Scotland

spoke positively about the daily custody report: *'the process works for us'* and *'it doesn't make the task onerous for the [Police Scotland custody] team at all'*.

The vast majority of screenings were undertaken without the need for face-to-face contact, because individuals could be easily eliminated due to clearly not meeting the eligibility criteria. Around 5% of screenings (with those who seemed most likely to be suitable) were undertaken face-to-face. This equates to a woman being screened approximately every 10 days and a man being screened every two-three days. Face-to-face screening included a needs assessment undertaken by a social worker.

The screening was completed in approximately 15-20 minutes. However, there were challenges in accessing participants at screening and admission stages, which added time to the process. Most people were seen directly from the custody court and the small space available for interviewing could mean that interview time was limited and social workers sometimes had lengthy waits to see a potential participant. This appeared to be particularly pronounced in cases of young men coming from Polmont YOI:

*The biggest difficulty is getting access to the cell block to see the people. [...] You can queue down there for 40 minutes and still then get into the cell block and wait again for a room. The problem, difficulty, is that they have three interview rooms in the cell block, and you have tens of solicitors waiting there and queuing with papers to see their clients. [the males] they're not arriving in the building until ten and then you are queueing with solicitors and anyone else doing their welfare checks and everything, given they have three rooms, the time, if there is a big custody, well the time can be really limited.*

*(CJSW professional)*

It appeared that different agencies co-operated effectively in identifying and assessing potential PSA participants. Criminal justice social workers expressed the view that most, but not all, sheriffs were *'very good'* at proactively trying to identify people for PSA, and that defence agents attempted to identify people who appeared in court but not from custody. This proactive identification was important in ensuring that potential participants were identified while physically present and could be given information about the PSA and what participation might offer at a significant point in the process (i.e. when appearing in front of a sheriff or meeting with the defence agent).



#### ***Lesson for other areas***

**Pro-active identification of potential participants by sheriffs and defence agents helps engage participants. This reinforces the importance of raising awareness of the PSA among relevant professionals.**

As noted above, slightly different eligibility criteria were in place for women and men. For both, it was intended to ensure that those targeted were:

- 'persistent' offenders
- at medium/high risk of custody
- those most likely to benefit from the PSA approach.

The PSA eligibility criteria required that female participants were aged over 16 years, had seven or more previous convictions and resided in Aberdeen City. For men, the criteria required that participants should be aged between 16 and 25, have seven or more

previous convictions or two assault convictions and reside in Aberdeen City (see section 3.5 above). The initial paper sift could identify the number of convictions and offences that an individual had accrued, age and residence, thus allowing those who were not eligible to be sifted out. The face-to-face screening which followed would establish the individual's circumstances and their willingness to be put forward for the PSA, any outstanding charges and/or other orders in place. At this point, any needs which were linked to offending (such as problem substance use, precarious circumstances) could be identified.

#### 4.1.1 Screening women

Of the 1589 women's cases screened, 1543 (97%) were deemed not to be suitable. Where information was available on the mode of screening (1022 cases), the majority (972 or 95%) were identified as ineligible and excluded at the initial file screening stage. The reasons women were deemed to be unsuitable for the PSA are summarised in Table 4.1. It should be emphasised that the figures relate to the numbers of screenings and not necessarily to the number of women screened – and it is likely that some women were screened on more than one occasion.

The most common reasons for women being considered ineligible were: having fewer than seven previous convictions, not being an Aberdeen City resident, already being subject to a Community Payback Order with a requirement of supervision and having been charged with a type of offence that is excluded from the PSA (drunk driving, DWP fraud, breach of bail conditions or court orders and more serious assaults). The 'other' reasons included procurator fiscal liberations (eight cases), the fact that there had been an apparent gap in offending (eight cases), previous assessment for the PSA (seven cases) or having previously participated in the PSA (six cases).

**Table 4.1: Why women were assessed as not eligible for the PSA**

| Reason for lack of eligibility  | Number of cases | Percentage of cases |
|---|-----------------|---------------------|
| Fewer than 7 convictions  | 606             | 39%                 |
| Not an Aberdeen City resident   | 257             | 17%                 |
| On an existing CPO with supervision   | 190             | 12%                 |
| Offence type is excluded  | 118             | 8%                  |
| Already subject to PSA  | 80              | 5%                  |
| Not a summary complaint in Aberdeen Sheriff Court (including cases on petition)                       | 55              | 4%                  |
| Not amenable to PSA (includes declined screening or participation and potential mental health issues) | 53              | 4%                  |
| Appearing on warrant  | 40              | 3%                  |
| Does not have multiple needs/low risk of re-offending   | 23              | 2%                  |

|  |             |     |
|--|-------------|-----|
| Not at risk of custody                             | 18          | 1%  |
| Appeared in respect of the matter before 2/11/2015 | 16          | 1%  |
| Pled not guilty <sup>4</sup>                       | 9           | <1% |
| Outstanding CJSW report                            | 9           | <1% |
| Other (reason specified)                           | 39          | 3%  |
| Other (unspecified)/no information                 | 30          | 2%  |
| <b>Total</b>                                       | <b>1543</b> |     |

#### 4.1.2 Screening men

Of the 2053 men's cases screened, 2017 (98%) were deemed not to be suitable. The majority of cases (where information was available) were excluded at the paper sift stage. This reduced the number of those screened face-to-face to 6% of the total.

The reasons for men being deemed unsuitable are summarised in Table 4.2. The most common reasons for men being screened out were similar to those for women: having fewer than seven convictions, not being an Aberdeen City resident, being on an existing CPO with supervision and being considered for an offence type that is excluded from the PSA. This latter category has also included men charged with or previously convicted of sexual offences (14 cases) and men with a history of domestic abuse (five cases). The 'other' reasons for ineligibility included appearing before the date on which the PSA became operational (seven cases), procurator fiscal liberation (seven cases), already being assessed for the PSA (seven cases), a gap in offending (six cases) and breach of previous orders (five cases).

<sup>4</sup> These individuals would be picked up at a later date if found guilty or if they changed their plea.

**Table 4.2: Why men were assessed as not eligible for the PSA**

| <b>Reason for lack of eligibility</b>   | <b>Number of cases</b> | <b>Percentage of cases</b> |
|---|------------------------|----------------------------|
| Fewer than 7 convictions (or 2 assault convictions)                             | 696                    | 34%                        |
| Not an Aberdeen City resident   | 463                    | 23%                        |
| On an existing CPO with supervision   | 313                    | 16%                        |
| Offence type is excluded  | 177                    | 9%                         |
| Does not have multiple needs/low risk of re-offending                           | 64                     | 3%                         |
| Not a summary complaint in Aberdeen Sheriff Court (including cases on petition) | 57                     | 3%                         |
| Warrants  | 52                     | 3%                         |
| Not amenable to PSA   | 43                     | 2%                         |
| Already subject to PSA  | 33                     | 2%                         |
| Pled not guilty <sup>5</sup>  | 32                     | 2%                         |
| Outstanding CJSW report   | 17                     | 1%                         |
| Other (reason specified)  | 61                     | 3%                         |
| Other (unspecified)/no information  | 9                      | <1%                        |
| <b>Total</b>  | <b>2017</b>            |                            |

#### **4.1.3 Stage 2 – First calling to first problem-solving hearing (plea and rapid report)**

At the first calling, if a plea of guilty is entered, sentence can be deferred for an assessment and rapid report to be prepared by CJSW and sent to the PSA sheriff within one week. Rapid reports take about a third as long to complete as standard CJSW reports, are more condensed and more focused on PSA issues. Potential participants are not assessed as to their suitability for other disposals (i.e. supervision or unpaid work) and other agencies such as general practitioners are not contacted – which makes the report shorter and quicker. The rapid report process was generally seen by professionals to work well. Social workers were able to meet potential participants and start providing support as soon as they indicated that they were willing to go on the PSA.

<sup>5</sup> These individuals would be picked up at a later date if found guilty or if they changed their plea.



### **Lesson for other areas**

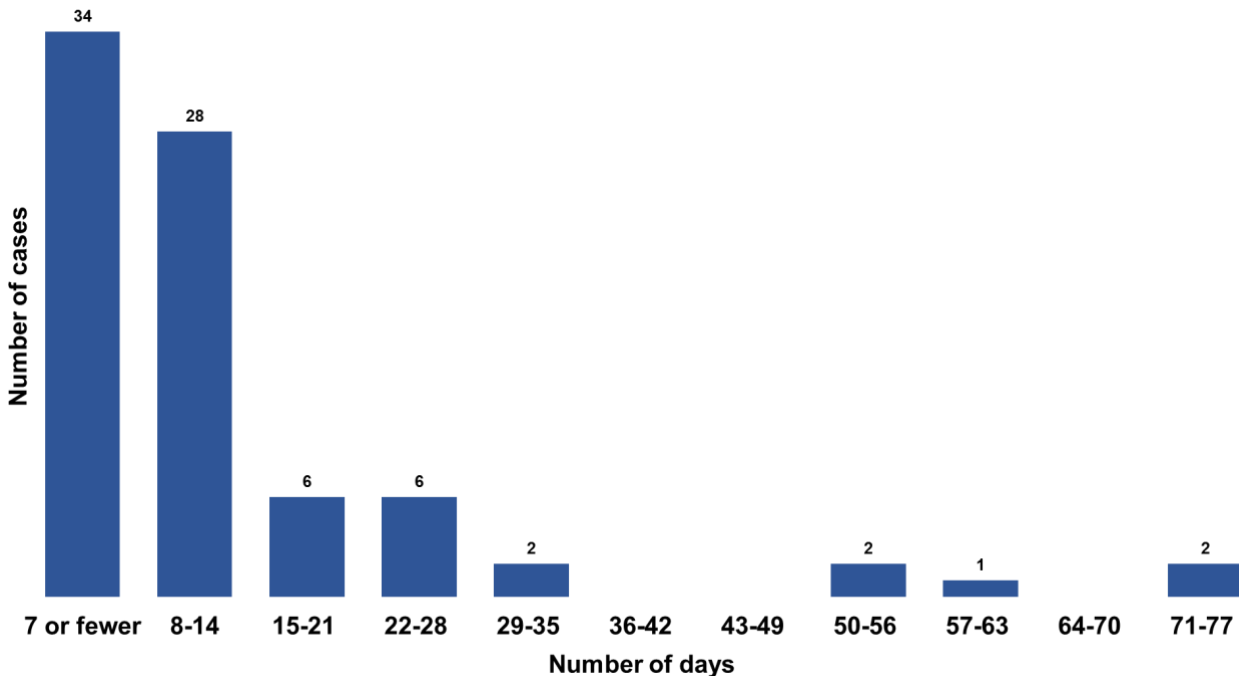
**Rapid reports (the target is within seven days of referral) enabled swift sentencing: there was an average of 15.5 days (for women) and 11.3 days (for men) between first calling of the case and sentencing. The speed of this process was described as ‘critical’ by one sheriff.**

Figure 4.1 shows the court processing time (the number of days between first calling and sentencing).

It is possible that delays between first calling and sentencing were because of non-compliance (i.e. not attending for appointments). It is also possible that in some cases the individual may have been in custody as a result of warrants. The mean number of days between first calling and sentencing was lower for women who completed their SDS (10 days) than for those who did not (25 days) lending some support to the suggestion that the longer than expected processing time may have reflected instances of non-compliance/co-operation at the pre-sentencing stage<sup>6</sup>.

One sheriff observed that for the plea and rapid report to work well, the sheriff, clerks, fiscal depute and defence agent must know the procedure well; where workers were not familiar with it, the process itself could be affected. The consistency of personnel involved in key positions also supported the effectiveness of the problem solving approach. Defence agents were not aware of noticeably more joint work but did agree that they may spend longer speaking to social workers about the client before the case was called in court.

**Figure 4.1: Court processing times for PSA cases: number of days between first calling and sentencing**



At the PSA hearing, a decision is made by a dedicated PSA sheriff to admit the case to the PSA or impose an alternative sentence such as a financial penalty, community-based sanction (CPO, Restriction of Liberty Order, or a DTTO) or custodial sentence.

<sup>6</sup> The data for men are in the same direction but the number of cases is very low.



Thirty women received an SDS while one was imprisoned for 24 months (see Figure 4.2 below). The majority of SDSs were initially for six months (25 cases) with three women receiving an initial SDS of 12 months, one an initial SDS of nine months and one an initial SDS of 10 months. Twenty men were accepted for sentencing in the PSA, 18 of whom had received an SDS, with the disposal still pending in two cases. In fifteen cases an initial SDS of six months was imposed while in three cases the SDS was initially for nine months. Overall, 80% of the SDSs were initially for six months.

