

Case Study

6. Structured Deferred Sentence

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Background

South Lanarkshire Justice Services designed and developed a Structured Deferred Sentence (SDS) service, which was implemented in April 2018. This service provides intensive social work support to young people between the age of 16 to 21 years of age, where there is a risk of increased offending, the court disposal being remand/custodial sentence or where remittal back to the Children's Hearing System is not an option (see appendix 1 for further information).

SDS is part of South Lanarkshire's Whole System's Approach Strategy and reports to the WSA Strategy group. This group sets aims and goals for Youth Justice Services across South Lanarkshire Council in line with the [Whole System Youth Justice Strategy 2017-2020](#). [The service was also established as a response to the recognition by](#) South Lanarkshire Justice Services that traditional Community Payback Orders (CPOs) do not meet the needs of young people, in the sense that often they are unable to cope with the structure and compliance demands that are required (see [Nolan, 2018](#)). The SDS service differs by offering greater opportunity to work intensively with a young person based on their level of risk and needs. In addition to this there is particular emphasis on education/training and employability support offered within SDS.

The service structure is made up of three part time qualified social workers and one part time social work assistant. There is one operations manager who is responsible for the oversight and strategic direction of the service. Linked to this service is our Court Social Work Service. Their involvement is in relation to screening the suitability of all 16-18 year old persons who are both in court custody and pled guilty to an offence where a Criminal Justice Social Work Report (CJSWR) was requested to be considered for an SDS assessment. This information is imparted to the area team (if the case is known to them) and SDS team (if an unallocated case) who will then undertake the CJSWR.

Example of Good Practice

In October 2018 South Lanarkshire Court Services highlighted a 17 year old vulnerable male (MM) who had been remanded to custody. It became apparent this young man had not been subject to social work involvement in any capacity

previously through the Children's Hearing System or Justice Services. Tragically his father had died when he was three years old and his Mother had ended her life recently. MM had lived with his Aunt and Uncle for a few years before this arrangement had broken down. He had since then been accommodated through housing services as homeless six months prior to his remand. Housing staff had significant concerns in relation to his self-harm, drug misuse and escalation in offending behaviour. MM's offending started in March 2018 and whilst initially involved low level thefts and breach of the peace, escalated to property damage and assault of a Police Officer. An initial case conference was convened with housing, court social work, the SDS team and HMP&YOI Polmont staff; as a result, we were able to identify the immediate risks to and by MM should he be released.

A START:AV risk assessment was commissioned which identified the following risks:

- Self-harm and overdose
- Accidental death due to self-harm and/or substance misuse (with the additional concern that MM would have a lower tolerance to substances on release)
- Victimisation and exploitation by others including older males. Information from the homeless community project advised that older males had been injecting MM with heroin and had resulted in hospital admissions.
- Periods of homelessness/rough sleeping
- Lack of engagement with housing and Young People support
- Behaviour and poor decision making whilst under the influence of substances, including the potential for involvement in altercations with others.
- Financial/money management
- Concerns for health and wellbeing/not engaging in treatment
- Increased risk of further offending

It became apparent that to achieve a sustainable community based package we were required to manage MM under South Lanarkshire's Care and Risk Management Procedures (CARM). South Lanarkshire's CARM operating procedure is concerned with ensuring that the risks presented by children and young people are managed effectively and minimised through effective communication, information sharing, assessment, multi-agency decision making and the implementation of effective risk management plans to safeguard both the individual and their community.

Therefore CARM seeks to achieve a balance between addressing the risk presented by children and young people whilst ensuring that their needs underpinning behaviours are similarly addressed. Although CARM procedures would ordinarily apply to children and young people whose own behaviours may present a risk of serious harm to others, rather than those who present a significant risk of harm to themselves because of their own behavior, in MM's case given the exceptional level and multitude of risks presented, adoption of these procedures was agreed to be appropriate.

