

2018

Standards & Guidelines

Risk Assessment Report Writing



Risk Management Authority

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Introduction

1. The Criminal Justice (Scotland) Act 2003 Section 5 1(a)(b) and 2 sets out the RMA's statutory responsibility to set **standards** and publish **guidelines** as to the assessment and minimisation of risk, against which measures taken to assess and minimise risk are to be judged, and to which any related person(s), with functions in relation to the assessment and minimisation of risk, should have regard.
2. The *Standards and Guidelines for Risk Assessment Report Writing* apply specifically to an assessor appointed by the High Court to prepare an RAR as a result of a Risk Assessment Order (RAO), under Section 210B or 210D of the Criminal Procedure (Scotland) Act 1995¹. The purpose of these standards and guidelines is to ensure that all Risk Assessment Reports (RAR) contain the information they are required to contain and are produced to an acceptable standard.
3. This publication has been produced following consultation with practitioners, policy makers and the judiciary. As a revision of an earlier publication² these standards and guidelines are also based on advances in risk assessment practice and learning since the implementation of the legislation, as well as feedback from the judiciary, assessors and others.
4. In producing these standards and guidelines, the RMA has made every reasonable effort to publish reliable information. While this document seeks to promote effective practice, it does not replace the need for relevant professional training and structured professional judgement. It should therefore be read and applied within a framework of existing legislative requirements, national guidance, agency procedures, and organisational structures.

The Risk Management Authority (RMA)

5. The RMA exists to promote effective practice in risk assessment and risk minimisation. In relation to the preparation of RARs, the RMA has two main functions:

a. Standards and Guidelines

6. The RMA is empowered to prepare and issue guidelines for the assessment and management of risk, and to set and publish standards according to which the measures taken in respect of the assessment and minimisation of risk are to be judged³. The standards and guidelines establish a series of mandatory elements which must be evident, whilst the guidance sets out advisory notes to guide assessors in conducting a thorough risk assessment.

1. Inserted by Section 1 of the Criminal Justice (Scotland) Act 2003.

2. These standards and guidelines replace the previous publication by the Risk Management Authority (RMA) in April 2006, and updated in March 2013.

3. Criminal Justice (Scotland) Act 2003, 5(1).

7. The standards and guidelines set out within this document are for use by assessors who are accredited by the RMA and appointed by the High Court to prepare an RAR for individuals who have been made subject to an RAO. However, they also apply to any other person having functions in relation to the assessment of risk which includes assessors commissioned on behalf of the individual who is subject to the RAO. In both cases, assessors are to demonstrate that they have had regard to the standards and guidelines.
8. To 'have regard' does not constitute an absolute obligation to comply but rather conveys a duty to give explicit and express consideration. Assessors should comply unless it is not relevant to the case or context, or is outweighed by other considerations. In such cases, the assessor will provide a reasoned explanation as to why the standard, guideline or guidance has not been followed. This can be summarised as 'comply or explain'.

b. Accreditation of Assessors

9. The RMA is empowered to accredit persons as assessors for the purpose of preparing RARs for individuals who are subject to an RAO or an Interim Compulsion Order (ICO)⁴.
10. The RMA administers a scheme of accreditation which is laid out in The Risk Assessment and Minimisation (Accreditation Scheme) (Scotland) Order 2006. A person who is accredited as an assessor by the RMA has undergone a rigorous application process and demonstrated essential competencies which qualify her or him to undertake risk assessments under Sections 210B and 210D⁵.
11. During their period of accreditation an assessor is obliged to comply with codes of conduct, maintain professional registration, and undertake continuous professional development and supervision. However, assessors should be mindful of the boundaries of supervision in relation to the RAR, as the responsibility for this lies with the assessor. Further guidelines are provided under Standard 5. Throughout a period of accreditation, an assessor is expected to demonstrate the criteria and competencies evaluated at the application stage, and to show regard to RMA standards and guidelines, in the preparation of an RAR.
12. Following the imposition of an RAO an assessor is appointed by the High Court and acts as an expert witness and agent of the Court, commissioned to give impartial professional opinion on risk in cases where the High Court is considering the imposition of an Order for Lifelong Restriction.

4. Criminal Procedure (Scotland) Act 1995, as inserted by Section 1 of the Criminal Justice (Scotland) Act 2003.

5. Section 210B and Section 210D of the Criminal Procedure (Scotland) Act 1995, as inserted by Section 1 of the Criminal Justice (Scotland) Act 2003.

The Order for Lifelong Restriction (OLR)

13. The OLR is a sentence that has been available to the High Court since 2006. It provides for the lifelong management of serious violent and sexual offenders. Those sentenced to an OLR are subject to a Risk Management Plan (RMP) approved by the RMA both in custody and in the community for the rest of their life. However, before the individual can be released (or discharged) they must serve the punishment part of their sentence in prison (or hospital) and have satisfied the Parole Board that the risk they would pose in the community is manageable⁶.

Risk Assessment Order (RAO)

14. After conviction, if a Judge considers at his/her own instance, or on the motion of the prosecutor, that an offender may meet the risk criteria (Section 210E of the Act), the Judge shall make an RAO. The High Court will then appoint an accredited assessor to carry out a risk assessment and report back to the Court with an RAR. The RAR will assist the Judge in making the decision whether to impose an OLR or otherwise. The legislation doesn't allow for the individual to object to the making of an RAO. However, the individual subject to the RAO may challenge the resultant RAR and/or commission a separate risk assessment.

Interim Compulsion Order (ICO)

15. If the Court considers that a mentally disordered individual may meet the risk criteria, the Criminal Justice (Scotland) Act 2003 inserts a section into the Criminal Procedure (Scotland) Act 1995 that provides for an alternative to the RAO. In such cases, the Court can make an ICO and commission an assessor to compile an RAR. These Standards and Guidelines refer to RAOs, but such references should also be taken to encompass reports with regard to risk assessments prepared for the purposes of an ICO.

Risk Assessment Report

16. To allow the RAR to be completed, the Court will adjourn for 90 days in the case of an RAO, or 12 weeks in the case of an ICO. The interlocutor outlines the Court date but the RAR should be provided to the High Court at least 10 days before the Court is due to convene (i.e. 80 days into the 90 day adjournment).
17. Section 210B (5) of the Criminal Procedure (Scotland) Act 1995⁷ allows the Court to grant an extension of the RAO in exceptional circumstances. Once an RAO has been imposed, the Court will forward copies of the relevant paperwork to the assessor⁸. This will include a copy of the presiding Judge's report which will ordinarily be provided within 14 days of the assessor's appointment.

6. The Parole Board must direct a prisoner's release where it is "satisfied that it is no longer necessary for the protection of the public that the prisoner should be confined". (Prisoners and Criminal Proceedings (Scotland) Act 1993. Part I (2)). The Parole Board (Scotland) Rules 2001, Part II, 8 outline the matters that the Board may take into account in considering a case.

7. Inserted by Section 1 of the Criminal Justice (Scotland) Act 2003.

8. This will include the indictment, minutes of proceedings and reports the court had already requested (i.e. in most instances this will mainly be the Criminal Justice Social Work Report).

18. Within Chapter 2 of the *Standards and Guidelines for Risk Assessment Report Writing* there is a standardised structure for the report and detailed guidelines regarding its use. In order to promote consistency and quality, assessors are required to use this RAR structure.
19. The legislation requires assessors to offer an opinion as to whether the risk (as defined in section 210B(3) of the Act) is 'high', 'medium' or 'low'. In reaching their conclusion they must refer to the published RMA risk definitions.

Defence Reports

20. For individuals who are subject to an RAO, Section 1 of the Criminal Justice (Scotland) Act 2003 inserts Section 210C(5) into the Criminal Procedure (Scotland) Act 1995, which allows that:

The convicted person may, during the period of his detention at the place specified in the risk assessment order, himself instruct the preparation (by a person other than the assessor) of a risk assessment report; and if such a report is so prepared then the person who prepares it shall submit it to the court by sending it, together with such documents as are available to him (after any requirement under subsection (4) above is met) and are referred to in the report, to the Principal Clerk of Justiciary, who shall then send a copy of it and of those documents to the prosecutor.

21. The following standards and guidelines are for use by assessors when performing risk assessments regarding those offenders for whom an RAO has been made. Any other person having functions in relation to the assessment of risk is to have regard to these guidelines and standards in the exercise of those functions. This includes assessors commissioned on behalf of the individual being considered for an OLR, and places them under duty to provide the report, to the Principal Clerk of Justiciary.
22. Following the completion of a defence report the RAR assessor and defence report assessor may meet to ascertain if there are any areas of apparent disagreement which can be overcome. In some instances, this process negates the need for a subsequent evidential hearing. If there are fundamental areas of difference an evidential hearing may be deemed necessary. In advance of an evidential hearing RAR assessors may agree to be precognosed by an agent from the defence team. The purpose of this meeting is to ensure that the assessor is in a position to answer any questions posed during the evidential hearing.

Equality and Diversity

23. Practitioners should be conscious of their obligation to ensure risk assessment and management does not disadvantage someone with a protected characteristic/s. This is a requirement of the Equality Act 2010, which prohibits conduct that may directly or indirectly discriminate against protected groups on the grounds of:
 - Age⁹

9. For those who pose significant risk and are under 18 the 'Frame for under 18 years' publication provides guidelines. Scottish Government (2014). *Framework for Risk Assessment, Management and Evaluation (FRAME) for Local Authorities and partners: For Children and Young People under 18*. Edinburgh: Scottish Government.