#### 4.1.4 Motivation and compliance

Both professional respondents and PSA participants acknowledged that there were various reasons why individuals agreed to take part in the PSA. For some individuals, the primary consideration at the point of assessment for the PSA was a desire to avoid a remand in custody or a custodial sentence; a point noted by defence agents. This could have longer term implications; meaning that if motivation was determined by a desire to avoid custody, once the immediate threat of custody had passed the participant might struggle to engage with social work services and other service providers. For some, the offer of support and assistance was welcome as it provided opportunities for them to make changes in their lives.

It was seen as important (by defence agents, for example) to assess the extent to which an individual wants and is able to change. While undoubtedly the services made available through the PSA could provide some short term/immediate intervention and benefits, they may not have longer term impact if the participant is unable or unwilling to take up the provisions offered. As professionals and participants noted, this was not always evident at the point of assessment where the potential participant may appear highly motivated but the basis of this (avoiding custody, accessing services or more likely a combination of both factors) is difficult to determine. While participants and professionals identified various motivating factors, the data available do not provide scope to determine which factors might influence different participants. At the assessment stage, it was possible to identify particular needs that were linked to offending and to establish the appropriateness of available resources to address this, thus providing a basis for changing the individual participants' offending-related circumstances.

At the point of imposition, the length of the SDS was indicated. However, there was scope for extension or for sentencing to take place earlier in cases of non-compliance (since, effectively, sentencing was being postponed on a monthly basis). One of the sheriffs was keen to point out that SDSs have "*no technical meaning*", that different courts in different parts of Scotland use them in different ways and although "*in some places it is described as a low tariff intervention, [...] it can't be [described as such in the PSA] in Aberdeen and, in fact, it can be a very intense order.*"

In terms of participants' understanding of this issue, some of those interviewed did not appear to have a very clear understanding of the how the SDS or an extension to it would work – although they did understand that they were at risk of a custodial sentence if they did not comply with the PSA plan. It is not clear whether their lack of clarity about the SDS was due to insufficient explanation from the professionals involved – or due to other factors such as memory problems (e.g. related to current or previous substance use) or confusion caused by the sheer number of different sentences or orders they had been subject to at one time or another.

##### **Lesson for other areas**



**The PSA process can bring all outstanding charges together to be dealt with at one point, which both professionals and PSA participants saw as an important feature of the process. With all cases rolled together, the participant could be admonished in relation to some of the charges to recognise and reward compliance, thus increasing incentives.**

For a small number of participants, the PSA had been working effectively up until they had charges called in another court, over which the PSA had no power. Although they had been making good progress on the PSA, they were re-arrested on an outstanding warrant and returned to custody.



#### ***APSA area for improvement***

**There was a suggestion that the issue of charges being called in another court requires a more ‘joined up approach’ across courts and data collection systems to ensure that information on PSA participants can be passed between courts Sheriffs and other court professionals were currently working to resolve this issue.**

PSA participants felt that the PSA was more flexible than standard courts in response to missed appointments or non-compliance (based on their personal experiences of other community orders). In part, this was due to the informed basis of the PSA which recognises that recovery from substance use, for example, is a process that can involve different stages. This also allows for response that takes account of traumatic circumstances (trauma informed) and is aimed at resolving these difficulties through the problem solving approach.

Regardless of initial reasons, participants reported that once they began receiving support, their motivation to comply often increased. The proactive support of workers (phoning them on a daily basis and providing ongoing contact) meant that there was an investment and desire ‘*not to let them down*’ as one participant stated. Similarly, the positive encouragement from the sheriff and the interaction of the reviews increased the importance for some participants of ‘*doing well*’. As one participant put it: ‘*the longer I stayed out of prison, the more determined I was to stay out*’.

#### **4.1.5 Stage 3 – Problem-solving process (service provision and review hearings)**

##### ***Service Provision***

It is outwith the scope of this Review to examine the services offered as part of the PSA. However, the support provisions formed an important part of the approach. While CJSW support was provided to each individual participant, specific referrals to other services (such as housing, addiction support) were also made. PSA participants were allocated a criminal justice social worker and a support worker. They usually met each weekly, but sometimes two or three times a week, in the case of some participants with more complex needs. There was often additional contact with both workers (by phone and in person) and workers described using ‘assertive outreach’ or ‘assisted engagement’ and proactively contacting participants to help ensure they attended appointments and to check how they were doing.

CJSW had two functions in this phase:

- direct one-to-one work with participants
- case management of referrals and access to services (e.g. by third sector organisations, mental health services or withdrawal management and rehabilitation services)

A contextual feature of the PSA is its location and how this shapes access to service provision.



**Lesson for other areas**

**Some professionals perceived the PSA's success to be partly contingent on having available local services to offer the necessary level of support and frequency of appointments.**

Given the importance of services in influencing participants to comply with the PSA, the availability of services and access to these services was significant.



**Lesson for other areas**

**The benefit of having a predisposal social work team based in council premises adjacent to Aberdeen Sheriff Court was noted. This facilitated access to potential participants and communication among the professionals involved. This team had been retained following a pilot of the service (as opposed to a more generic court team) and was then in place to support the PSA.**

This highlights the importance of local provisions as a framework around which PSAs can be developed both in terms of statutory provisions and the availability of non-statutory agencies which can be used to support the PSA (as the Women's Centre and Venture Trust did in Aberdeen).



**Lesson for other areas**

**Transport issues (in relation to participants attending meetings and reviews) could also present a potential issue for effective operation in rural areas. Criminal Justice Social Work in Aberdeen provided participants with bus tokens which they felt worked very well to help them attend meetings and reviews.**

One perceived advantage was that, while other statutory orders such as CPOs do involve regular contact with social workers, PSA participants had more workers available to them (due to having both a social worker and support worker), tended to see workers more regularly, and were also likely to have more informal contact. As a result, workers considered that they had a better sense of what was happening in a participant's life and could therefore provide support as appropriate: one criminal justice social worker noted "*there is a lot more scope to use discretion*". Other PSA professionals and participants themselves were also extremely positive about the support provided by workers:

*I suppose essentially most of the work is done in social work in the work that they do with people, and the planning, and the eternal patience...the compassion and understanding, sometimes tough love. They are very, very, realistic people, I think the work that they do is particularly good.*

(Sheriff)

*I can go in there [Criminal Justice Social Work office] and speak to them about anything. It could be anything at all. I can go in there any time and I don't get judged. I don't get "ah no, we can't see you today, you know, you have to come back." There's always somebody there willing to help me. I'm not just saying things, this is God's honest truth: I just think they are so amazing and I'd be so lost without them. I would."*

(Female PSA participant)

Availability of resources and adequately funded support services was seen as crucial. Housing and mental health support, in particular, were identified as being important for participants, yet often difficult to access:

*It's 10 times harder [to make progress] when you're in a hostel.*

(Male PSA participant)

*I saw people who were in hostels and I was being told they're in a hostel and that's not great, and they're desperate for a tenancy.*

(Sheriff)

*There is always the battle of mental health services and trying to get people engaged with [access to] that.*

(CJSW professional)

### **Review hearings**

Participants are expected to attend court reviews on a regular basis (usually monthly). While there is a degree of flexibility around the frequency, the dates for all reviews are fixed at the initial review hearing. Shortly prior to the hearing, the sheriff receives a brief (few pages) update report from CJSW. During the court session, the report is discussed and the sheriff hears from the participant's defence agent, social worker and the participant themselves, about what progress has been made since the last review and what their goals are over the next few weeks. The sheriff provides praise, warnings and encouragement as appropriate.

As the participant is approaching the end of the initial period agreed for the SDS, the deferred sentence may be extended in cases where this is warranted, for example, if a participant is complying with relevant services and making progress or to provide further opportunities to engage if circumstances have hindered this (see above for details). Of the 48 SDSs imposed so far, nine had been extended (for between one and six months). Any decision to extend the deferral lies with the sheriff and it is discussed with the participant and the professionals involved in their case.

## Court scheduling



### **Lesson for other areas**

**The time-tabling of participants' monthly reviews required considerable organisation to fit them into the court schedule and sheriffs' rotas.**

This had implications for other court business, resulting in reviews being scheduled earlier than normal court business within a half-hour time slot from 9.30-10.00am (on the two to three days a week on which they were held). This was seen by most professionals as the most effective solution to the time-tabling issue, but some PSA clients would regularly turn up late and it was acknowledged that the relatively early start was challenging for those with chaotic lives and/or substance use problems. This was also an issue mentioned by participants. However, the potential benefit of the early start for participants was also noted by professionals, in that it contributed towards developing structure in their lives. While generally working well, the schedule could impact on Sheriff Clerk and Procurator Fiscal time, taking away from preparation time for other courts.

Hearings are held in Court 4, a small room in a part of the court rarely accessed by the public. The only attendees are therefore those participating in the proceedings. Only one PSA participant is present in the courtroom at one time, meaning that participants who are waiting to be called are located in the hallway or another room. There are no onlookers in the gallery seating at the back of the courtroom, and friends or family of the participant also wait in the hallway outside the court. In this sense, participants perceive it to be 'closed' and this perception supported open and honest discussion between sheriffs and participants.

*It's very important that it's closed.*

(Female PSA participant)

*No one else is allowed in court. [It's just] the sheriff, sheriff clerk, defence agent and social worker there<sup>7</sup> - and the police but that's just so there's no trouble so I don't mind them.*

(Male PSA participant)

The importance of select attendance at review hearings was echoed in some practitioner comments; they considered this approach to be distinct from other court settings. Defence agents noted that the PSA differs from other criminal court business in that '*these [PSA] courts are done in private*' and '*they need to separate it from the body of court business and that's important*'. This delivery approach is relevant to considering the PSA's formality, including what is discussed and how (see 'Formality and Interactions in the Court' below).



### **Lesson for other areas**

**The fact that only those directly involved in the participant's case were present at the hearings, and that there were no onlookers in the public gallery, was very important to participants. They felt that this facilitated more open and honest discussion.**

<sup>7</sup> the Fiscal Depute is also there

It is worth noting, however, that there are other potential ways to overcome the difficulty of discussing sensitive issues in court. For example, in some drug courts (including the Glasgow Drug Court), there are pre-review discussions in which sensitive issues can be covered.

### ***Relationship with the sheriff***

Engagement with the sheriff, and the relationship this developed within the court itself, seemed to help encourage some individuals to make an effort to change their behaviour. It appeared that the interest shown by the sheriff was meaningful and important for some PSA participants; with defence agents, social workers and participants themselves indicating this. Communication and the relationships between participants and professionals – which were a central feature of the PSA – were highlighted as making the process intense but valued.

*People often value initially the relationships they're building and not just with us but with the court. You know, the sheriff will have the dialogue with them and often the relationship is the foundation and it's not limited to us.*

(CJSW professional)

*The ones that want to make a change, can work at it at a pace that they're comfortable with. You know, that people that are listening to them rather than telling them. So, yes, I think that's really important. The communication is important, and that seems to be the strength of the thing for me.*

(CJSW professional)

*She [sheriff] spoke to you like a person, asking you how you're doing or asking you to work on things.*

(Female PSA participant)

The personal relationship that sheriffs, and other professionals, built up with some participants was also acknowledged by one sheriff:

*...there are certainly people that you feel you're more connected with than others, that you do start to feel quite invested in ... and it can be painful to see when they're not doing so well and you can worry about them.*

It was suggested by defence agents and social workers that women may be better able to engage with the more proactive contact and support from support workers and the direct dialogue with sheriffs at court reviews than were young men. Defence agents suggested that, while individual differences existed, women appeared to prefer the personal approach from sheriffs more than men; they also noted that – other than defence agents – almost all the professionals involved in the PSA were themselves women. In some examples proffered by defence agents, female participants would speak more openly to the sheriff than they did with their (male) defence agent.

### ***Formality and interactions in the court***

The physical layout and format of the court in which the PSA is held is moderately formal and traditional, albeit in a much smaller room than other courts on the premises. The furniture is not moveable, so the structure or layout of the room stays fixed and does not differ depending on the type of hearing being held. Some formalities still apply, including:

- sheriffs, procurators fiscal and defence agents wearing judicial or legal attire
- announcement and standing when the sheriff enters/leaves the room

- the sheriff sitting at the front behind a bench, higher than others in the room.

However, the communication between people within PSA court hearings is consistently perceived by participants and practitioners as less formal and more individualised and interactive than 'standard' court hearings, for example, CPO hearings. Observations of a series of CPO hearings at Aberdeen Sheriff Court confirm this distinction, and there was more eye-contact between sheriffs and PSA participants.