The response to this approach was encouraging, with core members of the meeting and subsequent risk management plan being Police, Link Services (based in Polmont), Simon Project, housing, SDS staff, adult services and SACRO. The court were approached to advise MM's case was being reviewed to determine if a robust support package in the community could be offered as an alternative to custody and to allow four weeks of further remand to allow us to do this. Whilst increasing the length of remand is never an approach we would generally advocate, it was recognised that a release without a well-considered risk management plan would result in potential risk to MM's life. The plan combined:

- An Intensive Support Package from SACRO which would provide overnight support within a tenancy from 7pm to 7am for a one month period initially;
- SDS team providing initially daily support and contact;
- Support through the Link Service which offers practical support to people under the age of 18 years who are at risk of or have remanded or released from custody;
- The provision of a single tenancy through housing;
- Mental health services via CPN support and a psychology assessment to rule out any potential enduring mental health issues;
- Substance Misuse services to support a harm reduction plan

We recognised that where possible we wanted to work with MM's extended family to support them and see if they could extend assistance to the care package. We sought consent from MM to make contact with his Aunt and Uncle and ascertain what their position was. Unfortunately, given that their previous experience of supporting MM was not positive, they felt they could not offer anything further at this stage.

Link and SDS staff remained in continual contact with MM during his remand to assess his engagement in the proposed plan and assess whether the ongoing risk of self-harm could be managed adequately in the community. Discussions with custody staff and MM indicated his thoughts and feelings were situational to being in custody and MM had a strong motivation to engage with services and not harm himself if released. His drug use had ceased and MM was verbalising that he was keen to not go back to using heroin again.

The plan was put forward to the presiding Sheriff by the Court Operations Manager. Whilst this was an ambitious offering, it was recognized that historical attempts to maintain MM in the community had not worked and we needed to offer a more creative and intensive service to sustain him. Initially MM received six weeks deferment to assess his ability to engage with all the services involved.

During this time, the SACRO overnight support was sustained and MM worked well with this support. He liked the fact that there were people around at night to talk to and that he was not on his own. Daily food and electricity shopping were provided, and on many occasions we required to assist financially with this as his Universal Credit payments had not started. The risk of harm did not present at all as it had previously, and it was safe to withdraw this service after six

weeks. Levels of engagement with SDS and Link Service fluctuated over the months, and there were challenges in trying to support MM whilst he was drinking alcohol to excess and using cannabis. On reflection we managed to continue our services by having good communication links with the Court and Sheriff, being accountable for what services we were providing and how we were tailoring our approach when it was not working. For example, it was recognised that there were around six different professionals involved with MM in five days and he could not cope with this. Reducing this to three key members helped him stay on track and remember appointments.

Being honest with the Court in terms of what we needed to do differently assisted with the continuation of the SDS disposal in the community. A further example of this was when MM failed to attend court at 9.30am for his reviews. Rather than put a Warrant to Attend for MM, the Court allowed the case to be recalled later that day to assist staff in trying to locate and bring him to Court. Working with Police colleagues to help MM manage his bail curfew was also significant. Police could see the efforts being made to support MM and would feedback their curfew checks and any community safety issues. The compassion and interest that court personnel, particularly the Sheriff, displayed was evident to MM and reaffirmed the efforts everyone was investing to provide him with opportunities other than custody. MM fed this back to staff after each Court appearance in respect of his surprise at being afforded another chance to stay out of custody, even when his liberty at time has been precarious due to limited engagement with staff.

It has now been four months since his initial release and we are still supporting him. MM has now been placed on a six month SDS disposal and there have been no further convictions since his initial remand. MM of his own volition asked to become involved in the local Chance for Change project which offers outdoor and social activities for young people. This is a significant step in MM's motivation and recognition of his own abilities. Whilst there is still a considerable way to go with MM, there is evidence that through services continuing to remain involved and stay with a young person when it appears fruitless, change can happen. Good oversight and leadership of this case also assisted with supporting staff on the direction of travel and when to take a different approach.

Benefits and Impact

This type of response offers a more individualised approach to the needs of the client. Rather than placing MM on a standardised order, we considered how likely he would be to manage either a CPO or SDS at the initial stages of his remand. Given the indicators of risk of harm and previous trauma he had experienced it was clear that a basic package was not going to work. The evidence that this approach is successful could be attributed to a lack of further offending in his case.

Had a CPO been made this would have increased the chances of up-tariffing him within the Justice System and impacted further on employment opportunities further on in his life. There would also have been a high chance of breach of CPO and a return to custody.

This has helped form our organisation's wider thinking around designing CPO services for young people.

What makes this work?

One of the significant drivers of success in this case was the interest and genuine concern that the presiding Sheriff had for MM. There is clear support and vested interest from our local courts in contributing to the success of SDS. Through providing the Sheriff with regular updates on the progress of MM, what had not worked initially and what we were adapting to see improved outcomes we believe supported their trust in what we were suggesting to be a creditable disposal. Having a Sheriff who directly addressed MM, giving him both stern and supportive advice as well as encouragement, helped him to see that everyone (including the Court) was invested in him making a success of his life.