- Disability
- Gender reassignment
- Sex
- Race
- Religion or belief
- Pregnancy or Maternity
- Sexual Orientation

24. As a public authority, the RMA must pay due regard to S149 (1) of the Equality Act 2010 (the General Equality Duty), which states a public authority must, in the exercise of its functions, have due regard to the need to:
 - a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
25. The RMA takes conscious steps to pay due regard to the General Equality Duty in delivering its statutory remit, and assessors should complement the RMA's approach by taking steps to ensure that practice meets the needs of protected groups, and that they do not face disadvantage in the process. These standards and guidelines require risk assessors to be aware of the need to carefully consider protected characteristics. For example, they may be understood as responsivity factors and have implications for assessment.

Victim Considerations

26. Assessors should be mindful that an overall aim of the OLR sentence is public protection. This should be kept in mind throughout the completion of an RAR, with consideration of victim-related issues and impact throughout. For example, every effort should be made to seek victim perspectives during information-gathering. It's also appropriate for assessors to consider victim harm within a risk formulation and produce victim safety planning measures within proposed risk management measures. It is recognised that it is not always feasible or appropriate to work directly with victims, who may opt not to be involved in such discussions. However, wherever possible efforts should be made to involve victims, and consider their role.

27. For example, relevant information regarding domestic abuse victims may require approaching Independent Domestic Abuse Advocate(s) (IDAAs), local specialist domestic abuse services, Multi-Agency Risk Assessment Conferences (MARAC) and/or Multi-Agency Tasking and Coordinating (MATAC). Assessors should also be mindful and consider legislation and standards relating to working with victims:

- Victim's Code for Scotland¹⁰
- Standards of Service for Victims and Witnesses 2017-18¹¹
- Victims Rights (Scotland) Regulations 2015
- Victims and Witnesses (Scotland) Act 2014

Developments in the Formulation-Based Approach to Risk Assessment

28. These standards and guidelines complement previous publications from the RMA, in relation to the Standards and Guidelines for Risk Management¹² and the Framework for Risk Assessment, Management and Evaluation¹³. FRAME suggests a tiered approach to risk assessment, where for the most complex and concerning cases an assessor would undertake a scrutiny level of risk assessment¹⁴. This would involve a detailed and individualised understanding of the onset, maintenance and occurrence of sexual and/or violent offending over time, and the likelihood of further such behaviour in the future. This then informs the production of a detailed and individualised risk management plan. Due to the nature of the RAO and its implications, assessors are expected to conduct this level of assessment for the High Court.
29. These standards and guidelines promote a formulation-based approach to achieve the scrutiny level of assessment, and draws on the literature on formulation that has grown substantially in recent years. A formulation approach builds upon the application of SPJ tools and guidelines but emphasises formulation as the central element to risk assessment and management¹⁵, and uses this as an approach to identifying, analysing and organising relevant risk factors. These standards and guidelines therefore recognise that formulation

10. Published by Scottish Government in 2015

11. Section 2 of the Victim and Witnesses (Scotland) Act 2014 requires Police Scotland, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, the Scottish Prison Service and the Parole Board for Scotland to set and publish standards of service for victims and witnesses.

12. Risk Management Authority (2016)

13. Risk Management Authority (2011)

14. The term 'scrutiny of risk' is consistent with the FRAME language of risk principles. See Chapter 3 (pg. 16-19) Language of Risk, in the Framework for Risk Assessment, Management and Evaluation.

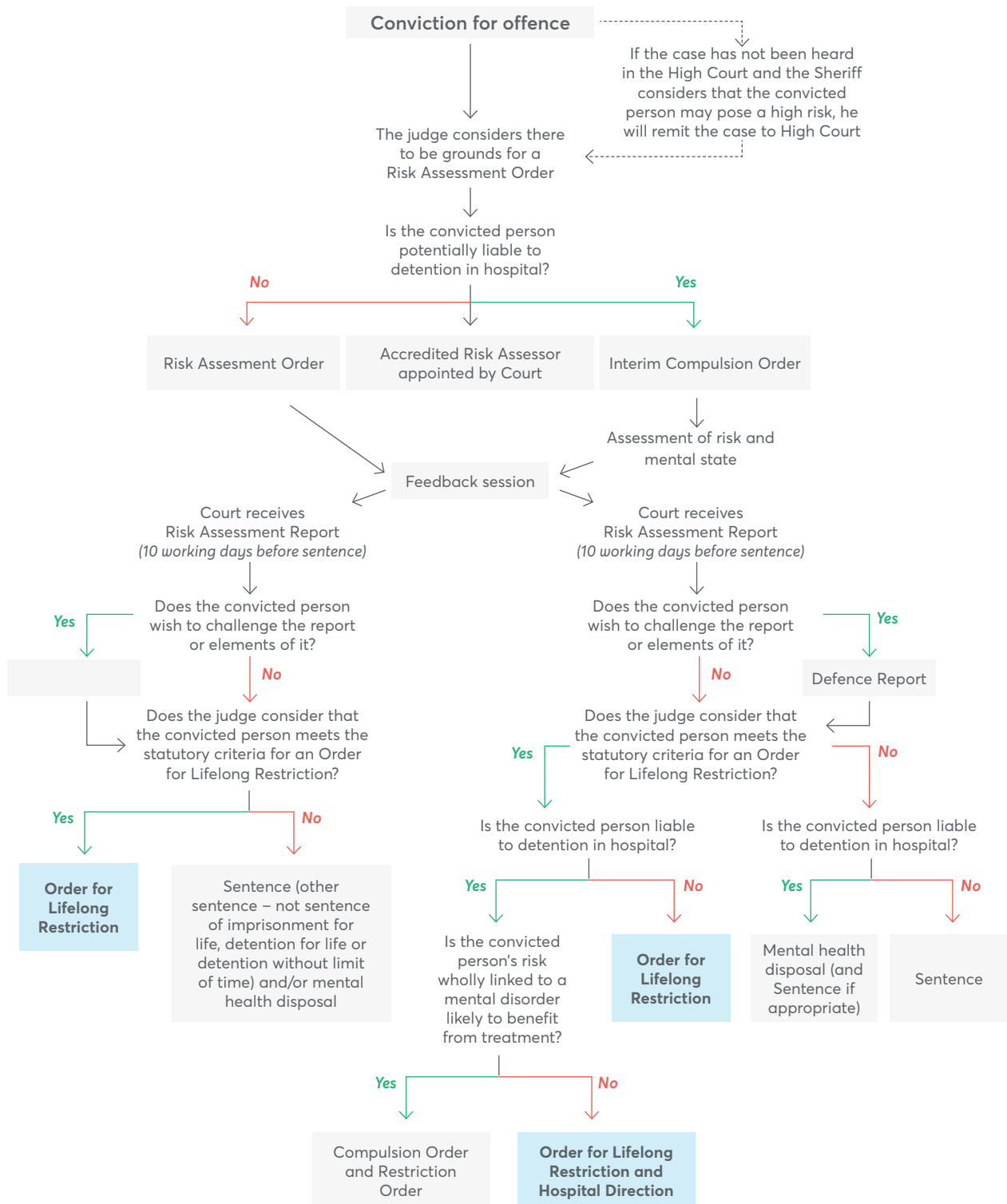
15. Sturmey, P., & McMurrin, M. (Eds.) (2011). *Forensic Case Formulation*. Chichester: Wiley-Blackwell.

can be a process and a product¹⁶. It is the process of suggestion, testing hypotheses, reflection, linking to risk management, feedback and revision¹⁷ where various techniques can support the approach of the assessor. The assessor should use this process to produce a narrative risk formulation. This is the product which organises the risk-relevant information to tell a meaningful story about the individual. Standard 2 expands on this and provides criteria relating to what a formulation should contain and accomplish.

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16. Hart et al., (2011) discussed formulation as having two distinct but related meanings. It can refer to the process of preparing or developing something in a precise, systematic manner and also the product of that process. Hart, S., Sturmey, P., Logan, C., & McMurran, M. (2011). Forensic case formulation. *International Journal of Forensic Mental Health*, 10(2), 118-126.
17. Johnstone and Dallos (2013) refer to the notion of formulation being a process and event. Johnstone, L., & Dallos, R. (2013). *Formulation in psychology and psychotherapy: Making sense of people's problems*. Routledge.

RAO and RAR Process

Figure 1: Order For Lifelong Restriction



Chapter 1

Risk Assessment Report Writing: Standards and Guidelines



Standard 1

Gathering, reviewing and identifying relevant information

A Risk Assessment Report will be based upon credible information that is gathered from a range of sources and thoroughly evaluated to identify its relevance. This will be supported by the application of appropriate assessment tools and professional judgement.

Applying the standard

Gathering, reviewing and identification of information will evidence:

- Efforts to identify, access and collate a comprehensive range of relevant factual information regarding medical, social, criminal and educational history.
- A balance of interview, file and collateral information.
- A thorough review and evaluation of the relevance, credibility and quality of information gathered.
- Acknowledgement of limitations or inconsistencies relating to the information.
- An explanation of the extent to which allegation information has been used and how this has influenced the assessed opinion on risk.
- The application of assessment tools to identify relevant risk factors, with the tools used being appropriate to the risk, needs and characteristics of the individual being assessed.
- Consideration of any strengths and weaknesses of the assessment tools applied or gaps in current research literature.