*The relationship with the sheriff is much more personal - they speak to you a bit more... The sheriff's personality came out, she'd smile and have a laugh.*

(Female PSA participant)

*We had a laugh and a joke in court. They treat you like you are a person. It is more relaxed*

(Female PSA participant)

*You sit back and feel comfortable to say how you feel... It's a hundred times better than going to a normal court room [where I'd be] a bit more fazed about what other people are thinking - if I said I'd stay away from drinking, people would laugh*

(Male PSA participant)

There remain some formalities in the PSA that are structured, for example, the sheriff usually speaks with the practitioners first. In the PSA, it is commonplace for participants to add comments and offer explanations on matters the sheriff, social worker and defence agent are discussing, whether this is about making progress on one of their goals, accessing a new service, experiencing sensitive personal circumstances (for example, bereavement or their children being adopted), disclosures of relapse or explaining non-compliance. In the case of non-compliance, some PSA participants voluntarily offered apologies in court to the sheriff.

By contrast, this type of dialogic and informal communication is not seen in observations of CPO hearings, which can involve complex legal language in exchanges predominantly between the sheriff and defence agent, and little or no direct conversation about an offender's complex needs or sensitive personal circumstances, even when these are salient. In some cases observed, issues were mentioned by professionals using coded indirect language (e.g. talking about 'difficulties' and 'issues' rather than explicitly saying what those were) and referring to written information in files only they can see. Such an approach is likely to have been adopted to safeguard the privacy of sensitive information given the sizeable public audience (including journalists) present in the court where CPO hearings are held.

International experience and research evidence indicates there are links between interactive and clear communication in problem-solving approach hearings and participant perceptions of procedural justice and their willingness to comply: 'these opportunities for offenders to explain themselves and what is going on in their lives tends to make them feel fairly treated, which in turn makes them more likely to comply with the current order and with legal requirements in future' (Bowen and Whitehead, 2013: 18). Some PSA participants reported having a greater level of trust in the criminal justice system, as a whole, as a result of participating in the PSA. Others felt they had been treated fairly while on the PSA, but this did not extend to feeling more positive about the wider criminal justice system.

Observations of the PSA show some modest variations in the level of formality and interaction *between* PSA cases or hearings, that is, there is more interaction and

informality in communications with some PSA participants than others. Overall, however, interactions in the PSA are still 'judge-centred' or sheriff-centred in that the sheriff has the power to lead, initiate and shape the discussions, no matter how interactive and engaging, and this is broadly characteristic of problem-solving approaches (Portillo et al., 2013: 11).



## Craig's Story

Craig is 23. He was in care between the ages of 4 and 14. He has had nine convictions and has served three custodial sentences since the age of 16 for offences including car theft, drunk and disorderly conduct and breach of the peace.

He said he had already heard about the PSA while in prison and then the sheriff recommend that he go on it. He agreed to go on it ***“so that I didn't get jail again”***.

Craig was on the PSA for around six weeks before he committed another offence for which he was jailed for eight months. Despite only being on it for a short while, he was full of praise for it and hoped that he would be able to go on it again when he was released because ***“I got more done in that few weeks than I ever have”***. His social worker had helped him get a house, a bank account and they were working towards him getting a job. His alcohol support worker was helping him reduce his alcohol use and phoned him every day.

He had known his social worker for ***“a long time”*** and felt that he could speak honestly to her. He had not known his alcohol support worker before but said he was ***“brand new – one of the best people you could meet”***. His experience of care as a child had led him to ***“hate social work”*** but he felt these workers were totally different: he appreciated both the personal relationship he had with them and the practical help they were able to provide.

He attended one PSA review. He found it completely different to his previous experiences of court and described it as ***“a lot more laid back. Your social worker gets to speak which is really good – they [the sheriff] are not just reading a report. And you sit back and feel comfortable to say how you feel”***. He had a good report and the ***“the judge smiled at me – I've never had that before”*** and he felt incredibly proud.

However, he said things then ***“went pear shaped really fast”***. He split up with his girlfriend, started drinking more heavily, and missed appointments with his social worker and alcohol support worker. Although he didn't respond, he appreciated that they had phoned him several times to find out how he was and what was happening.

He was returned to custody because he was drunk, resisted arrest and assaulted a police officer. While in prison this time, he has recommended the PSA to others, in comparison with some transitional support services, because ***“you can get more stuff done. They phoned me on this [the PSA]”***.

### 4.2 Comparing the PSA to other community orders and hearings

This section examines stakeholder perspectives on some distinguishing features of the PSA and perceived differences and similarities to uses of other community orders. Any sense of 'comparison' and differentiation discussed here is situated in the context of Aberdeen, with recognition that hearings, community orders and how they are overseen or implemented may differ across locations, practice contexts and individual service users. The other community orders considered here are a CPOs, Drug Treatment and Testing Orders (DTTOs), and Restriction of Liberty Order (RLOs) involving electronic monitoring tagging and curfew restrictions.

Distinguishing features of the PSA and the rationale for its use of SDSs, compared to other community orders and hearings, include:

- The SDS defers sentence, it is not a statutory order like a CPO or RLO.
- The prospect of admonition upon completion of an SDS within the PSA may act as an incentive.
- The SDS and the PSA may take less time to complete than a CPO with a supervision requirement (which ranges from 6 months to up to 36 months) or a DTTO (an average of 18 months<sup>8</sup>), and slightly more time than the average length of an RLO which is 3-4 months in Scotland (G4S, 2018).
- The PSA involves a participant being allocated a criminal justice social worker and a support worker, and (typically) weekly appointments with each. For a CPO with a supervision requirement, it is relatively common to be allocated a social worker only, and the regularity of appointments may vary significantly.
- Supports and interventions responding to some complex needs within a CPO may be orchestrated through one or more of the nine requirement options, for example, a programme's requirement or a treatment requirement for mental health, alcohol, or drugs. Within the PSA, these may also be a core focus of intervention, but it is not orchestrated through a requirement of a statutory order.
- The PSA and the SDS is structured to include judicial supervision and multiple review hearings set at regular intervals (typically every four weeks), which is similar to the DTTO. Sheriffs described PSA review hearings as '*more personal and motivational*' than CPO reviews. For CPOs, review hearings can be held at the discretion of the court but are a lot less common (only 16% of CPOs imposed in Scotland in 2016-2017 had progress reviews in court (Scottish Government, 2018: 15))

There was broad consensus among professionals in Aberdeen that the PSA and its use of SDSs is more flexible than a CPO, especially in relation to responding to non-compliance and breach. Professionals identified the discretion, flexibility and informal regular collaborative working as distinctive strengths integral to how the PSA works with participants with complex needs and prolific offence histories.

Several participants spoke about the routine provision of practical resources like bus tickets for travel to and from appointments as a distinctive and helpful feature of the PSA which, in their experiences, did not routinely happen with other community orders. They also highlighted practical supports like text message and phone call reminders and regular and intensive communication by social workers and support workers as more common and characteristic of their experience of the PSA than of other community orders, such as a CPO. However, the use of text message and phone call reminders within CPOs varies across Scotland according to the local area and the worker(s) and individuals involved.

There were different perspectives among participants on the extent to which the PSA is like a DTTO, another therapeutic jurisprudential approach available in Scotland. One participant said the PSA '*is more like a DTTO in the drug court*' than other community sentencing processes and orders, '*except there is more, like, a closeness with the support worker compared to the DTTO*'. Another participant said that '*the DTTO takes a lot more*

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<sup>8</sup> Scottish Government (2018) Criminal Justice Social Work Statistics  
<https://www.gov.scot/Resource/0053/00530929.pdf#p.20> Accessed 23 February 2018

*work and it's also not as lenient*'. Where a DTTO is used in the context of a Drug Court, multiple participants may be present for one another's hearings – although DTTOs in Aberdeen Sheriff Court are held in the same courtroom as the PSA hearings and, like the PSA, only those directly involved are present.

#### **4.2.1 Stage 4 – exit**

Professionals indicated that planned exits (i.e. those following successful completion of the SDS) are managed differently depending on the individual's needs – both in relation to the court aspects and the support aspects of the PSA.

##### **Court**

If a participant is progressing well, court reviews might become less frequent (e.g. every six weeks rather than every four weeks) towards the end of the SDS. This is, in part, a 'test' of whether the individual can maintain progress with this reduced judicial oversight and, in part, a signal to them that the process is coming to an end.

One of the sheriffs described how she liked to handle the final couple of reviews<sup>9</sup>:

*...in the review before the final review I tended to tell them that the next time I would be asking them to consider where they were now, compared with where they were when they started and then, on the final review, I asked them to reflect back on the progress made, and actually celebrated it with them, saying 'look what's happened: you've got your tenancy, you had four custodial sentences in 2015, you've had none in 2016'. I can congratulate them. I admonish them and I tell them 'you're still allowed to use the women's centre and to seek help from the social workers if you want.'*

(Sheriff)

##### **Support**

Sheriffs and social workers said they made it clear to participants that they could still access social work support (and support from other services they have been linked up with such as addiction support) on a voluntary basis following exit from the PSA – and they encouraged participants to do so.

The qualitative research with participants showed that some understood this and welcomed it. One current participant said:

*If I had a problem after [my SDS ends], I think I could still come and speak to them [CJSW and alcohol worker].*

(Male PSA participant)

A former participant talked about how she had been encouraged to stay in contact with the Women's Centre and had done so (see 'Jillian's Story' on page 9).

Indeed, it was suggested that – among those who had successfully engaged and completed their SDS – an over-reliance on criminal justice services was more likely to be a problem than losing contact.

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<sup>9</sup> The research team did not observe any final PSA reviews (none were scheduled during the six days the researchers were in court).

*[more of] our problem sometimes is having folk stuck here, well it's not a problem, it's a good problem to have, because obviously they see this as a safe place to be, but we need to continue to be proactive about moving women back into their communities and services that are away from criminal justice.*

(Support worker)

The existence of the Women's Centre in Aberdeen provides an obvious continued point of contact for women who have exited the PSA. The lack of an equivalent point of contact for men was not raised as an issue by professionals in the research and it may be that voluntary contact with social workers, support workers and other services (such as addiction services) is sufficient – but only four men have successfully completed the PSA thus far so it is too early to draw this conclusion.

However, there were cases where participants clearly had significant anxiety about the potential loss of support following exit from the PSA. One of the participants who took part in the qualitative research spoke of her concerns about not seeing her social worker and support worker as often (see 'Angela's Story' on page 56) and court staff highlighted the case of a participant who had '*gone off the rails*' and admitted committing an offence (albeit not a serious one) to ensure she continued on the PSA and continued to access services.



#### **APSA area for improvement**

**The findings reinforce the importance of ensuring that, from the outset, participants understand what support will be on offer to them if they successfully complete their SDS and of encouraging independence from services.**

#### ***The risk of 'up-tariffing'*<sup>10</sup>,**

Sheriffs, social workers and defence agents all raised the issue of what should be done when a participant is making progress in relation to their problems, and extension to the SDS is not justified on legal grounds, but it is felt that they would benefit from continuation on the PSA (in terms of the judicial oversight and/or the support).

*Then [in those circumstances], as a case manager, I have a real dilemma, because am I asking the court for a couple of months' extension for the structured deferred sentence? Do they still need that tied to the court or can it be managed with just the voluntary contact offer? We find that sometimes we're asking for an extra month at the end just to get someone through a specific issue or period.*

(CJSW professional)

There is perhaps an inherent tension in the problem-solving model in that the length of judicial oversight justified by the offences committed may often be shorter than the length of time required to solve the underlying problems. Many participants have long-standing

<sup>10</sup> Imposing a longer order or more severe or intrusive disposal than justified by the offence itself in order to provide the individual with more support; this can have more punitive consequences if the individual is unable or unwilling to comply with the order and is thus sentenced ultimately for the original offence and breach of the order (potentially resulting in a custodial sentence for an offence that may not have warranted it in the first instance).

and complex problems and will require support for longer than six months if they are to make significant progress in overcoming them. It can be tempting, therefore, for the sheriff (and social workers making recommendations to the sheriff) to use an extension of the SDS as a way to motivate and encourage the participant to maintain progress and enable them to access support for longer. However, this may result in an SDS which is disproportionate to the offence(s) committed. Professionals were aware of this risk and there was no indication from the data on SDS length (see section 4.3) that it was happening in many cases. However, it is something for those involved to remain alert to.



**APSA area for improvement**

**Professionals should remain alert to the risk of up-tariffing. Exit plans and clarity about access to continued support after completion of the PSA are important in this regard.**

### 4.3 Progress of cases through the PSA

Figures 4.2 and 4.3 show cases' progress through the PSA up to the end of September 2017. Table 4.3 provides a summary of case outcomes.

#### Women's cases

The PSA for women became operational in November 2015. By the end of September 2017, 1589 cases had been screened, 46 were referred and 32 identified as suitable.