We also believe that having SDS, SACRO and Link staff whose approach is child-centric and focused has contributed to good outcomes for MM. Recognising that helping MM having food and a comfortable home to stay in first was paramount to him developing trust and feeling comfortable enough to let staff support him and open up about what was troubling him.

For this engagement to continue, maintaining the consistency of key staff is paramount to ensuring we keep MM working with us. A change in staff will require building trust up from the start again and may cause disengagement.

Challenges and Barriers

The challenges have been over a number of levels. Outcomes in this case has been achievable due to the ability to provide an Intensive Support Package (ISP) through existing local authority funding. This would not be sustainable to provide for more clients in the current Social Work Grant. In addition our current SDS resource going forward will have to be absorbed through our existing funding arrangements and whilst this has been agreed for a further one year, this is not a long term stable service. There is a need nationally to redistribute CPO funding to services such as this.

One of the other challenges has been around educating locality teams on the ethos and approach to SDS and why it is important we promote this service. Whilst existing Justice and Children and Families Staff welcomed the service, keeping it at the forefront of consideration in CJSWR was a challenge. We have overcome this by providing inputs into locality teams and quality assuring court reports to make sure all appropriate clients are being considered for the service.

Some of the other challenges have been around staff availability at short notice to respond to the needs of MM. For example, when he wasn't at home for an important appointment with DWP or a court appearance. Where staff had set aside time to assist MM, they then had to change pre-existing plans to support him later that day. This had a knock on effect for other clients who were expecting their worker to see them as arranged. We tried to address this by having a back-up

worker (SDS social work assistant) who would try to make contact with MM and where needed, re-arrange pre-existing meetings with clients. This is one of the challenges when you have a small team who work part time in providing support to a high number of clients.

The final challenge was around having appropriate team leader support to deal with the day to day operational issues that arose. The current funding arrangements do not allow for this role and required an Operations Manager to have this oversight. Whilst this was achieved in this case, longer term it was not sustainable.

How could this be improved further?

We are now moving into our second year of SDS service with it being formally evaluated by both Glasgow University and Community Justice Scotland. We have identified that there is further opportunity to extend the service to clients between 21-25 years old as we recognized this age group attracts the highest number of CPO's imposed.

We now have a team leader overseeing the team, providing regular supervision and oversight of the cases.

We identify that we need to widen the criteria for SDS out to young people who are breaching CPO's and have an arrangement with the Court to automatically replace the CPO with an SDS disposal. The difficulty here being the volume of caseload this would present and having a resource that could adequately meet the needs of a high number of clients.

The other area that we think we could improve on is our inclusion of family in a young person's support. Unfortunately MM's extended family could reach out to MM in the way that he needed, and despite staff's attempts at contact with them this was unsuccessful. More consideration needs to be given to how we engage with families to help them be part of successful care plans going forward.

What has been learnt?

We now have a directory of ISP services and voluntary organisations we have pre-existing funding arrangements with. One of the challenges at the beginning of MM'S case was that we did not know who provided live-in support for young people. A lot of time was spent sourcing what was out there and setting up meetings. We would want to tell others that it's important to spend the time scoping out all the options that could be available in advance of having a case like this. One of the limiting factors in getting the right ISP was the time it took to arrange meetings with different agencies such as Step-down and SACRO to discuss potential packages. The other factor is that placing an initial cost of an ISP can be worth it longer term in the sense that getting it right at the start will cost less in terms of service and resources further down the line in that person's life. The view we took with this case was that the service provided by South Lanarkshire was going to be a cheaper option than multiple custodial sentences for MM, which his behavior was indicating for the future.

We were surprised by what worked and what did not work with this case. For example we had concerns that the SACRO overnight support would not be accepted by MM and that he would breach the bail conditions are refute their help.

However, that was an area that worked really well and MM took to their support and company in a positive way. Initially that support was to maintain his safety but in actual fact offered connection and people to speak to when he was ready to open up about his feelings and what he wanted to achieve. Yet in the situations where we prepared and organised collection of MM for Court hearings and he had spoken of being ready for staff on the day, he could not cope with this and ran away, leaving himself at risk of custody. That was unexpected as MM had always maintained he would do anything to avoid custody. This taught us that his fear of going to court was too much and he needed increased support and preparation for this. It was an amazing outcome that through the safe practice and mental health support that staff provided MM, we have not seen any re-occurrence of physical self-harm since release from custody.