Guidelines

30. Assessors are responsible for gathering all relevant documents from the appropriate bodies and should be proactive in contacting relevant individuals and organisations to secure access to the necessary range of sources. Where possible assessors should seek the original source of information. This should be done in adequate time to allow the report to be prepared within the statutory timescales.
31. The Crown Office and Procurator Fiscal Service (COPFS) will provide the assessor with relevant statements and a report of the evidence by the Crown. The interlocutor (minute of appointment) from the Court will provide the assessor with the authority to request information. These requests are considered on a case-by-case basis and subject to each organisation's legal obligations. However it should be noted that many of the relevant agencies have signed up to the Information Sharing Steering Group (ISSG) Concordat¹⁸ and an information-sharing protocol for those subject to an RAO or ICO¹⁹. They have therefore agreed in principle to share relevant information in the interests of public safety²⁰.
32. Assessors should access and review a wide and comprehensive range of information relating to:
 - Previous convictions, allegations, and outstanding warrants
 - Previous or current periods of detention in secure settings
 - Psychological, Criminal Justice Social Work, and/or Parole Board reports
 - GP and hospital records
 - Educational and/or employment records
 - Social Work records
 - Outcomes of previous risk assessments and interventions
 - Opinions and observations from family, friends, victims, witnesses and relevant professionals

18. The National Concordat provides a structure within which the management and sharing of information about sex offenders can be undertaken. It was endorsed by the Police, Crown Office Procurator Fiscal Service, Scottish Prison Services, Criminal Justice Social Work, Housing, Health and Education Authorities.

19. To support information-gathering processes assessors should be aware of the guidance document 'Sharing of Information about Offenders subjects to a Risk Assessment Order or Interim Compulsion Order issued by the High Court'. This was published in 2015 and relates to Police Scotland, Scottish Prison Service, Scottish Court Service, Scottish Children's Reporter Administration and Crown Office and Procurator Fiscal Service.

20. Section 1 of the Management of Offenders etc. (Scotland) Act 2005 also sets out a Duty to Cooperate for Scottish Ministers and local authorities. This, in part, relates to the sharing of information in relation to risk.

33. In cases involving domestic abuse (not necessarily as an index offence) the assessor should consider the views of the victim(s) and their perception of risk. This may be obtained by speaking to the victim(s) directly if they consent, through their dedicated Independent Domestic Abuse Advocate (IDAA)²¹ or by seeking the views from a range of agencies involved in the local Multi-Agency Risk Assessment Conference (MARAC) by contacting the Chair if the case has been referred to MARAC. It's acknowledged that not all victims will be engaged with a support or advocacy service. If it's known that the victim is working with a service then the assessor should approach that organisation to seek the views of victims. If it isn't known whether the victim is working with a service then the assessor should approach COPFS to obtain this information.
34. Every effort should be made to corroborate and verify information, document any limitations, and guard against an over-reliance on any one source or type of information. A balance of information should be sought through access to file information, interviews with relevant parties, and interviews with the subject of the report. The assessor should ensure an appropriate number of interviews with the individual and these should be spread over several occasions, spanning several weeks.
35. The RAR should clearly document all referenced sources within the **Report Evidence Base** section of the report structure. The **Report Evidence Base** section also prompts the assessor to record any comments regarding the range of evidence sources. This is the assessor's opportunity to highlight any issues regarding the reliability, quality, validity and weighting which should be assigned to particular items of evidence.
36. Assessors should explicitly acknowledge within the report, where they have been unable to access information. Conflicting evidence or inconsistencies in the information should be clearly highlighted, with the relevance and impact of any gaps in information on the assessor's decision-making recorded clearly²².
37. Section 210C (2) of the 2003 Act allows for the use of allegation information in the preparation of an RAR. Should assessors refer to allegations, then these must be listed within the report, setting out any additional evidence supporting them, and explaining the extent to which the allegation and evidence influenced their opinion on the individual's risk.

21. An aspect of the IDAA's role is assessing the risk a victim faces, and working with multi agency partners to coordinate support around them.

22. Additional guidance is provided on this under Standard 4 (para. 52) - Communication.

38. There are a number of legislative and ethical requirements regarding confidentiality which impact on assessors undertaking risk assessments. Assessors are granted authority by the Court to access information regardless of whether they have the consent of the individual who is the subject of the report. Consent from the following should be sought and recorded: the family members of the subject of the report, witnesses and/or victims. Assessors are expected to clearly explain the process and implications of information access to the individual, by providing a privacy notice that sets out how their personal data will be processed. The Data Protection Act 2018, The General Data Protection Regulation (EU) 2018 and Article 8(10) of the Human Rights Act (1998) safeguard the rights of private individuals to have data held about them used in an appropriate and lawful manner. As data controllers, assessors must have due regard to this legislation and are responsible for ensuring their own compliance with relevant legal and professional expectations.
39. Assessors should select empirically supported risk instruments, cognitive functioning assessments and/or personality assessment tools based on their relevance to the problematic behaviour/s and the individual's characteristics. Assessors should also be able to demonstrate knowledge of the underlying reliability and validity of the tool/s used in relation to specific users, circumstances and target groups. There are a range of risk assessments tools that can inform a holistic risk assessment and formulation. The Risk Assessment Tools Evaluation Directory (RATED) provides an impartial and factual account of the strengths and limitations of risk instruments. This can help to inform a balanced individualised approach to assessment and contribute to effective and ethical practice²³.

23. Risk Assessment Tools Evaluation Directory - <https://rated.rma.scot>

Standard 2

Formulation-based approach

The relevant information provided within the Risk Assessment Report will be analysed and organised in line with relevant empirically supported theory to provide an explanation of the onset, development, occurrence and maintenance of the offending behaviour. The formulation should articulate the pattern and nature of past offending, estimate the likelihood and seriousness of future harm, and identify the likely scenarios in which offending may occur. This will be communicated meaningfully through a narrative risk formulation.

Applying the standard

The formulation of risk will evidence:

- A clear explanation, written in everyday language, of the onset, occurrence, development and maintenance of the individual's offending behaviour, based on the facts of the case and empirically supported theory.
- A narrative account of the interaction and respective role of the identified relevant risk and protective factors over time and how these may exacerbate or mitigate risk of serious harm.
- Professional judgement about the significance of these factors, the likely scenarios in which they might manifest, and the imminence with which offending might occur.
- Recommendations about the areas that should be targeted by treatment and management strategies in order to reduce future risk.
- An acknowledgement of the limitations of the formulation.

Guidelines

40. An RAR should adopt a formulation-based approach which includes a comprehensive narrative formulation that is analytical, underpinned by relevant psychological theory, and provides a meaningful and individualised explanation of an individual's offending behaviour and the risk that it poses to others. Assessors should use a formulation-based approach to inform decision-making and logically 'bridge' the risk assessment to risk management planning.^{24&25}
41. When referring to the application of tools as part of their assessment findings, assessors should go beyond the presentation of items and scores to produce an analysis of this information. The formulation process involves organising the relevant information identified from assessment tools. A narrative risk formulation is a meaningful way of analysing and communicating this information to tell the story of the individual, and should include:
 - An analysis of the pattern, nature and seriousness of past offending, leading up to and including the index offence, which involves an exploration of the type, frequency, escalation and diversity of offending, and degree of planning or intent.
 - Explanation of the role of relevant risk factors to the individual's offending, any interdependencies between risk factors, and the meaning of this for risk management.
 - Consideration of an individual's physical and mental health (including any risk to self) as well as their social and developmental pathways²⁶, which may include neuropsychological factors, trauma, pervasive developmental disorder, cognitive capacity and/or mental illness.
 - Evidence of analysis of an individual's victim/s, inclusive of victim/s demographics, the individual's relationship to the victim/s, victim characteristics, and the range and type of victims as well as the underlying motivation for victim selection.

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24. Literature indicates criteria that can be used to evaluate a formulation; External Coherence, Factual Foundation, Internal Coherence, Explanatory Breadth, Diachronicity, Simplicity, Reliability, Generativity, Accuracy and Acceptability. Hart, S., Sturmey, P., Logan, C., & McMurren, M. (2011). "Forensic Case Formulation". *Journal of Forensic Mental Health*, 10(2), 121.
 25. Further research has defined the critical aspects of a forensic formulation to form a checklist that helps apply best practice standards and principles against an assessor's formulation. These are defined as Narrative, External Coherence, Factual Foundation, Internal Coherence, Completeness, Events relate over time, Simplicity, Predictive, Action-oriented, and Overall Quality. McMurren, M., & Bruford, S. (2016). Case Formulation Quality Checklist: A Revision based upon clinicians' views. *Journal of Forensic Practice*, 18(1), 31-38.
 26. In relation to children and young people the formulation may also consider the systems within which they are embedded, as well as their age and stage of development. In order to effectively manage and reduce risk these aspects of functioning need to be understood and changes effected in the systems around children and young people, rather than solely focusing on the individual. Bronfenbrenner, U. (1994). Ecological models of human development. *International encyclopaedia of education*, 3(2), 37-43.