Of those 32, 30 had an SDS imposed (one was given a custodial sentence of 24 months and sentence was still pending in the other case). The majority of SDSs were for six months initially (25 cases) with three women receiving an initial SDS of 12 months, one an initial SDS of nine months and one an initial SDS of 10 months. The initial SDS was recorded as having been extended for between one and six months in six cases, five of which involved an initial SDS of six months. In the remaining case a 12 month initial SDS was extended by three months.

Twenty-two of those cases had closed. Twelve of the women had completed their SDS and 11 were admonished (the other received a custodial sentence for a new offence). Ten did not complete their SDS: seven received a custodial sentence, two a deferred sentence and one a CPO.

#### Men's cases

The PSA for men became operational in August 2016. By the end of September 2017, 2053 cases had been screened, 36 were referred and 20 identified as suitable.

Of those 20, 18 had an SDS imposed (sentence was still pending in two cases). In fifteen cases an initial SDS of six months was imposed while in three cases the SDS was initially for a duration of nine months. The initial SDS was recorded as having been extended in three cases – in one case for one month and in two cases for six.

Thirteen of those cases had closed. Four of the men had completed their SDS and 3 were admonished (the other received a CPO). Nine did not complete their SDS: six received a custodial sentence, two a CPO and one a deferred sentence.

It should be noted that all the numbers refer to cases rather than individuals. It was not possible from the anonymised data provided to identify how many different individuals were screened and referred to the PSA. (Adding a unique identifier for each individual would aid any future analysis – see section 2.5 above).

Figure 4.2: Progress of women's cases through the PSA (November 2015 – September 2017)

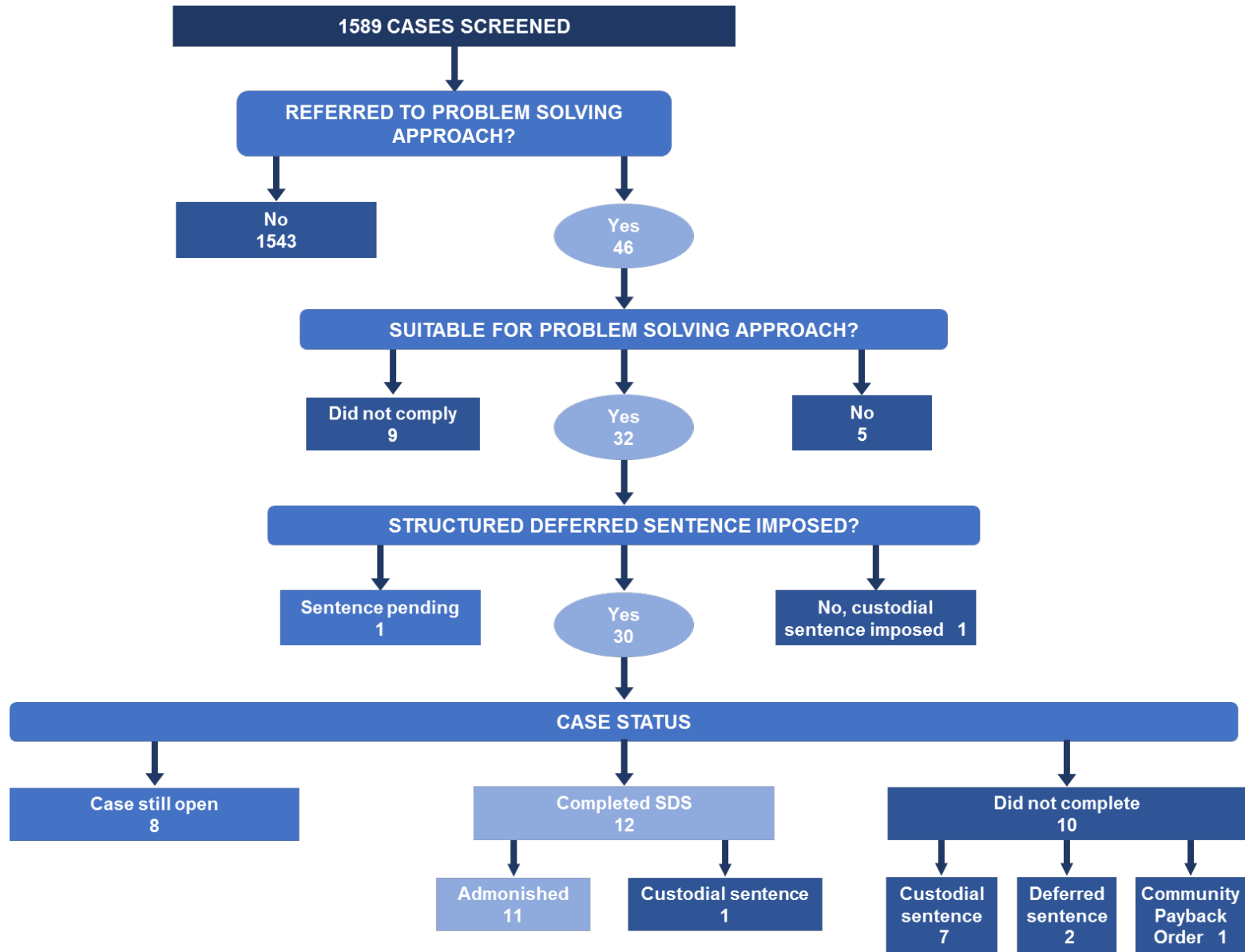
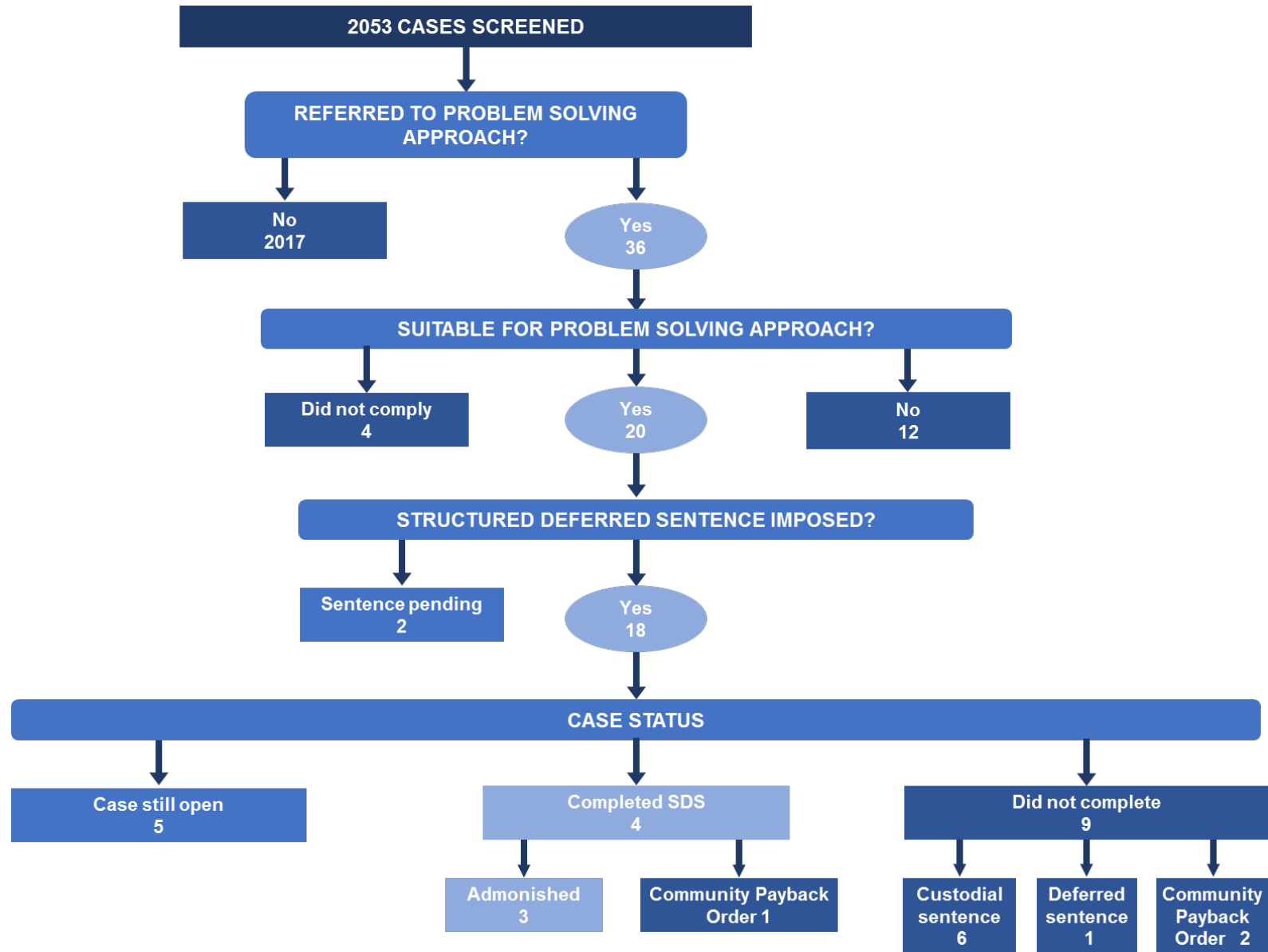


Figure 4.3: Progress of men's cases through the PSA (August 2016 – September 2017)



**Table 4.3: Summary of case outcomes**

|  | Women | Men  | Total |
|--|-------|------|-------|
| Number screened for PSA                        | 1589  | 2053 | 3642  |
| Number deemed suitable for PSA and SDS imposed | 30    | 18   | 48    |
| <b>Outcomes</b>                                |       |      |       |
| Case still open <sup>11</sup>                  | 8     | 5    | 13    |
| Case closed                                    | 22    | 13   | 35    |
| Completed and admonished                       | 11    | 3    | 14    |
| Completed and custodial sentence               | 1     |      | 1     |
| Completed and CPO                              |       | 1    | 1     |
| Not completed and custodial sentence           | 7     | 6    | 13    |
| Not completed and deferred sentence            | 2     | 1    | 3     |
| Not completed and CPO                          | 1     | 2    | 3     |

### 4.3.1 Participants' characteristics and needs

Figure 4.4 shows the characteristics of the women and men who were referred to the PSA. It is clear that – in line with the target group – those referred had considerable offending histories, had encountered significant adversity, and were at high risk of reoffending. The outcomes must be considered against this background.

In the majority of cases, those who had been referred had more than 10 convictions in the last five years and had also had at least three custodial sentences in that time. Furthermore, with exception of two cases, all were classified as 'likely' or 'very likely' to receive custodial sentences in the future.

Among women, shop lifting, crimes against public justice and common assault were the more prevalent index offences. Among men, the most common were crimes against public justice, 'other' offences (these included drug offences and possession of offensive weapons) and shoplifting.

It was clear that those referred to the PSA faced many adversities. Almost all of the women had financial difficulties and had experience of trauma and/or abuse, although other adversity was common too. Men were slightly less likely to have faced adversities than the women, but the same pattern appeared: around two-thirds of men had suffered from financial difficulties and had experienced trauma and/or abuse.

<sup>11</sup>There were a further three live cases where the individual was deemed suitable but the sentence was still pending



LS/CMI<sup>12</sup> scores (figures are based on the 35 women and 29 men for whom an LS/CMI assessment was conducted) show that most women had either a 'high' or 'very high' risk of re-offending. The most prevalent LS/CMI factors that were an issue for women were Leisure/Recreation, Alcohol/Drug Problems, Companions, and Education/Employment. Nearly all women had a 'high' or 'very high' level of risk/need on those factors.

Men were, again, slightly less likely to have a 'high' or 'very high' level of risk of re-offending than women, although it was still high. As with the women, Leisure/Recreation, Companions, Education/Employment were all key issues for men with around two-thirds having a 'high' or 'very high' level of risk/need on these factors. Alcohol/Drug problems were less common than among the women (13 out of the 29 men assessed). It was also common for men to have a high level of risk/need in relation to Criminal History.

Although the age criterion for men was 18-25, there was flexibility around this where it was thought that a slightly older man would benefit and a number of men aged between 26 and 30 were referred.

Appendix 7 provides more detail on some aspects of the profiles.

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<sup>12</sup> Level of Service/Case Management Inventory – an instrument that aims to support practitioners to conduct a thorough review of a person's circumstances, difficulties and strengths. It is the common method of risk assessment within CJSW.