The requirement for a team leader to oversee the operational aspects and day to day leadership requirements is key to making a service like this work, and has now been addressed. Another important aspect to the success of a case like this is having strong leadership and a vision of why you are doing this and bring people along with you. Even when it looks like it's not going to work, keep persisting and have faith in the young person that they can make this work for themselves if you just keep sticking with them. Part of why MM is still working with us, I believe, is that he knows staff will not give up on him and nothing shocks or upsets them. It's also important to re-frame what we see as successful outcomes for clients. Where someone has historically offended through assaults and violent related behaviours, to then have no repeat of this but they breach their bail, still demonstrates some positive outcomes in that there is a reduction in harm to others.

Good staff support is essential, and not just looking after your own team but that of the other agencies involved. Helping them understand why keeping young people out of custody is so important for them and society. At the start of this venture there were some services who were very skeptical of MM's ability to change and believed that custody was the only option to keep him safe and stop offending. It was important for senior management in Justice Services to address this perspective and be clear this approach is not one which is supported, but staff will be supported to be able to do their job to the best of their ability. There is still a way to go culturally in changing wider service views and this case demonstrates how we can make a start on this with the right vision.

We also recognised the need to develop our CARM processes in terms of training for staff in relation to developing risk management plans that are GIRFEC and SHANARRI indicator informed. Having a plan that all agencies are able to work to plus a clear contingency plan is essential, and whilst the Operations Manager was able to lead and develop this with staff, there is a need for this learning to be available for all staff.

It's really important to develop partnership working with your court services and Sheriff's. Where they see accountability and creditable services, they support your direction.

Appendix 1

Structured Deferred Sentence (SDS)

What is Structured Deferred Sentence?

A Structured Deferred Sentence (SDS) is an interim disposal option that is now available to Hamilton and Lanark Sheriff Courts for all 16-21 year olds who meet the relevant criteria and who are not suitable for remittance back to the Children's Hearing System.

A SDS is an opportunity for a young person to engage with a specified action plan that will be tailored to meet their individual needs, based upon their LSCMI or YLS/CMI (or age-appropriate risk assessment tool) initial risk/needs (**Medium-High**) and will take place prior to the final disposal of their case at court. They will be provided with a tailored action plan and supports for a three to six month deferral period in the hope that if they engage and make progress during the deferral period the Sheriff will take this into consideration when making their final disposal.

A SDS will allow increased support over the three to six month period to address any particular areas of need linked with offending. This will also allow for appropriate signposting to relevant services and agencies with, the primary focus on helping the young person to enhance their employment and training opportunities and to promote constructive use of their free time. Close monitoring and intensive support will be provided to individuals subject to SDS.

A young person who has been involved in offending behaviour that may be considered suitable for a SDS will initially have a CJSWR requested at court and at this stage the Sheriff may stipulate that they also require a SDS assessment to be conducted.

There are therefore two different referral routes; one directly requested by the Sheriff and the other is a referral via the CJSWR authors who will discuss **all** CJSWR requests for 16-21 year olds with the SDS team in order to check their suitability for inclusion.

Suitability for Structured Deferred Sentence

1. Young people (both male and female) prosecuted on Summary complaint in Hamilton Sheriff Court.
2. South/North Lanarkshire Council permanent residents aged 16-21 years of age.

3. Young people are not suitable for remittal to the Children's Hearing System for disposal.
4. Young Person has established patterns of current and previous offending histories.
 - a. Please note that lack of previous convictions or pending breaches are not an automatic exclusion indicator for the Structured Sentencing Court for Young People.
 - b. Young people at risk of custody.
5. Young people who are not on existing Community Payback Order with Supervision. A person on Community Payback Order with Unpaid hours is not excluded.
6. Young people assessed by social workers as being of medium to high risk in relation to needs/ reoffending /custody rating using LSCMI or YLS/CMI - Risk Assessment tools.
7. Consideration of the lower levels of sexual / domestic abuse offences as long as a young person does not present significant public protection concerns.
8. Young people who are motivated to address their offending behaviour and who might benefit from the Structured Sentencing Court for Young People with its progress reviews.
9. Other young people, who do not meet all of the criteria but who, for exceptional reasons, are regarded as being suitable participants.