- An offence analysis that explores how, why and when offending occurs. This should aim to identify the triggers, early warning signs or antecedents of offending, underlying motivations and functions of behaviour/s, and comparison of multiple offence types. This can inform the production of likely future scenarios in which offending may occur and the recommended strategies required to mitigate risk.
 - Assessment of the individual's insight into their offending behaviour, the harm inflicted and their motivation to change.
 - The identification of any periods of non-offending, the factors contributing to these, and any existing or emerging protective factors relevant to risk management.
 - Analysis of the individual's previous, current and likely future compliance and response to risk management and intervention measures to inform an assessment about the likelihood of future engagement and the individual's capacity and amenability to change. This should include the consideration of potential barriers to engagement and proposed solutions which might facilitate change.
42. Assessors' formulation-based approach should include a narrative formulation helping to organise their understanding to logically forecast future risk scenarios, based on their understanding of why the individual has acted in a similar way in the past. These scenarios should elaborate on what is understood about the individual. Risk scenarios should suggest plausible future behaviours and situations that will need to be managed to reduce or limit the risk posed by an individual^{27&28}.
43. Assessors should be explicit in regard to the hypothetical nature of formulation, acknowledging that it is based on the fullest available information and that it should be subject to review and revision in light of new information. Assessors should be clear on whether, and how, a formulation has used any allegation information. Furthermore, assessors need to identify where future assessment/s, re-assessment or re-formulation may be prudent.

27. Chermack, T.J., & Lynham, S.A. (2002). Definitions and outcome variables of resource planning. *Human Resource Development Review*, 1, 366-383.

28. van der Heijden, K. (1994). Probabilistic planning and scenario planning. *Subjective probability*, 549-572.

Standard 3

Evaluation of risk

A Risk Assessment Report will provide an opinion on risk that flows logically from the formulation. It will summarise the extent to which there is an enduring risk of criminal behaviour that endangers the lives, or physical or psychological well-being, of the public at large. It will draw from the formulation to clearly, concisely and coherently inform the recommendations for risk management.

Applying the standard

The evaluation of risk will evidence:

- Application of the formulation to present a summary that considers:
 - Capacity and likelihood to commit an offence causing serious harm
 - The pervasiveness of risk factors in the future
 - The presence or absence of protective factors in the future
 - The need for on-going risk management including treatment to mitigate risk.
- Recommendations for treatment and management that clearly target the identified risks/s and risk factors and recommendations about the risk management measures and priorities that will be required over time. Where a specific intervention or treatment is recommended, the rationale for this should be clear.
- An opinion on risk as 'high', 'medium' or 'low', with regard to the risk definitions on pages 26–27.

Guidelines

44. Within the 'Opinion on Risk' section of the RAR structure, assessors are required to evaluate risk against the risk definitions in order to assist the High Court in its deliberations on whether the risk criteria are met and the OLR is a proportionate and appropriate sentence.
45. For the purposes of sections 195(1), 210B(2), 210D(1) and 210F(1) and (3), of the Criminal Procedure (Scotland) Act 1995²⁹, the risk criteria are that:
"the nature of, or the circumstances of the commission of, the offence of which the convicted person has been found guilty either in themselves or as part of a pattern of behaviour are such as to demonstrate that there is a likelihood that he, if at liberty, will seriously endanger the lives, or physical or psychological well-being, of members of the public at large".
46. Whilst this is the decision-making criteria for the Judge, the assessor is asked to determine their opinion on the risk that an individual may present with reference to the key aspects outlined in the risk definitions which include:
 - The enduring risk of serious harm to the public.
 - The nature of characteristics underpinning that risk.
 - The degree of amenability of these characteristics to change (with intervention, and across time).
 - The manageability of risk: a) currently, b) following exposure to interventions, c) while subject to statutory supervision in the community, and d) in the longer-term.
47. In presenting their evaluation, the assessor must include their opinion as to whether the risk mentioned in Section 210B(3)(a) of the 2003 Act is 'high', 'medium' or 'low', with specific reference to the risk definitions outlined below. Assessors should explicitly explain how they have drawn their risk rating, from reference to the corresponding components of the relevant risk criteria.
48. The 'Opinion on Risk' should follow logically and clearly from the risk formulation and should include recommendations for the implementation and prioritisation of treatment and management strategies to reduce risk.

²⁹. Inserted by the Criminal Justice (Scotland) Act 2003

49. Assessors should be mindful that evaluating long-term risk poses a number of challenges due to limitations in relation to the reliability of future predictions. This is because risk is a complex and dynamic construct. As such, assessors should evaluate their findings carefully in the light of the relevant research evidence and state clearly the limitations of making judgements about life course persistent risk. This may be particularly relevant when considering elements of the risk criteria in relation to children and young people³⁰ with challenges associated with accurately distinguishing between young people who do and do not pose enduring risk³¹.
50. This is of particular importance when the subject of the assessment is under 21 years of age³². The assessment of young people requires particular consideration of the developmental issues and the challenges they raise for risk assessment. Assessors should carefully reflect on their ability to meet those challenges when considering undertaking an RAR.

30. The United Nations and World Health Organisation refer to children as all under 18s and young people up to the age of 24. Article 3 (best interests of the child), Article 4 (implementation of the Convention) and Article 40 (juvenile justice) of the UNCRC are relevant to assessors considering the risk criteria in relation to children and young people.

31. Uncertainty inherent to any estimate of long-term risk is compounded by various developmental influences associated with adolescence and maturation.

32. Scottish Prison Service (SPS) guidance on the separation of Young Offenders from Adult offenders refers to offering preliminary opinion about personality disorder at least until age 21 due to associated neurobiological changes continuing through adolescence and that 18 may be too young to be sure about personality development/disorder.

Risk Definitions

	Risk Definitions
High	<p>The nature, seriousness and pattern of this individual's behaviour indicate a propensity to seriously endanger the lives, physical or psychological well-being of the public at large.</p> <p>The individual has problematic, persistent, and pervasive characteristics that are relevant to risk and which are not likely to be amenable to change, or the potential for change with time and/or intervention is significantly limited. Without changes in these characteristics the individual will continue to pose a risk of serious harm:</p> <ul style="list-style-type: none"> • There are few protective factors to counterbalance these characteristics • Concerted long-term measures are indicated to manage the risk, including restriction, monitoring, supervision, and where the individual has the capacity to respond, intervention • The nature of the difficulties with which the individual presents are such that intervention is unlikely to mitigate the need for long-term monitoring and supervision. <p>In the absence of identified measures, the individual is likely to continue to seriously endanger the lives, or physical or psychological well-being of the public at large.</p>
Medium	<p>The nature, seriousness and pattern of this individual's behaviour indicate a propensity to seriously endanger the lives, physical or psychological well-being of the public at large.</p> <p>The individual may have characteristics that are problematic, persistent and/or pervasive but:</p> <ul style="list-style-type: none"> • There is reason to believe that they may be amenable to change or are manageable with appropriate measures • There is some evidence of protective factors • The individual has the capacity and willingness to engage in appropriate intervention • They may be sufficiently amenable to supervision, or • There are other characteristics that indicate that measures short of lifelong restriction may be sufficient to minimise the risk of serious harm to others

	Risk Definitions
Low	<p>The nature, seriousness and pattern of this individual's behaviour suggests a capacity to seriously endanger the lives, physical or psychological well-being of the public at large, but there is no apparent long-term or persistent motivation or propensity to do so.</p> <p>The individual may have caused serious harm to others in the past, but:</p> <ul style="list-style-type: none">• It is unlikely that they will cause further serious harm• There is clear evidence of protective factors which will mitigate such risk• They are likely to respond to intervention• They are amenable to supervision• They do not require long-term restrictions in order to minimise the risk of serious harm to others <p>While the individual may have, or had, characteristics that are problematic and/or persistent and/or pervasive, they can be adequately addressed by existing or available services or measures.</p>

Standard 4

Communication

A Risk Assessment Report will be clear, concise and coherent.

Applying the standard

The Risk Assessment Report will:

- Use the Risk Assessment Report structure, and use language that facilitates understanding and decision-making.
- Be free from ambiguous and unnecessary information or inferences.
- Provide a comprehensive, concise, logical and coherent explanation about the risk posed by the individual.

Guidelines

51. The RAR should be presented in the report structure published by the RMA. This is described in more detail within the guidance chapter – Risk Assessment Report (Structure), but the report should include:
 - An **Executive Summary** that provides a brief overview of the content, main findings and conclusions detailed in the report.
 - The assessor's **Opinion on Risk Level** which sets out their evaluation of whether the individual presents a high, medium or low risk with reference to RMA definitions.
 - The **Report Body** which presents and analyses key information about the individual and their offending, including an analysis, formulation and conclusion which is clearly reasoned and articulated.
 - The **Report Evidence Base** which documents all of the evidential sources which have informed the report.
 - **Appendices** that contain the documents referred to in the other sections.
52. The primary purpose of the RAR is to assist the Court in sentencing, therefore the report should be written and structured in a way that facilitates understanding and aids decision making. To that end, RARs should adhere to the following quality standards:
 - A concise narrative style with the correct use of grammar, punctuation and formatting.
 - Uses 'Plain English'. Technical terms, or terms that have a different meaning in the report context from a strict dictionary definition should be explained to ensure the report is accessible to, and can be readily understood by persons from other professional backgrounds.
 - Makes appropriate use of referencing and appendices to ensure the flow of the main body of the report is not interrupted by the unnecessary inclusion of detailed evidence. For example, assessors should attach paperwork for any assessment tools that were used to form the opinions presented in the RAR rather than incorporate such detail in the report body.
 - Draws clear and logical links between the evidence presented, the opinion on risk and the recommendations for risk management.
 - Moves beyond a description of facts to present an analysis of the meaning and context of the evidence which support the assessor's conclusions.
 - Presents and communicates the available information without bias. Assessors should disclose and discuss information which contradicts or conflicts with their opinion and should clearly outline the reasons why they perceive such evidence had less impact on the assessment.