**Figure 4.4: Women (46 cases)**

**Men (36 cases)**

The women referred to the PCS were aged between 18-61 years at the point of screening



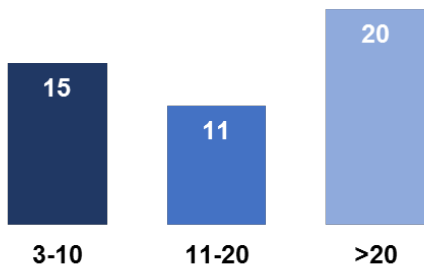
Mean age of those referred

The men referred to the PCS were aged between 17-30 years at the point of screening

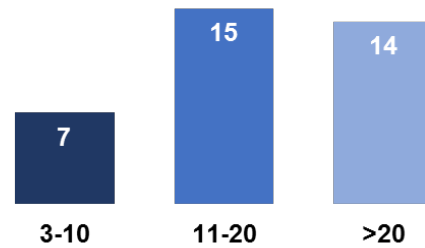


Mean age of those referred

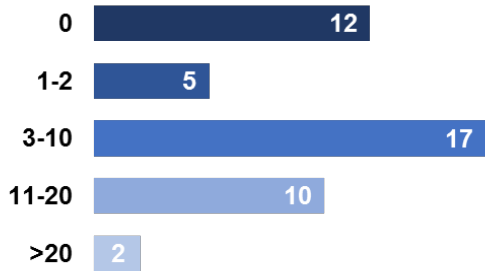
**Number of convictions in the previous five years**



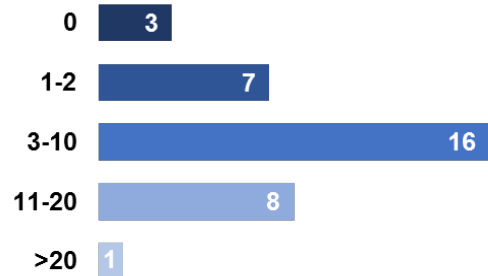
**Number of convictions in the previous five years**



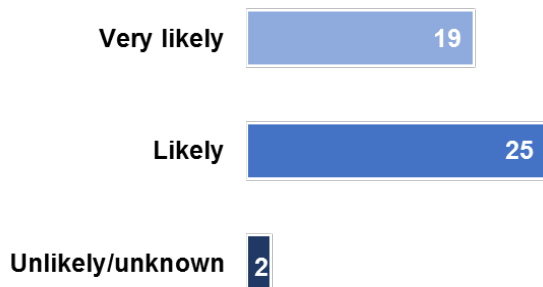
**Number of custodial sentences in the previous five years**



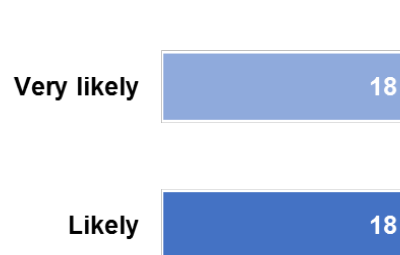
**Number of custodial sentences in the previous five years**



**Likelihood of receiving custodial sentence**



**Likelihood of receiving custodial sentence**



**Women (46 cases)**

**Men (36 cases)**

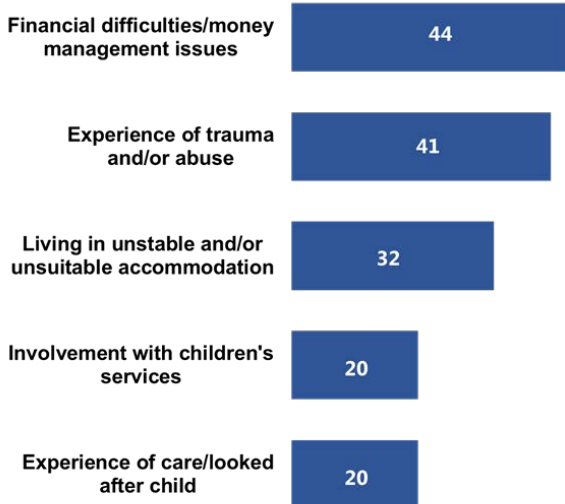
**Index offence**



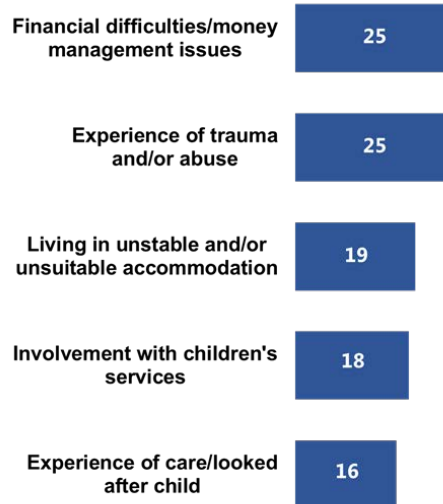
**Index offence**



**Adversities faced**



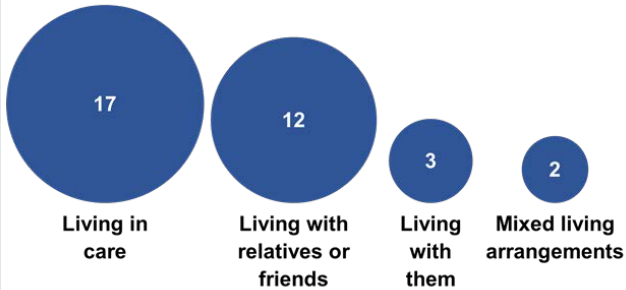
**Adversities faced**



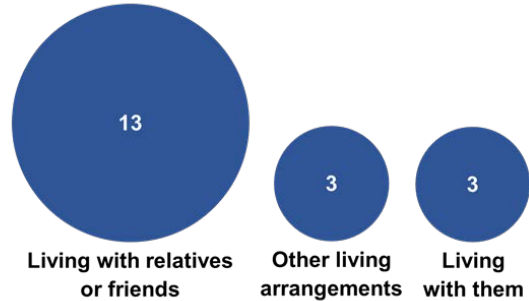
## Women

## Men

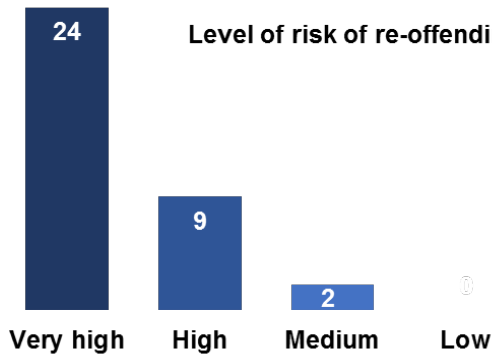
34 of the 46 women had children under 18 years of age. Their children were...



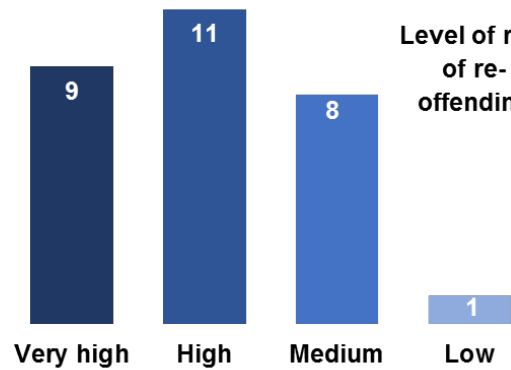
19 of the 35 men had children under 18 years of age. Their children were...



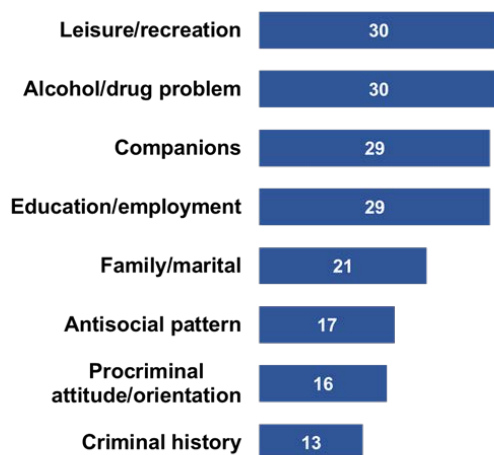
Level of risk of re-offending



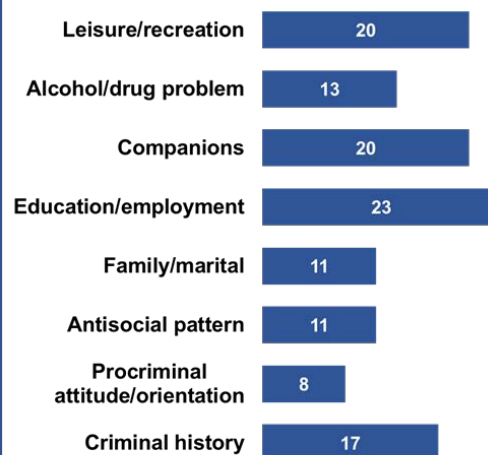
Level of risk of re-offending



Number with a 'high' or very high' level of risk/need (LS/CMI factors)



Number with a 'high' or very high' level of risk/need (LS/CMI factors)



## Kelly's Story

Kelly is 37. She spent most of her childhood in care and started using drugs when she was 12. She spent most of her adult life in prison, serving short and medium-term sentences for a range of offences.

Kelly heard about the PSA from acquaintances and asked her social worker if she could go on it. At the start, she didn't really know much about it but thought that it sounded like a good way of avoiding going back to prison.

Kelly met regularly with her drug and alcohol support worker (who she had seen for years) while she was on the PSA. She also accessed other support provided through the Aberdeen Women's Centre and housing support. Kelly acknowledged that the support had always been there but she just hadn't taken it up previously – what made the difference on the PSA was the fact that **“they actually come and look for you”**. She surprised herself with how good she had been at attending appointments – something she had struggled with in the past.

She attended monthly court reviews with the same sheriff. She spoke very positively about her relationship with the sheriff – **“The sheriff kind of gets to know you better than they normally would. They actually get to know you on a personal level rather than just on paper.”** She felt that she could be honest, without fear of being judged, and that the sheriff genuinely wanted to help her. Kelly felt that the court environment was an important aspect of the PSA. Compared to the mainstream courts – **“It feels a lot more relaxed, it doesn't feel as formal. You don't feel afraid to speak.”** She wouldn't have felt comfortable having the type of discussions she had in the PSA court in a mainstream court with lots of people in attendance.

Kelly felt that she was doing really well while she was on the PSA. She reported that she went three months without committing an offence (before that she was offending almost every week), she had better relationships with her family and was on course to get a flat. The biggest change for her, however, was how she felt about the future. She was much more positive and, for the first time, wanted to change and eventually get a job. She had also become more aware of the effects of her offending on others. She credited the sheriff's approach with this change in her attitudes – **“she's trying to change you slowly, rather than telling you what to do.”**

As a reaction to an event in her personal life, Kelly committed an offence when five months into the PSA. Due to the seriousness of the offence, Kelly was immediately called in front of a sheriff in a mainstream court and remanded in custody. This meant that she lost the flat she was about to get. Kelly was disappointed about this and thought that it would have been better for her offence to have come under the PSA so that the sheriff who knew her could decide on the best course of action to take.

Kelly was sentenced to six months in prison. However, as she had been making such good progress on the PSA, the sheriff decided not to sentence her for all of her cases (which would have resulted in a much longer sentence) and to keep her on the PSA when she is released in relation to her outstanding charges. Kelly was pleased about this and felt that it would be helpful to have the support offered by the PSA when she returns to the community.

## 4.4 What resources have been required to deliver it?

This section describes resources that have been required to deliver the PSA.

The PSA was supported by Scottish Government funding of £78,721 p.a. for CJSW activity (2016//17 and 2017/18<sup>13</sup>). This funding was used to employ a social worker and a support worker. This resource was fully utilised. Although the total numbers have been less than anticipated, professionals reported that the amount of support that participants have required has been greater.

Although no other partner agencies received additional funding, the Review explored the additional time they had spent on the PSA. Table 4.4 shows the estimated number of hours per case (by role), assuming six review hearings per case (last column). It does not include the support provided by social workers and support workers or support provided by other agencies to which participants are sometimes referred or signposted towards. The amount of support varies considerably by case and it would be difficult to determine how much is 'additional' – although improved access to relevant support is a central feature of how the PSA is intended to work, some participants would have received at least some support from social work and other agencies had they not been on the PSA.

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<sup>13</sup> As at February 2018, the same funding has been agreed in principle for 2018/19.