53. In addition to informing the Courts sentencing decision, the assessor should bear in mind the other settings in which the RAR may be used (e.g. as the basis of risk management planning by Risk Management Teams, Multi-Agency Public Protection Meetings, or Parole/Health tribunals). To enhance the utility of the report, it is beneficial for the assessor to include a statement that permits the sharing of the report regardless of whether an OLR is imposed. However, assessors should be aware and considerate to the restricted nature of some information and the potential impact this may have on the sharing of the report.

Standard 5

Collaboration

A Risk Assessment Report will be prepared collaboratively, involving all relevant parties. The subject of the report will be given all reasonable opportunities to contribute to and understand the content of the Risk Assessment Report.

Applying the standard

In preparing the Risk Assessment Report, the assessor will evidence:

- Communication with a range of professionals and other relevant individuals who have been involved with the individual.
- Verification of information obtained from relevant parties to ensure the breadth and accuracy of information obtained.
- Efforts to engage the individual in the risk assessment process, which should include face-to-face interviews.
- A feedback session with the individual once the report is complete to assist them to understand the content of the report.

Guidelines

54. The RAR will draw from multiple sources of information which will require the assessor to collaborate with relevant professionals and individuals to gather and verify information, and to support their analysis and formulation. Where attempts to initiate and conduct collaborative working haven't been effective, or were unsuccessful, this should be highlighted as well as the impact this had on the assessment process. In particular, the implications of non-collaboration on the conclusions, recommendations and actions identified from the assessment. Prior to submitting the report, the assessor should seek to review any relevant content with third party sources to ensure it accurately reflects the information that was shared.
55. Assessors are accredited by the RMA on the basis that they have demonstrated the necessary general and specialist competencies to undertake an RAR. The Court is therefore entitled to expect that, in most cases, the assessor will complete the task without the need for additional professional reports or further input. Assessors should not undertake to conduct an assessment that they know to be outside their competence or professional experience. Where an assessor considers that characteristics of the individual, or their offending, fall outside of their competence, or where they perceive a possible conflict of interest, they must immediately advise the Court of this.
56. That said, there may be exceptional cases when issues emerge in the course of an assessment which lead the assessor to conclude that the individual requires a form of specialist assessment that is outside their competence. In such circumstances they must immediately notify the Deputy Principal Clerk of Justiciary. They should suggest, in writing, that the Court commissions a report from a suitably qualified person in the specialist field identified by the assessor. The Court may convene a Hearing in order to appoint such a person. In preparing the RAR, the assessor should make reference to the information held within the expert report where relevant. In cases where the factors/circumstances which prompted the request for the specialist advice are found to be irrelevant to the offending behaviour or risk management, the assessor should state this clearly in the appropriate section of the report.
57. Assessors may routinely consult with peers for reflective practice and/or quality assurance purposes³³. However, outwith continuous professional development, the assessor needs to be alert to the boundaries of consulting with peers and should consider whether consultation with peers may constitute a request for specialist assessment which would trigger the procedures identified above. Following the imposition of an RAO it is the assessor who is appointed by the High Court and acts as an expert witness and agent of the Court to give impartial professional opinion on risk.

33. It's recognised that assessors act as expert witnesses to the Court, yet their professional bodies may well demand professional supervision as part of their on-going registration with their respective bodies. In relation to potential discussion with other professionals around report content, assessors should consider anonymisation of the subject of the report and any associated identifiers.

58. Every effort should be made by the assessor to engage the individual within the risk assessment process. In the event of non-engagement, assessors should acknowledge the impact of this on their assessment. An individualised and tailored approach should be adopted with individuals, particularly when working with those who have specific needs relating to factors such as age, gender, ethnicity, cognitive capacity, or mental/physical health.
59. An assessor may receive a request for other persons to be present at an interview. The individual being assessed has the right to the presence of a legal representative, an appropriate adult (for juveniles or mentally disordered persons), translator (for those from a non-English speaking background) and/or interpreter (for those with communication/learning disabilities, or a hearing impairment). If the presence of another person at an interview interferes with the assessment process, the assessor should note this in their report, setting out the implications of such interference.
60. To allow individuals being assessed to differentiate between the RAO process and other legal processes that may be taking place concurrently, the assessor should outline the purpose of the risk assessment in the context of the OLR. The individual being assessed should be made aware that the risk assessment is being conducted due to a Court order, that it is part of the sentencing process, and that any information they provide may be used within the report.
61. The assessor should make every effort to conduct a feedback session with the individual, unless there are exceptional circumstances such as refusal of the individual or incapacitation. This feedback session will take place prior to the submission of the report. This is to assist them in their understanding of the content of the report in terms of the information gathered, the assessment tool/s and formulation, and the opinion on risk. The individual should be provided with the opportunity to read the final draft of the report, include their own opinion on the content, and challenge any elements they disagree with. This will allow the assessor to correct any factual inaccuracies or amend any information that has been misinterpreted. Where the information challenged is considered to be the opinion of the assessor then the view of the individual should be clearly outlined as an outcome of this feedback session, and the assessor should advise the individual to discuss the matter with their legal representative (who may be present during the feedback session). Where the individual has limited capacity, the assessor is expected to take all reasonable steps to ensure that the individual understands the report. As the report is still un-submitted at this stage, it is not necessary to provide the individual or others with a physical copy for retention as this may prejudice the purpose of the final report³⁴.

34. Further guidance on the individuals retaining a report can be found on Page 54 (para. 100).

Chapter 2

Using the Report Structure



Risk Assessment Report: Structure

FORM 19C.2

Rule 19C.2

Form of report under section 210C or 210D of the
Criminal Procedure (Scotland) Act 1995

RISK ASSESSMENT REPORT

under section 210C [or 210D] of the Criminal Procedure (Scotland) Act 1995

Prosecution reference.....

Court reference

CONVICTED PERSON: *(name)*.....

DATE OF BIRTH: *(date)*.....

REMANDED AT: *(place)*.....

CASE ADJOURNED TO: *(date)*.....

HIGH COURT OF JUSTICIARY SITTING AT: *(place)*

I, *(name)* report to the High Court of Justiciary as follows:

Table of Contents

1. Statement of Competence

I am accredited by the RMA to undertake Risk Assessment Reports under section 210C and/or 210D (*delete as appropriate*) of the Criminal Procedure (Scotland) Act 1995.

2. Executive Summary

A brief overview of the content, main findings and conclusions detailed in the report, concluding with opinion on risk:

Section 210C (3) of the Criminal Procedure (Scotland) Act, 1995 requires me to include in the Risk Assessment Report my opinion as to whether the risk mentioned in section 210B(3)(a) of this Act, that is, the risk his being at liberty presents to the safety of the public at large, is high, medium or low.

Having had regard to such standards and guidelines as are issued by the Risk Management Authority, I am of the opinion that XXX presents a XXXX risk. The reasons for arriving at this conclusion can be found in Section 4 – Opinion on Risk.

3. Risk Assessment Report Body

Having regard to the Standard and Guidelines for Risk Assessment Report Writing (pg. 12-26) The Risk Assessment Report should include the following:

- *Limitations of information*
- *Individual's background information:*
 - *Presentation at Interview*
 - *Offending History*
 - *Personal History*
 - *Education and Employment*
 - *Relationships*
 - *Health*
- *Formulation*
 - *Narrative Risk Formulation*
 - *Risk Scenarios*

4. Opinion on Risk

Section 210C (3) of the Criminal Procedure (Scotland) Act, 1995 requires me to include in the Risk Assessment Report my opinion as to whether the risk mentioned in section 210B (3) (a) of this Act, that is, the risk his being at liberty presents to the safety of the public at large, having regard to such standards and guidelines as are issued by the Risk Management Authority in that regard, is high, medium or low.

I am of the opinion that XXX presents a XXXX risk. I have arrived at this conclusion based on the information presented in the sections below and through having regard to the Risk Management Authority definitions of high, medium, or low.

Summary of the findings of the risk assessment

Recommendations for treatment and management

IN WITNESS WHEREOF

(Signed)

Assessor

*(Name, qualifications, address, email
and telephone number)*

(Place and date)

5. Risk Definitions³⁵

Having regard to the Standards and Guidelines as are issued by the Risk Management Authority, the assessor is required by legislation to include their opinion as to whether the risk the individual being at liberty presents to the safety of the public at large, is high, medium or low. Please refer to the definitions as outlined on pages 26–27 of the Standards and Guidelines for Risk Assessment Report Writing.

35. Risk Management Authority (2013)

6. Report Evidence Base

- 1) List all documentation you relied on regarding previous convictions and findings of guilt against the individual (note: do not list individual convictions).

	Source of evidence	Brief description	Appendix No.
1			
2			
3			
4			
5			
6			

As relevant, please provide any comment on this evidence (including the reliability, weighting and impact)

2) List all allegation information used, any supporting evidence and the extent to which they influenced the assessed opinion on risk level.

	Allegation	Source	Extent of influence	Appendix No.
1				
2				
3				
4				
5				
6				

As relevant, please provide any comment on this evidence (including the reliability, weighting and impact of each source)

3) List chronologically all face-to-face interviews with the individual.

	Date and Duration	Other professionals or persons party to interview (name and role in interview)
1		
2		
3		
4		
5		
6		

Please provide any comment on this evidence.

Please provide details of the feedback session/s conducted with the individual and the outcome/s.

	Date and Duration	Other professionals or persons party to interview (name and role in interview)
1		
2		

Please provide the reasons if a feedback session didn't occur.

4) List all professional reports obtained from third parties and the appendix where they may be reviewed.

	Date and Duration	Name and designation of professional	Brief description of report	Appendix No.
1				
2				
3				
4				
5				
6				

Please provide any comment on this evidence

5) List chronologically all other face-to-face or telephone interviews.

	Name of interviewee	Brief description (including date)	Appendix No.
1			
2			
3			
4			
5			
6			

Please provide any comment on this evidence

6) List all other evidence for the report (including risk assessment tools applied).

	Source of evidence	Brief description	Strengths and limitations of tool	Appendix No.
1				
2				
3				
4				
5				
6				

Please provide any comments on this evidence

- 7) Consider each of the protected characteristics, whether it was identified as relevant to the individual, the measures taken within the assessment, and any impact it had in terms of the assessment and the overall risk rating.

	Protected Characteristic	Relevant to assessment (Y/N) (Provide Rationale)	Measures taken to respond to characteristic	Impact on assessment and risk judgement
1	Age			
2	Gender			
3	Disability			
4	Gender Reassignment			
5	Sexual Orientation			
6	Race			
7	Religion or Beliefs			
8	Maternity or Pregnancy			

8) Appendices

Please list all appended documents.

Appendix Number	Title

Risk Assessment Report Structure: Guidance

62. The information provided in the sections below corresponds to the headings of the RMA Risk Assessment Report structure:

Title Page (Form 19C.2)

63. Assessors should complete each item of the case details as directed.

Table of Contents

64. Assessors should ensure that this section is appropriately formatted so that the page numbers are accurate.

Statement of Competence

65. Assessors should provide a short summary of their knowledge, expertise and experience relevant to the case. This should include their experience and competence in assessing and delivering treatment/interventions to particular groups, such as: young people, women, personality disordered individuals, or those with learning disabilities³⁶ and/or mental health difficulties. Assessors should also highlight any relevant limitations of their knowledge, expertise and experience, and how they have addressed those when undertaking the report.
66. The statement should address the nature, reasons for and impact of any additional specialist advice that the assessor sought and acquired during the RAR process. There may be instances where, in the process of assessment, an assessor legitimately identifies that an individual requires a form of specialist assessment that lies outside the assessor's competence. Assessors should clearly outline how any specialist input has influenced their assessment.

Executive Summary

67. The Executive Summary should provide an overview of the full-length report. It should be detailed enough to provide an overview of the main findings of the risk assessment, and opinion on risk.
68. In structuring the Executive Summary, the assessor may find it useful to include the following elements:
- A brief synopsis of the index offence/s
 - A concise summary of the individual's previous offences
 - A summary of the individual's engagement in the assessment
 - A summary of the relevant points from the individual's formulation
 - A summary of the likely future scenarios
 - A summary of the recommendations and prioritisations for risk management
 - The assessor's final opinion on risk.

36. Terminology consistent with that proposed by the Royal College of Psychiatry

69. The executive summary should conclude with a summary of the assessor's opinion on the risk level, with specific reference to the RMA risk definitions outlined on pages 26–27 and as indicated in section 5 of the RAR template. To support this, assessors should communicate their opinion using the wording contained within the report structure, which is drawn from the legislation.

Risk Assessment Report Body

70. The RAR should include the following content:

Limitations of Information

71. The assessor should indicate any gaps or inconsistencies in information, as well as the impact that these limitations have had on the assessment, recommendations and opinion on risk. Examples of potential limitations in information might be:
- A reliance on self-reported information
 - A lack of self-reported information
 - Significant gaps in the chronology of the individual
 - Unsuccessful attempts to secure third party or file information.

Background Information

72. This section should address the main areas listed below. Each of the topics within this section should include pertinent data or information and comment from the assessor that indicates its relevance to current and future offending behaviour. Where possible, information should be presented chronologically, with dates and sources given within the text. Assessors should avoid presenting the application of risk instruments in this section and should reserve this for summary within the Opinion on Risk³⁷.

Presentation at Interview

73. Assessors should consider the individual's appearance, attitude, affect, and other variables commenting on any they felt were relevant or significant to the interview process.

Offending History

74. Assessors should provide a chronology of the individual's history of offences, their disposals, and any significant periods of non-offending. This may include providing details of previous convictions, warnings, charges and other intelligence about offending or risky behaviour. Assessors should distinguish between convictions or findings of guilt and allegations, citing evidence contained in the appendices in relation to the reliability and sources of information. In addition the assessor should comment on the individual's previous response and compliance to disposals (e.g. supervision).

37. See Page 51 (para. 87) for further guidance.

Personal History

75. This section relates to information on the individual's family background, childhood and development. Assessors should include relevant information on the current and past familial, developmental and social functioning of the individual. An important component of this section may be the individual's self-reported plans for their future when at liberty. Assessors might also consider if the individual has experienced childhood abuse or neglect, periods in the care system, or involvement with the Hearing system.

Education and Employment

76. Assessors should document the individual's attendance at educational establishments and positions of employment. This should include their functioning within these environments, any periods of absence from these contexts, and the reasons behind such periods.

Relationships

77. Assessors should comment on the individual's previous and current intimate and non-intimate relationships. This should include their functioning within such relationships, and any impact that these relationships had on the individual.

Health

78. Assessors should comment on health across a number of domains:
- Physical Health
 - Mental Health
 - Sexual Health
 - Alcohol and/or Substance Use.
79. Assessors should describe and analyse the impact and relevance of any physical health problems or disabilities. This should include the consideration of whether traumatic brain injury and/or acquired brain injury are relevant, and if so, the impact of this on the individual. The narrative risk formulation would then consider the relevance of this to risk.
80. Mental health and wellbeing considerations should include any diagnoses of mental illness, personality disorder or learning disability. This section should summarise the outcomes of any testing or diagnosis made as part of this assessment (or in relation to an ICO).
81. If the individual has been assessed as having a personality disorder, this should be outlined for reference and explored further in the risk formulation. The narrative risk formulation should then include an analysis of its relevance to risk in the context of offending behaviour and the implications for risk management.

82. Should the assessor believe that an individual might have an undiagnosed mental illness and/or personality disorder; this must be reflected in the report. Additionally, if the assessor believes that the individual presents with imminent risk to others, then they should notify the holding establishment. Assessors may also consider risk of self-harm and/or suicide.
83. Assessors should also describe any past or current issues with the use of substances and should record the pattern, nature and range of substances used. The analysis of the relevance of an individual's substance use should be reserved for consideration within the formulation.

Formulation

84. Assessors should refer to Standard 2, pages 18–21, for the detailed breakdown of what should be included in the formulation.

Opinion on Future Risk

85. Section 210C (3) of the Criminal Procedure (Scotland) Act, 1995 requires that the assessor shall include in the Risk Assessment Report their opinion as to whether the risk mentioned in section 210B(3) (a) of this Act, that is, the risk the individual being at liberty presents to the safety of the public at large, having regard to such standards and guidelines as are issued by the RMA in that regard, high, medium or low (please refer to the definitions outlined on pages 26–27).
86. Assessors should begin the statement of opinion on the risk level with the following:

Section 210C (3) of the Criminal Procedure (Scotland) Act, 1995 requires me to include in the Risk Assessment Report my opinion as to whether the risk mentioned in section 210B (3) (a) of this Act, that is, the risk his being at liberty presents to the safety of the public at large, having regard to such standards and guidelines as are issued by the Risk Management Authority in that regard, is high, medium or low³⁸.

I am of the opinion that XXX presents a XXXX risk. I have arrived at this conclusion based on the information presented in the sections below and through having regard to the Risk Management Authority definitions of high, medium, or low.

87. Assessors should convey the summary of the findings of the assessment and the recommendations for treatment and management. This should include a summary of the outcome/s from application of risk instruments and, if applied, cognitive functioning and personality assessments. This section should have reference to the RMA definitions of 'high', 'medium' and 'low' risk. The RMA definitions are essentially a combination of the following parameters;
 - Capacity to commit an offence causing serious harm.
 - The pervasiveness of risk factors in the future.
 - The presence or absence of protective factors in the future.
 - The need for on-going risk management including treatment to mitigate risk.

38. Section 5 of the Risk Assessment Report Structure

88. Assessors should set out the rationale for their opinion against these four elements and only after that has been articulated clearly and succinctly, should a conclusion of high, medium or low be offered. The assessor should set out reasons for and evidence to support the opinion on risk, for example supporting an opinion of 'high' with evidence of risk of serious harm that is enduring, not amenable to change and difficult to manage. The determination of high, medium and low risk must be a structured professional judgment taking into account the whole range of evidence presented and analysed in the report body. Assessors should make reference to the individual's manageability of risk across several dimensions: a) currently, b) following exposure to interventions, c) while subject to statutory supervision in the community, and d) in the longer-term.