**Table 4.4 - Estimated time required per case, by professional role<sup>14</sup>**

| Role              | PSA stage, and time required in minutes |                  |                    |                    |                     |                                  |
|-------------------|---|------------------|--------------------|--------------------|---------------------|----------------------------------|
|                   | Stage 1 (screening)                     | Stage 2 (plea)   | Stage 3 (sentence) | Stage 3 (review)   | Total inc. 1 review | Total inc. 6 reviews             |
| CJSW              | 10 <sup>15</sup>                        | 60 <sup>16</sup> | 150 <sup>17</sup>  | 105 <sup>18</sup>  | 325                 | 850 minutes (14.2 hours)         |
| Procurator Fiscal | 5 <sup>19</sup>                         |                  |                    | 15 <sup>20</sup>   | 20                  | 95 minutes (1.6 hours)           |
| Clerk             |   | 15 <sup>21</sup> |                    | 20                 | 35                  | 135 minutes (2.2 hours)          |
| Sheriff           |   |                  |                    | 40 <sup>22</sup>   | 40                  | 240 minutes (4 hours)            |
| Police            |   |                  |                    | 22.5 <sup>23</sup> | 22.5                | 135 minutes (2.2 hours)          |
| Defence agent     |   | 30               |                    | 30                 | 60                  | 210 minutes (3.5 hours)          |
| <b>Total</b>      |   |                  |                    |                    |                     | <b>1665 minutes (27.8 hours)</b> |

This shows that a problem solving case with six review hearings (assuming the participant completes a six month SDS) requires an estimated 28 hours of PSA-specific work, the majority of which is undertaken by social work (14 hours) - undertaking PSA assessments and preparing court reports. The sheriff also contributes approximately 4 hours per case.

Professionals also discussed the resource implications when interviewed. On the whole, professionals reported that they had sufficient resources in place to effectively run the

<sup>14</sup> The data in the table is based on the professionals' estimates of the average amount of additional time taken per case in comparison with a non-PSA case going through the court. There may be some inconsistencies in what was considered 'additional'.

<sup>15</sup> A social worker spends an average of 60 minutes each day screening. There are around 9 cases per day on average (though this varies considerably day to day) which equates to 6.6 minutes per case. A social work administrator spends 30 minutes each day collating data on convictions which is then passed to the social worker doing the screening. This equates to 3.3 minutes per case.

<sup>16</sup> Client contact before court would be around 30 minutes with a further 30 minutes to discuss with the solicitor and prepare the paperwork for court.

<sup>17</sup> Preparation of rapid report.

<sup>18</sup> 90 minutes review and report preparation and 15 minute court session

<sup>19</sup> Screening and calls to social work.

<sup>20</sup> Being at court 30 minutes earlier for PSA Reviews (covers two reviews).

<sup>21</sup> Receiving papers from the Crown, checking papers, passing them to sheriff, briefing the sheriff, disposing of the court and setting up the next hearing (same at Stage 3).

<sup>22</sup> 30 minutes reading the report and preparation and 10 minutes in court.

<sup>23</sup> Additional time in court (9.30am to 10.00am, though they noted it sometimes overruns) covering two PSA reviews, and printing and delivery of papers.

PSA, and there was no evidence of individuals being prevented from accessing the PSA because of resourcing issues. The following points were raised:

- Sheriffs currently working on the PSA did not consider the time spent preparing for and conducting the reviews to be too onerous – they praised the reports prepared by CJSW for their relevance and brevity. Furthermore, as they only had a limited number of PSA participants at any one time, and were therefore very familiar with their individual circumstances, the review preparation was largely a case of refreshing their memory and checking for recent developments.
- Several professionals (sheriffs, procurators fiscal, court staff and defence agents) ‘lose’ 30 minutes of their day two or three times a week<sup>24</sup> as a result of the reviews taking place at 9.30am – essentially, this was time that they would have spent on other tasks that they then had to fit in at other times (including during their lunch hour or by starting work 30 minutes earlier in order to get prepared for the day’s business). Overall, however, professionals were pragmatic about this and felt that it was worth it – particularly if the PSA did lead to reduced offending, and therefore fewer cases in court, in the long term.
- The PSA is very resource intensive for CJSW, highlighting the importance of the Scottish Government funding – CJSW staff felt that the resources they currently had available were adequate when the team was at full capacity but that it became difficult when a team member was on leave. If the number of PSA participants increases, resourcing could easily become a problem. The number of participants has been less than the 50 per year anticipated at the outset – which would have been approximately 25 cases at any one time (assuming six months per case). At November 2017, there were 16 current cases. However, although the total numbers have been less than anticipated, professionals reported that the amount of support that participants have required has been greater.

## 4.5 Sustainability and scalability

Assuming that resources continue at a similar level, the PSA should be sustainable on its current basis. Professionals suggested that the following would help with its continued improvement.



### ***APSA area for improvement***

**Reinstate the multi-agency meetings that were held during the set-up stage. Community justice partners could also be involved, to ensure everyone is up-to-date with changes happening in the local area and to consider any potential impact on PSA.**

<sup>24</sup> There tend to be two or three sessions a week, depending on how many hearings there are.





***APSA area for improvement***

**Provide more regular communications to stakeholders (particularly those not as closely involved on a daily/weekly basis e.g. other sheriffs and defence agents who did not have clients on the PSA) to ensure they remain aware of the PSA including: criteria for admission, the process, potential outcomes for participants and what their roles are in relation to it.**

As discussed in section 3.5 above, consideration should be given to reviewing the eligibility criteria. If they were to be expanded, this would of course have resource implications and local partners would have to estimate the likely number of additional cases and how these would be resourced. Aspects to be considered would include:

- the amount of additional time required from each agency/group (based on Table 4.4 above) including the number of dedicated sheriffs required. (One of the sheriffs suggested that 20 individuals per sheriff would be about the maximum – this would mean one review per day on average assuming reviews every four weeks)
- the amount of additional time required from social workers and support workers to provide support
- courtroom availability. Given the 9.30am – 10.00am time slot (and it would be difficult to hold hearings at other times), a maximum of around 10 hearings could be held per week in Courtroom 4.

## 5 What are the emerging outcomes?

### Key messages

- **Participants – including those who were back in custody – were overwhelmingly positive about the PSA’s overall impact on their lives.**
- **Professionals were also very positive about the PSA overall – while acknowledging that it was less successful for those with more entrenched problems and those who were not at a point where they were ready to change.**
- **Among the 35 participants whose cases had closed, 14 had completed their SDS and been admonished, two had completed their SDS but received another sentence and 19 had not completed their SDS (13 of these participants had received a custodial sentence). While this may not appear to be a high rate of successful completion, the profile of participants must be borne in mind – almost all were considered at risk of custody and most faced multiple problems. The fact that over half of participants were not in custody by the end of their involvement in the PSA must be considered against this background.**
- **Positive outcomes, reported by participants and professionals in the qualitative research, included: reduced reoffending; reduced substance use; improved housing situations; improved mental health and wellbeing; and improved social skills and relationships.**
- **The barriers to successful completion identified by professionals and participants were not, in the main, problems caused by the way the PSA operates. They were: the complexity of participants’ problems; unstable substance use; unstable/unsuitable accommodation; the influence of family and associates; the intervention not coming at the right time in terms of readiness to change; and lack of access to services and support (such as housing and mental health services).**
- **A further barrier – which sheriffs and other court professionals were working to resolve – was the issue of the PSA being overridden by charges called in another court over which the PSA has no power. This could mean that an individual who was making good progress in the PSA could be re-arrested on an outstanding warrant and returned to custody.**

This section reports on the emerging outcomes<sup>25</sup> for participants. We first consider what ‘success’ on the PSA might look like. We then report on participants’ and professionals’ overall perspectives on the PSA’s impact, before looking at engagement and compliance with the PSA, and at outcomes relating to offending and the problems which are linked to offending. Finally, we discuss the barriers to achieving successful outcomes identified by the Review. The case studies throughout this report illustrate some specific outcomes in more detail.

The findings on emerging outcomes are drawn from the qualitative research (which explored perceptions of outcomes with both participants and professionals) and from the monitoring data (which provided social workers’ assessments of participants’ engagement

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<sup>25</sup> The term ‘outcomes’ is used when referring to wider outcomes and other benefits of the PSA as well as case outcomes

and compliance). On the whole, there was agreement between participants and professionals on what the key outcomes had been.

Although professionals noted that there were some differences between the needs of women and men (see also section 4.3.1 and Figure 4.4 above), there was no evidence to suggest that the outcomes were perceived to be more positive for one group than the other. Comparisons are, however, difficult to make as the women's programme has been running longer than the men's and a greater number of women have, therefore, completed it.

## 5.1 What is 'success'?

PSA participants tend to have complex and varied problems. While there may be a number of commonalities in terms of the support they require, one of the PSA's key features is that support is tailored to individual needs. As problems and needs vary, so too do potential outcomes.

In line with the logic model, professionals were keen to point out that it was too simplistic to think of success for the PSA solely in terms of stopping participants offending altogether. Rather, the PSA aims to provide a framework to help participants address problems that may contribute to offending behaviours (such as poor housing situations and problematic use of alcohol and drugs). Improvement or stabilisation in relation to these problems would be viewed as a positive outcome. For participants with a number of significant problems, a notable improvement in one area could be considered a very positive outcome.

Both professionals, and participants themselves, acknowledged that progress was unlikely to be linear and that there may well be periods over the course of the PSA where progress stalled or setbacks occurred.

Similarly, the fact that a participant was not able to complete their SDS successfully does not mean that they did not benefit in any way from the PSA. As discussed below, even participants who were now back in prison were extremely positive about it and when they return to the community they could – potentially at least – build on some of the things they have learned. Conversely, of course, the fact that someone successfully completes their SDS does not mean that changes will be sustained.

## 5.2 Overall views of the impact of the PSA

Participants, including those who were back in custody, were overwhelmingly positive about the overall impact of the PSA on their lives.

*It is helping me big time, it really is. [If it hadn't been for the PSA] I'd probably be back in jail.*

(Female PSA participant)

*Such a positive thing. [I would say to people] 'If you ever get [the PSA], make the most of it'.*

(Male PSA participant)

*It's one of best things I've ever done.*

(Female PSA participant)

Professionals were also extremely positive about the PSA overall and thought it should continue – although acknowledging that it was less successful for participants whose

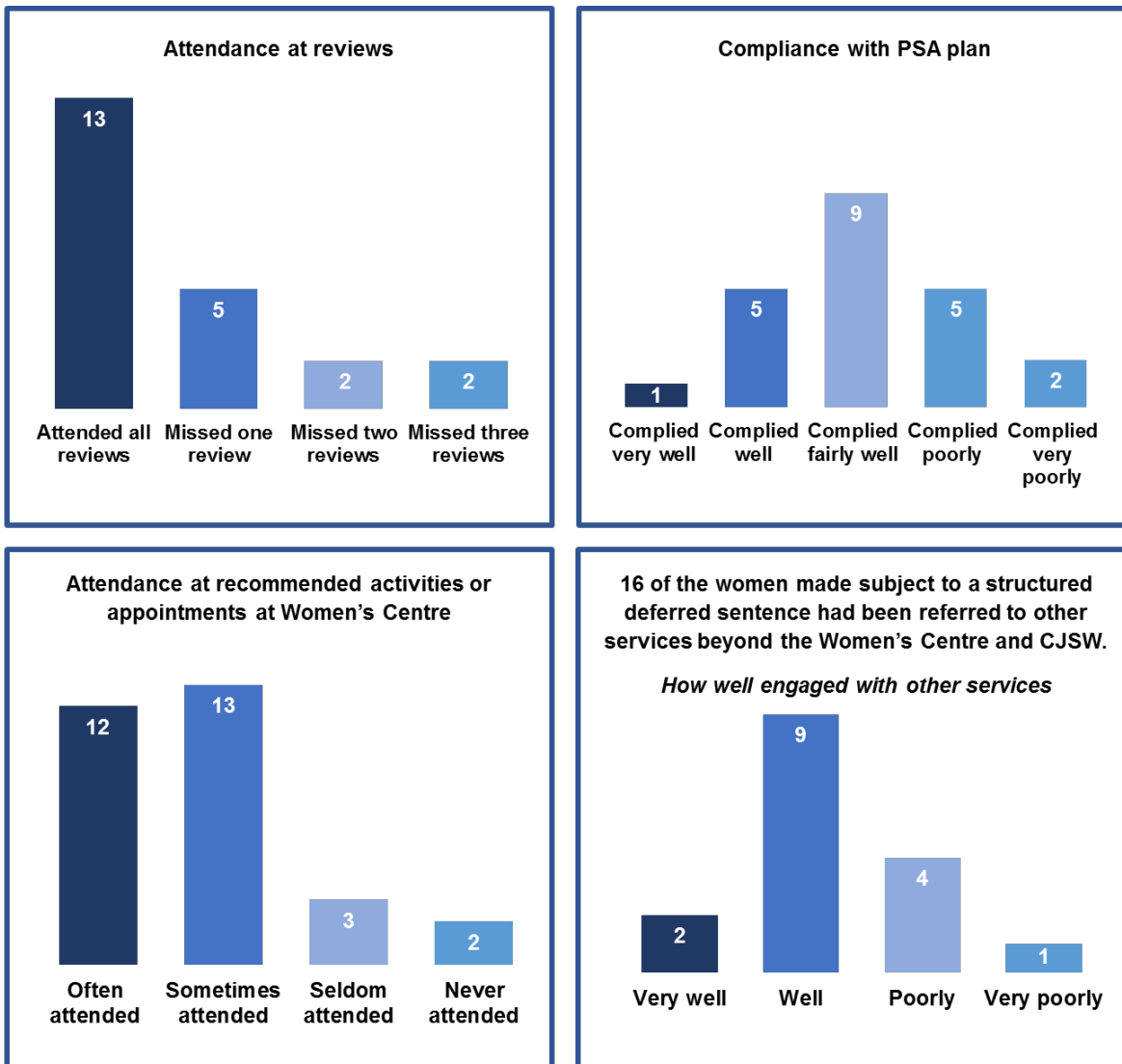
problems and negative behaviours were the most entrenched and those who were not at a point where they were ready to change (see section 5.5 on barriers).