Personal and administrative details

89. The assessor should provide the personal and administrative details required in the section beginning – 'IN WITNESS WHEREOF'.
90. This includes providing the following:
- Signature
 - Name
 - Qualifications - i.e. Professional Title and post-nominal e.g. Clinical Psychologist (B.A., M.Phil, C.Psychol.)
 - RMA Accreditation Number
 - Postal and Email Address
 - Telephone Contact Number
 - Place & Date - e.g. Paisley, Scotland. 24th August 2015.

Risk Definitions

91. The RAR structure includes an appendix outlining the risk criteria, that is considered beneficial to the reader.

Report Evidence Base

92. All documents cited in the Risk Assessment Report should be fully referenced in the Report Evidence Base section at the end of the report structure. Each section of the Report Evidence Base prompts the assessor to provide any comments they wish to record regarding the evidence. This is an opportunity for the assessor to highlight any issues regarding the reliability, quality, validity and weighting which should be assigned to particular items of evidence. This should include making reference to any significant conflicting evidence, setting out evidential strengths, as well as possible limitations.

Documentation regarding previous convictions and findings of guilt against the individual

93. Assessors should list all of the documents which have informed their consideration of previous convictions and findings of guilt, providing comment as necessary.

Allegations

94. Where the report refers to allegations, assessors must list each allegation, set out any additional evidence supporting it, and explain the extent to which the allegation and evidence influenced their opinion on the level of risk the individual presents. Inclusion of allegations is permitted by Section 210C(2) of the Act, but the assessor should consider the reliability, weighting and impact of each allegation.

Face to face interviews

95. All interviews with the individual should be listed in the table as well as details of any other professionals or persons who were present. Assessors are data controllers under the Data Protection Act, and should ensure they comply with data protection legislation. Mindful that the Court has appointed an accredited assessor to prepare the RAR, s/he should make clear what the role and purpose of others are in the interview.
96. As the Court commissions the RAR, there is a responsibility for the safe and secure storage of data relating to the completion of this. Assessors should submit all the relevant information relating to the preparation of the RAR (e.g. risk instrument evidence, file review/s and case chronology). Secure retention of data applies to all personal data assessors hold for an assessment, not just the interview notes.
97. The assessor should also maintain an accurate record of:
- Date
 - Time at commencement and completion of interview
 - Time at commencement and completion of breaks
 - Duration of breaks
 - Location of interview
 - Others present
 - Reasons for any variable length across interviews
 - Content of interview.
98. These records should be referenced in the Report Evidence Base and retained securely by the assessor.

99. Where the individual will not (refuses) or cannot (due to incapacity, illness, etc.) engage in interviews, the assessor should document the attempts that were made to contact the individual. The assessor is expected to make all reasonable efforts to engage the individual within the interview process. The impact of any refusal or inability to engage on the assessment process should be explained by the assessor.
100. The assessor should arrange a final meeting to provide the individual with the opportunity to view the final draft of the report, and to check for any factual inaccuracies. This is likely to only not take place when the individual refuses or there is incapacitation. This should be recorded in the Report Evidence Base. If the individual disagrees with any aspect of the report, the assessor must decide whether changes required are simply a matter of factual accuracy or if they would significantly alter the professional judgement and conclusions in the report. If the assessor is unable to agree to the requested change they should advise the individual to discuss the matter with their legal representative (who may be present during the feedback session). As the report is still incomplete at this stage, it is not necessary to provide the individual or others with a physical copy for retention³⁹. Where the individual has limited capacity, the assessor should take all reasonable steps to ensure that the individual understands the report.

Professional reports obtained from third parties

101. As documented under Standard 1, the assessor is expected to make every effort to consult all of the relevant documentation in order to prepare the RAR. All reports that were reviewed should be listed within this section of the Report Evidence Base. This may include, but not be limited to:
- Information made available from Crown Office Procurator Fiscal Service and the Court
 - Prison Records/Reports
 - Psychological/Criminal Justice Social Work reports
 - Relevant Medical/Hospital Records
 - Education Reports.

39. As the RAR is the individual's personal data they would be entitled to request a copy, however this would be a redacted version in relation to sensitive information (e.g. third party information, victim details, etc.).

List of all other evidence attached (i.e. tools)

102. Assessors should attach paperwork for any assessment tools that were used to form the opinions presented in the RAR within the Appendices section (e.g. completed HCR-20v3 worksheets). Each assessment tool that is attached should be recorded in this section. Assessors should provide comment on the suitability of the tool, its strengths, and any limitations either generally or regarding the appropriateness to the risks, needs and characteristics of the individual being assessed.

Other interviews conducted

103. Where appropriate, the assessor may arrange interviews with family, friends or significant others in the individual's life. The assessor may also consider it appropriate to arrange interviews with witnesses or victims. Whilst information regarding victims is important to the risk assessment, the assessor will normally rely on information provided by the Crown rather than seeking to obtain it directly from the victim. Assessors, in this case, must carefully consider the benefit of conducting such an interview in light of the potential distress it might afford vulnerable persons. If the assessor wishes to interview victims (past or present) or witnesses, they must make contact with COPFS to seek the victim's/witnesses' consent beforehand.
104. To guard against the unnecessary identification of victims or non-professional third party sources, assessors should exercise discretion and sensitivity surrounding the naming of victims. Where assessors make reference to such individuals in the report they should use initials rather than full names or make clear who the victim/s are without naming them. This is a particularly important consideration for alleged victims as opposed to victims from an individual's conviction/s. This will help to protect individuals from being unnecessarily associated with the report and the individual who has committed the offence/s in the future.

Protected Characteristics

105. Assessors should document if any of the protected characteristics, within the Report Evidence Base, were relevant to the individual in terms of conducting the assessment and/or their risk. This should include the rationale to identifying the protected characteristics. Assessors should also document the measures they took to be responsive to the identified characteristics, e.g. adapting interviews and feedback, the use of appropriate risk assessment tools. This table should be concluded with assessors recording how any identified characteristics have impacted on the assessment and overall risk rating.

Appendices

106. The assessor should mark all appendices with 1, 2, or 3, etc., and make a note of this in the column provided as part of the Evidence Base Section of the report, as per the legislative requirement (Section 210C (4) of the Act).
107. Section 210C(4) of the 1995 Act requires assessors to submit the RAR to the High Court together with such documents as are available to the assessor and are referred to in the report. As such, assessors should make every effort to obtain copies of source documents referred to in the RAR so that these can be provided to the court. If these are not included in the appendices, then the assessor should explain in the RAR evidence base why they are not available so that, if necessary, either the prosecutor or the convicted person could apply for a court order to obtain them. Assessors should also use the appendices to attach relevant documents which will include, but may not be limited to:
 - Risk Assessment Tools used
 - Psychometrics used
 - Case Chronology/File Review
 - Such documents as are available to the assessor and are referred to in the RAR.
108. All other personal data (e.g. interview notes) should be retained securely by the assessor.
109. Assessors should use the appendices to attach the full copies of the assessment reports and other relevant documents. These should not be placed with the Report Body, as this is reserved for the summary and analysis of evidence.

Submit Report

110. The Court will advise the assessor upon appointment of the final date for submission of the RAR to the Principal Clerk of Justiciary in order to meet the above requirements. While the final date for submission will be set, in practice, assessors should aim to complete and submit the report as soon as is reasonably practicable, given the quality and process requirements as set out in the standards and guidelines. When the report is complete, it should be signed and sent to the Principal Clerk of Justiciary accompanied by a copy of the certified copy of the appointment interlocutor (as provided to the assessor upon original instruction by the Justiciary Office). This will enable Justiciary Office staff to identify expediently the type, purpose and authority of the report that will then immediately be copied to both the Crown and the Defence solicitors. The Judge will receive the original. The assessor should also submit their invoice for the preparation of the report at this time.

Glossary of Terms

Compliance

Compliance involves adherence to conditions, but more constructively it is a mutual activity, an explicit contract between practitioner and the individual, based on a clear understanding of roles and expectations of each other.

COPFS

Crown Office and Procurator Fiscal Service

Early Warning Signs

Early Warning Signs are identified in the risk formulation in which the interaction of risk factors is explained in terms of the context and timing of offending. They are indicators of the precursors, precipitating or trigger factors. It should be noted that early warning signs may not be evident in every case.

Formulation

Formulation is a term used to represent the '*understanding*' of a case. In the context of RARs, a risk formulation is required. This is an understanding of past offending behaviour as it relates to future risk, including but not limited to harmful behaviour. The detail should be proportionate and appropriate to the age and stage of the individual being assessed, to the specific circumstances of the case and task, and when assessing the risk of serious harm it needs to include a hypothesis of how, why and when such offending occurs. It demonstrates the interaction and role of respective and relevant risk factors, and highlights precipitating risk factors that may identify early warning signs and indicate imminence. This level of understanding is reached through detailed 'offence analysis'. It is the link between risk assessment and risk management⁴⁰.

Harm

Harm is defined as loss, damage or personal injury. Personal injury may be of a psychological or physical nature. The aim of risk assessment is to reduce the incidence of offending and the harm it causes, and particularly to identify the potential for personal injury in order to prevent it. Personal injury may be caused by a range of behaviours, but there is a specific focus on that caused by violent offending and sexual offending.