### **5.3 Engagement, compliance and case outcomes**

Overall, participants' attendance at PSA reviews, compliance with the PSA plan and engagement with services was moderately good. Around three-quarters attended all, or all but one, of their PSA reviews and the majority complied at least 'fairly well' with their PSA plan. Most of the women 'often' or 'sometimes' attended appointments at the Women's Centre and the majority engaged 'well' with other services. Men's engagement with other services (i.e. other than their social worker and support workers) appears less good – but data is based on very low numbers so far and, for that reason, it is not possible to draw comparisons between the women's and men's programmes.

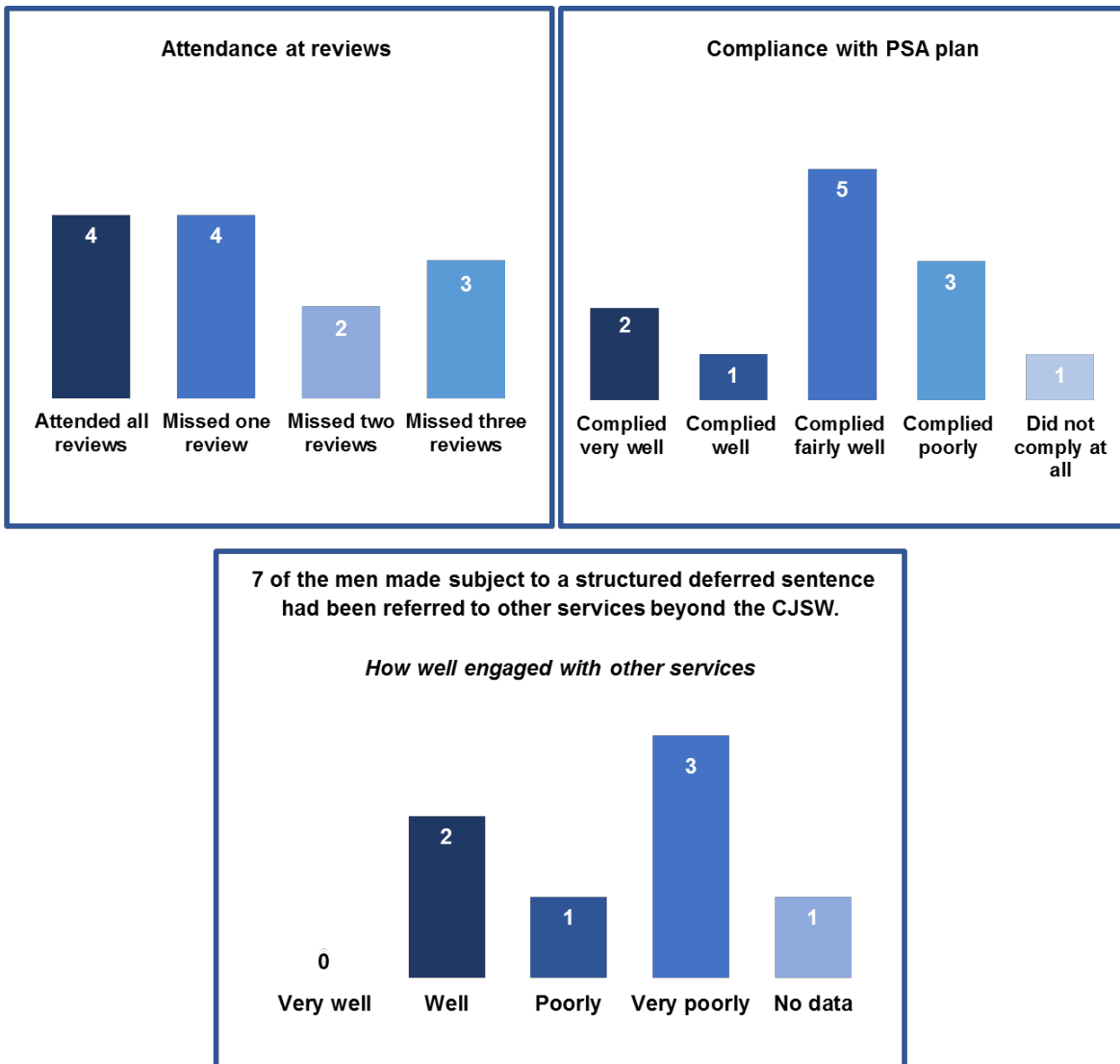
Figures 5.1 and 5.2 illustrate some of the data on engagement and compliance and these are described further below.

**FIGURE 5.1: WOMEN'S ENGAGEMENT/COMPLIANCE**



*Note: 'Attendance at reviews' and 'Compliance with PSA plan' based on the 22 closed cases. 'Attendance at recommended activities...' based on the 30 women made subject to an SDS (including current cases).*

**FIGURE 5.2: MEN'S ENGAGEMENT/COMPLIANCE**



Note: 'Attendance at reviews' based on the 13 closed cases, 'Compliance with PSA plan' based on 12 of the 13 closed cases (data is missing for one case).

### **5.3.1 Attendance at PSA reviews**

Among the 22 closed cases, over half the women had attended all the reviews that had been scheduled (13 women). Five had missed one review, two had missed two reviews and two had missed three reviews. Those who completed their SDS successfully were more likely to have attended reviews, and none of those who missed two or more reviews had completed their SDS.

Only four of the 13 men whose cases had closed had attended all of their reviews. A further four had missed one review, two had missed two reviews and three had missed three reviews. The numbers are very small but those who had successfully completed their SDS were more likely to have attended all their reviews. As was the case with the women, none of those who missed two or more reviews had completed their SDS.

### **5.3.2 Compliance with the PSA plan**

Compliance with the plan agreed in court is also shown in Figure 4.1.

Unsurprisingly, those who completed their SDS successfully demonstrated higher levels of compliance than those who did not.

Among the women, all of those who completed their SDS were recorded as having complied well or fairly well, while most of those who did not complete their SDS were recorded as having poor (five cases) or very poor (two cases) levels of compliance. One woman, who was sentenced for further offences and did not complete her SDS as a result, was nonetheless recorded as having attended all social work appointments and complied very well with the plan agreed in court.

Although the numbers of men are very small, all of those who completed their SDS successfully (four cases) were said to have engaged at least fairly well. In contrast, only half of those who did not complete their SDS (four cases) were said to have engaged at least fairly well and the others (four cases) demonstrated poor or very poor compliance.

See 4.1.4 for a discussion of what motivated participants to comply.

### **5.3.3 Engagement with services**

Supporting participants to access and engage with appropriate services is one of the key aims of the PSA.

Among the 30 women made subject to an SDS, there was a high level of engagement with the Women's Centre in Aberdeen. Sixteen of these women had also been referred to other services beyond the Women's Centre and CJSW. Most were recorded as having engaged well with these services although around a third were recorded as having engaged poorly (Figure 4.1).

Only seven of the 35 men who were referred to the PSA were recorded as having been referred to services other than CJSW during their SDS (though seven other cases were still 'live' and may be referred to other services at some future date). Engagement data was available for six of these cases.

Participants and professionals alike spoke very positively about most of the services available and the support they had been able to provide (see section 4.1.5). In addition to the specific benefits that participants might receive from different services (e.g. housing from housing services or addiction support from a drug advisory service), they reported a more general benefit of the appointments (including those with social workers and support workers) providing structure and routine. They liked the fact that the appointments gave a purpose to their days and allowed them to interact with people.

*I needed it. My life was just so chaotic. I didn't have any structure in my life at all. Even though the appointments only lasted like an hour, I could have structure in that day.*

(Female PSA participant)

### **5.3.4 Case outcomes**

Table 4.3 (p 37 above) provides a summary of case outcomes. Among the 35 participants whose cases had closed, 14 had completed their SDS and been admonished and 19 had not completed their SDS (13 of these participants had received a custodial sentence). While this may not appear to be a high rate of successful completion, the profile of participants must be borne in mind: almost all were considered at risk of custody and faced multiple problems (see section 4.3.1 above). The fact that over half of participants (21 out of 35) were not in custody by the end of their involvement in the PSA is very encouraging – although assessing the extent to which this is sustained would require a longer evaluation.

Nineteen participants did not complete their SDS. The most common reason for this was failure to attend social work appointments (11 cases). Four participants were sentenced (in the PSA) for new offences and one was sentenced for new offences in another court. One person declined to participate. In the remaining two cases, the reason for non-completion was not recorded.

## **5.4 Offending and problems linked to offending: emerging outcomes**

### **5.4.1 Reduced offending**

While five (out of 35) participants were sentenced for new offences while they were on the PSA, we have no data on (known) offences committed by other participants or, of course, on any offences that were not known to the authorities.

However, there was evidence (based on participants' self-reports and the perceptions of professionals aware of individuals' reduced number of arrests and court appearances) of reduced offending among some participants – including those with long histories of offending. Some self-reported that their offending had reduced and others said that they had stopped offending altogether.

*I haven't committed an offence since I've been on this Problem Solving. They kind of keep you on your toes because they would obviously know about it straight away.*

(Male PSA participant)

Professionals gave examples – which they acknowledged were a minority of cases – of those who had stopped offending and '*completely turned their lives around*' since being on the PSA. As one criminal justice professional observed, '*we've had two or three that have completely [stopped offending], and I have not seen again*'. One such example, described by court staff and defence agents, was a woman who had accumulated a number of convictions over a short period of time and was perceived to be at high risk of custody. She was homeless and had complex needs including drug use and involvement in prostitution. She was on the PSA for a year and at the end had stopped offending, had obtained appropriate housing, was in employment and had visibly increased self-esteem – '*a triumph*' (defence agent). The court staff felt that the fact her offending had been '*nipped in the bud*' early was a key factor in enabling her to achieve positive outcomes.



### 5.4.2 Reduced substance use

Substance use was common amongst participants, particularly the women (see section 4.3.1 above), which professionals considered a key barrier to positive outcomes.

Participants also acknowledged the importance of reducing their substance use and some had been able to do this through engagement with the PSA. Others had struggled to do so and continued problematic substance use was one of the main barriers to progress faced by participants.

Support was provided by participants' workers (drug and alcohol support workers and social workers) and/or specialist agencies. The balance of the support provided by workers versus specialist agencies cannot be measured but it appeared to be tailored to the needs/readiness of the participant. For example, in one case, the participant did not want to attend a specialist drug service but undertook work on this issue with her support worker.

### 5.4.3 Improved housing situations

Homelessness and housing problems were significant issues for PSA participants, and professionals considered improving participants' housing situations to be extremely important in the long term. Some participants talked about support workers helping them to secure a place in a hostel or obtain their own tenancy.

Women who did not complete their SDS were slightly more likely to have been assessed as living in unstable and/or unsuitable accommodation (8 out of 10 who did not complete their SDS compared with 5 out of 12 who did). This would point to housing insecurity as a potential barrier to compliance – and is consistent with what was said in the qualitative interviews.

### 5.4.4 Improved mental health and wellbeing

Some participants reported a number of positive outcomes in relation to improved mental health. Those with more severe mental health problems reported benefiting from referrals to psychiatrists or psychologists and a sheriff gave an example of a participant she felt had visibly '*blossomed*' after receiving mental health support in the form of cognitive behavioural therapy and appropriate medication.

More generally, participants reported a number of positive outcomes linked to mental wellbeing including: feeling more positive about the future; having more 'get up and go'; and feeling less stressed.

*Before I had never really had any 'get up and go' or never really had any want to go out and get a job or want to better myself but I do now. I'd like to get a job. It's just totally changed my mindset to be quite honest.*

(Female PSA participant)

Professionals were also able to recognise positive changes in participants' mental wellbeing (which participants might not always recognise in themselves). Criminal justice social workers and support workers noted that increased confidence and self-esteem had been '*a big, big, thing*'.

### 5.4.5 Improved relationships and interactions with others

Positive outcomes were also noted by both PSA participants and professionals in relation to:

- Improved personal relationships (including with family members). In some cases, improvements in the areas discussed above (offending, substance use, housing and mental health/wellbeing) helped improve participants' personal relationships

because tensions over these issues, and behaviours which led to conflict, reduced. Direct work done with social workers and support workers (e.g. on anger management) also helped.

- Increased trust in other people (in some cases this was increased trust in social workers and other professionals, in others it was increased trust in people more generally)<sup>26</sup>. This could come about through the positive relationships that social workers and support workers were able to build with participants, through specific work they did with participants to challenge negative assumptions about other people, and through increased interaction with different people (e.g. at services, groups and new leisure activities).
- Improved social skills. This could come about through the positive relationships that social workers and support workers were able to build with participants, the modelling of appropriate behaviour by workers, and through increased interaction with different people (including the sheriff).
- Increased empathy and awareness of their behaviour's impact on others. For example, one participant talked about work she had done with her support worker which had made her realise the impact of shoplifting on shop staff. Other participants gave examples of workers and sheriffs encouraging them to think through the consequences of their actions on other people.

#### **5.4.6 Employability**

Although PSA participants themselves tended to feel they were still some distance away from employment, social workers did feel there had been progress. This included helping some participants to get Construction Skills Certification Scheme cards, arranging Jobcentre Plus appointments, or referring them to other employment support agencies.

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<sup>26</sup> Trust in the criminal justice system is discussed briefly in section 4.1.5 under 'Formality and interactions in the court'.

## Angela's Story

Angela is 41. She has served multiple previous community-based and custodial sanctions, with the last order being a community-based order. Angela has extensive complex needs and physical health issues, including living with addiction and a blood-borne virus. She does not have custody of her children, who have been adopted.

Angela is a current PSA participant and has been to several review hearings. She highlights the conversations in court as a positive feature of her experience. At one hearing, her defence agent said to her that her report for that hearing was **“absolutely brilliant”** and **“fantastic.”** She has found the interactions with the sheriff particularly encouraging and motivating:

***The judge said, “stand up, would you like to add anything?” My mind went blank, but I said “Yes. On the positive, I’m getting help with my housing, getting help with benefits, help with Council tax and other things, addiction with lapse and relapse and things.” And she went, “that is really good. Better keep up the good work.” Then on the second one, she just went, “brilliant, brilliant.” Then again, “that’s absolutely brilliant.” Every time I go in, she says “that’s a fantastic report you’ve got. Keep up the good work.”***

As part of the PSA, Angela has received multiple referrals and assertive case management to help her engage with other services, and she has found this very helpful. The meetings with her social worker as part of the PSA have also helped her recognise how the victims of offences she has committed have been affected.

Angela currently attends three social work appointments a week and speaks very highly of her social workers: ***“I’m not just saying things, this is God’s honest truth: I just think they are so amazing and I’d be so lost without them. I would.”*** Angela feels significant anxiety about completing and exiting the PSA because it means that she will not be able to see her criminal justice social worker and support worker as often. She cites them as ***“having a close bond”*** and says she chose to do the PSA because of the social work support offered.

Another professional involved in the PSA has gently challenged her about her reluctance to finish the PSA by reminding her that she is doing really well and suggesting that it would be great for her to be out of the criminal justice system but Angela still feels anxious.

When asked where she would be if she was not part of the PSA, she says ***“I’d probably be back in jail. I would, probably.”***

### 5.5 Barriers to success

The barriers to successful completion identified by professionals and participants were not, in the main, problems caused by the way the PSA operates. Rather, they were the barriers frequently identified in evaluations of interventions designed to reduce reoffending: the complexity of the problems faced by participants; unstable substance use; unstable/unsuitable accommodation; the influence of family, friends and associates; intervention not coming at the right time in terms of readiness to change; and lack of access to services and support (such as housing and mental health services).

*I think in the first few months you tend to see a little bit of improvement, but with someone who is so entrenched in the system after a few months it just becomes too difficult for them [...]*

*They've got to want to change, they have got to want to change the way that they live and they either don't really want to change or can't really change because of addictions or because of their problems or even family situations, you know. Living a family life in which being someone who commits offences is just part of the day to day life. We can only advise, it's really difficult, even with all the support that an order like that provides, it's still so difficult for them to work on.*

(Defence agents)

*I think that is probably very much an individual thing, that's my perception and for some people it becomes clear quite quickly that they're just not going to be able to engage, they're not ready to, they have maybe got out of control addictions [...] maybe some people don't want to stop drinking or to stop taking drugs or to get it under control [...] Maybe they're in an inappropriate relationship.*

(Sheriff)

The accounts of participants in custody, who had not completed their SDS, confirmed the points made above about the barriers. Like those still in the community, they were very positive about the PSA, but acknowledged that it would not always work.

*It's good to do when you get into it – but they shouldn't expect miracles.*

(Male PSA participant, in custody)

There was a further barrier, identified by both professionals and participants, which relates to the PSA's operation. This was the issue – discussed in section 4.1.4 above and which sheriffs and other court professionals were working to resolve – of the PSA being overridden by charges called in another court over which the PSA has no power. This could mean that an individual who was making good progress in the PSA could be re-arrested on an outstanding warrant and returned to custody.

### **5.5.1 Who struggled to comply?**

Given the small numbers so far, there is a limit to what can be said about the characteristics of women who complete their SDS compared to those who do not. (The numbers of men are even lower so we cannot say anything at this stage about the characteristics of men that might predict success).

As noted under 'Improved housing situations' above, women who did not complete their SDS were slightly more likely to have been assessed as living in unstable and/or unsuitable accommodation (8 out of 10 who did not complete their SDS compared with 5 out of 12 who did). There were no other apparent differences in relation to adversities faced – possibly because levels of adversity, such as financial problems, were very high (see Figure 4.4 above).

The mean LS/CMI scores on all domains were slightly higher for the group who did not complete the SDS. In most cases, however, the differences were relatively small. There was a difference in the total scores (indicating that those who did not complete were 'riskier' overall) driven primarily by differences in the education/employment domain. From the LS/CMI data there is nothing to suggest that outcomes were any different among those with drug/alcohol problems.

Professionals agreed that, although success was less likely among those with more complex and long-standing problems, there were always 'surprises' and it was very difficult to predict who the PSA would work for.

*Even if a person has got long history, you could get somebody that has been doing that for so long that gets on problem solving and thinks, you know what, I'm done with what my life has been, I want...you know, you hit the rock bottom. You never know when they might hit rock bottom and decide they want to change.*

(Court staff)

## 6 Conclusions

The PSA in Aberdeen has been successfully implemented and is running as it was intended to run (albeit with lower numbers than originally anticipated). Relatively intensive support is combined with the authority of the court (through regular court reviews involving personal interaction with the sheriff) and both elements are important in supporting participants to deal with problems in their lives and reduce their offending.

The PSA shows promise and we recommend that Community Justice Partners in other parts of Scotland give consideration to setting up a similar programme in their summary courts. When doing so, the local context, in comparison with Aberdeen, should be taken into account. As robust data on the PSA's impact remains scarce, it will be particularly important that extensive monitoring and evaluation processes are built into any new pilots, to continue to grow the Scottish evidence base.

### 6.1 Areas for future consideration or improvement

The Review identified the following areas that local partners in Aberdeen should consider.

- Now that the PSA has bedded in, local partners should **review the eligibility criteria** – including whether it might be appropriate to target people with fewer than seven convictions but at risk of accumulating many more.
- The findings reinforce the importance of **ensuring that, from the outset, participants understand what support will be on offer to them when they exit the PSA and of encouraging independence from services.**
- Professionals should **remain alert to the risk of up-tariffing.** In particular, there is a risk that concerns about insufficient support after completion may lead to up-tariffing in order to keep someone on the programme (and engaged with services) for longer. As noted above, exit plans and clarity about access to continued support after completion are also important in this regard.
- There was a suggestion that the **issue of charges being called in another court requires a more 'joined up approach'** across courts and data collection systems to ensure that information on PSA participants can be passed on to other courts (i.e. participating in PSA highlighted to fiscals reviewing outstanding warrants).
- While relationships between staff in the different partner agencies appeared to be good, there is scope to improve communication further to ensure that all stakeholders (and new staff, in particular) are aware of the PSA and how it works – and have the opportunity to contribute suggestions for improvement. It was suggested that the **multi-agency meetings that were held during the set-up stage should be reinstated.** Community Justice Partners could also be involved, to ensure everyone is up-to-date with changes happening in the local area and to consider any potential impact on PSA.
- **Provide more regular communications to wider stakeholders** (particularly those not as closely involved on a daily/weekly basis e.g. other sheriffs, court staff, and defence agents who did not have clients on the PSA) to ensure they remain aware of the PSA including: criteria for admission; the process; potential outcomes for participants; and what their roles are in relation to it.

### 6.1.1 Future research and evaluation

- Unique IDs for each individual were not included in the monitoring data for data protection reasons. **Tracking longer-term outcomes, including recidivism, would require a means of linking the relevant data.** It may be possible to access Scottish Offenders Index data anonymously with the relevant URN once the numbers of cases grow to the point that identifying an individual is no longer a possibility.
- It would also be useful to **obtain the views of the wider judiciary** to explore what they felt about the approach in general and whether it had any knock-on impact on their work.

## 6.2 Implications for other areas

A summary of the key learning points from this Review, for stakeholders in other areas to consider, is provided below.

### 6.2.1 Setting up a problem-solving court

- **The importance of having the ‘right people’ in place** (at the set-up stage and beyond) was stressed – which generally meant **those with a positive attitude towards the PSA concept.**
- **Multi-agency workshops and regular meetings are important** in the development and early implementation stages to ensure buy-in, build relationships and resolve teething problems.
- The sheriff who led the set-up from the judicial side spent a considerable amount of time reading, attending conferences and talking to other professionals during the development of the PSA pilot – she advised that **colleagues in other areas who were considering setting up a PSA should not underestimate the time involved** – though other areas will, of course, benefit from the Aberdeen findings in this report.

### 6.2.2 Running a problem-solving court

- **Pro-active identification of potential participants** by sheriffs and defence agents helps engage participants. This reinforces the importance of raising awareness of the PSA among relevant professionals.
- The PSA process can **bring all outstanding charges together** to be dealt with at one point, which both professionals and PSA participants saw as an important feature of the process. With all cases rolled together, the participant could be admonished in relation to some of the charges to recognise and reward compliance, thus increasing incentives.
- Professionals viewed the **rapid report** (produced within seven days of the offence compared to 28 days for other orders) as **a key benefit** of the PSA. This enabled cases to be processed quickly.
- **The time-tabling of participants’ monthly reviews required considerable organisation** to fit them into the court schedule and sheriffs’ rotas.
- The fact that **only those directly involved in the participant’s case were present at the hearings**, and that there were no onlookers in the public gallery, was very

important to participants. They felt that this facilitated more open and honest discussion.

### 6.2.3 Making it work in a local context

- The PSA's success is **reliant on having appropriate local services** to which PSA participants can be referred. For example, having the Women's Centre already established in Aberdeen was considered to be hugely valuable.
- Most courts will cover more than one local authority area so **whether the PSA can be offered to residents in all areas** should be considered. (Aberdeen Sheriff Court covers Aberdeen City and Aberdeenshire, but the PSA only covers Aberdeen City residents).
- The benefit of having a **predisposal social work team** based in council premises **adjacent to Aberdeen Sheriff Court** was noted. This facilitated access to potential participants and communication among the professionals involved.
- It was suggested that **transport issues** (in relation to participants attending meetings and reviews) could present **a potential issue for effective operation in rural areas**. Criminal Justice Social Work in Aberdeen provided participants with **bus tokens** which they felt worked very well to help them attend meetings and reviews.

### 6.2.4 Estimating the resources required

- **Estimating numbers of participants.** The data on numbers screened and referred, and on current cases, provides a rough guide that other areas could use to estimate the likely numbers of cases. However, there may be differences in the demographic/criminogenic profile in different areas and any proposed differences in criteria (e.g. the number of previous convictions or the age criteria for men) should also be borne in mind.
- **Estimating the staff resource required.** Similarly, the data on the time input required per case from different professionals could be used as a rough guide by other areas. Again, however, differences in local processes (both existing processes and the agreed process for the PSA) should be taken into account.



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