40. Literature indicates differences between case and risk formulation (e.g. Caroline Logan's chapter on Forensic Case Formulation of Violence and Aggression in Peter Sturmey's 'The Wiley Handbook of Violence and Aggression'). However, these standards and guidelines recognise that an individual approach to conducting an RAR means the type and depth of formulation may result in aspects of both case and risk formulation.

ICO

Interim Compulsion Order. Reference: Section 210D(2) of the Criminal Justice (Scotland) Act 1995.

Intervention

Intervention is a needed and specific programme, activity, or technique focused on change in a particular behaviour or a treatment for a particular problem.

Monitoring

Monitoring involves a number of observational activities intended to determine progress or deterioration and alert to needed changes in the plan.

Offence Analysis

Offence Analysis employs a range of interviewing and thinking skills to explore past and current episodes of offending in order to identify how, why and when they occur. Analysis involves the examination of the 'parts' to understand their nature and function, so in offence analysis we aim to identify the factors that come together in an episode of offending by looking at how they contribute to such an occurrence.

OLR

Order for Lifelong Restriction Reference: Section 210F of Criminal Procedure (Scotland) Act 1995 (as it is amended by the Criminal Justice (Scotland) Act 2003).

Pervasive Risk

Risk that is on-going and present in many or all aspects of the individual's life at liberty.

Protected Characteristics

Protected characteristics refer to nine characteristics covered in the Equality Act 2010. However these standards and guidelines refer to eight of these (excluding Marriage and Civil Partnership). Discrimination against these characteristics is unlawful. The eight characteristics are; Age, Disability, Gender Reassignment, Pregnancy and Maternity, Race, Religion and Belief, Gender, and Sexual Orientation.

Protective Factors

Protective Factors are circumstances, relationships or characteristics that have a mitigating effect on risk of serious harm.

RAO

Risk Assessment Order. Reference: Section 210B of the Criminal Procedure (Scotland) Act 1995 (as amended by the Criminal Justice (Scotland) Act 2003).

RAR

Risk Assessment Report. Reference: Section 210B and 210C of the Criminal Procedure (Scotland) Act 1995 (as amended by the Criminal Justice (Scotland) Act 2003).

RATED

Risk Assessments Tools Evaluation Directory

Risk

Risk is the potential for an adverse event to lead to a negative outcome, and by assessing risk we seek to estimate how likely the event is to occur and the nature and seriousness of its impact. In this context the 'adverse event' is offending behaviour and the negative outcome is the degree and nature of harm that it causes.

Risk Assessment

Risk Assessment is a process by which risk is understood. It involves the three steps of identification, analysis and evaluation of the best available information, which is then communicated to inform decision making and action with the ultimate aim of reducing the likelihood and impact of future offending.

Risk Criteria

The nature of, or the circumstances of the commission of, the offence of which the convicted person has been found guilty either in themselves or as part of a pattern of behaviour are such as to demonstrate that there is a likelihood that he, if at liberty, will seriously endanger the lives, or physical or psychological well-being, of members of the public at large. Reference: Section 210E of the Criminal Procedure (Scotland) Act 1995 (as it is amended by the Criminal Justice (Scotland) Act 2003).

Risk Factors

Circumstances, events or considerations assumed to have a direct influence, including causal, on offending, including reoffending. Risk factors may be intrinsic to the individual or situational in nature.

Risk of Serious Harm

"There is a likelihood of harmful behaviour, of a violent or sexual nature, which is life threatening and/or traumatic, and from which recovery, whether physical or psychological, may reasonably be expected to be difficult or impossible".

Risk Management

Risk Management in this context is understood as the professional task of applying a range of activities with the aim of reducing the risk of serious harm to others. It is co-ordinated through the development of a risk management plan⁴¹. It involves all of the activities associated with case management and in addition the activity of victim safety planning, detailed in a preventative action plan. In risk management, monitoring assumes a greater focus as it is the activity by which imminence is detected by the identification of early warning signs, and actions in a contingency action plan are triggered.

Risk Management Plan

Risk Management Plan is a shared and dynamic working document, based on a formulation or understanding of risk, in which preventative and contingency action plans show a clear link between identified risks and necessary action, those responsible for those actions, and the required communications. It is responsive to change and should outline review procedures. It is distinctive from a case management plan.

Risk Rating

An assignation of 'high', 'medium' or 'low' to represent the individual's risk (required of the assessor by the Criminal Justice (Scotland) Act 1995 as it amended by the Criminal Justice (Scotland) Act, 2003. The RMA has designed a description of each risk level.

Risk Rating – High Risk

The nature, seriousness and pattern of this individual's behaviour indicate a propensity to seriously endanger the lives, physical or psychological well-being of the public at large. The individual has problematic, persistent, and pervasive characteristics that are relevant to risk and which are not likely to be amenable to change, or the potential for change with time and/or intervention is significantly limited. Without changes in these characteristics the individual will continue to pose a risk of serious harm:

- *There are few protective factors to counterbalance these characteristics*
- *Concerted long-term measures are indicated to manage the risk, including restriction, monitoring, supervision, and where the individual has the capacity to respond, intervention*
- *The nature of the difficulties with which the individual presents are such that intervention is unlikely to mitigate the need for long-term monitoring and supervision.*

In the absence of identified measures, the individual is likely to continue to seriously endanger the lives, or physical or psychological well-being of the public at large.

41. Section 6 of the Criminal Justice (Scotland) Act 2003

Risk Rating - Medium Risk

The nature, seriousness and pattern of this individual's behaviour indicate a propensity to seriously endanger the lives, physical or psychological well-being of the public at large. The individual may have characteristics that are problematic, persistent and/or pervasive but:

- *There is reason to believe that they may be amenable to change or are manageable with appropriate measures*
- *There is some evidence of protective factors*
- *The individual has the capacity and willingness to engage in appropriate intervention*
- *They may be sufficiently amenable to supervision*
- *There are other characteristics that indicate that measures short of lifelong restriction maybe sufficient to minimise the risk of serious harm to others.*

Risk Rating – Low Risk

The nature, seriousness and pattern of this individual's behaviour suggests a capacity to seriously endanger the lives, physical or psychological well-being of the public at large, but there is no apparent long-term or persistent motivation or propensity to do so. The individual may have caused serious harm to others in the past, but:

- *It is unlikely that they will cause further serious harm*
- *There is clear evidence of protective factors which will mitigate such risk*
- *They are likely to respond to intervention*
- *They are amenable to supervision*
- *They do not require long-term restrictions in order to minimise the risk of serious harm to others.*

While the individual may have, or had, characteristics that are problematic and/or persistent and/or pervasive, they can be adequately addressed by existing or available services or measures.

RMA

Risk Management Authority.

Supervision

Supervision is a means by which a relationship is established with the individual, to ensure that the individual is engaged through dialogue in a process of change and compliance. It may also involve oversight or administration of an order or sentence in a manner consistent with legislation and procedures, to ensure that any requirements or conditions are applied and compliance with such requirements is monitored. In working with children and young people who offend, supervision may be voluntary or statutory in line with the principle of 'minimum intervention' outlined in the Children (Scotland) Act 1995⁴². The Children Hearings Scotland Act 2011 also has provisions relating to offences by children.

Victim Safety Planning

Victim Safety Planning is a risk management activity by which attention is drawn to the safety of specific individuals or groups who may potentially be victimised, with a view to devising preventative or contingency strategies.

42. HMSO (1995)

References

- Borum, R. (1996). Improving the clinical practice of violence risk assessment: Technology, guidelines, and training. *American Psychologist*, 51(9), 945.
- Equality Act 2010 (c. 15) Available at www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf. Accessed 7th December 2017.
- European Union (2016). *The General Data Protection Regulation (EU)*. Available at www.eugdpr.org
- Hart, S. D., & Logan, C. (2011). Formulation of violence risk using evidence-based assessments: The structured professional judgment approach. *Forensic case formulation*, 83-106.
- Hart, S. D., Michie, C., & Cooke, D. J. (2007). Precision of actuarial risk assessment instruments: Evaluating the 'margins of error' of group v. individual predictions of violence. *The British Journal of Psychiatry*, 190(49), 60-65.
- Hart, S., Sturmey, P., Logan, C., & McMurrin, M. (2011). Forensic case formulation. *International Journal of Forensic Mental Health*, 10(2), 118-126.
- HMSO (1993). *Prisoners and Criminal Proceedings (Scotland) Act 1993*. Edinburgh: HMSO.
- HMSO (1995). *Criminal Procedure (Scotland) Act 1995*. Edinburgh: HMSO.
- HMSO (1995). *Children (Scotland) Act 1995*. Edinburgh: HMSO.
- HMSO (2003) *Criminal Justice (Scotland) Act 2003*. Edinburgh: HMSO.
- HMSO (2003) *Mental Health (Care and Treatment) (Scotland) Act 2003*. Edinburgh: HMSO.
- HMSO (2005) *Management of Offenders etc. (Scotland) Act 2005*. Edinburgh: HMSO.
- Johnstone, L., & Dallos, R. (2013). *Formulation in psychology and psychotherapy: Making sense of people's problems*. Routledge.
- Logan, C. (2016). Risk formulation: The new frontier in risk assessment and management. In *Treatment of Sex Offenders* (pp. 83-105). Springer, Cham.
- McMurrin, M., & Bruford, S. (2016). Case Formulation Quality Checklist: A Revision based upon clinicians' views. *Journal of Forensic Practice*, 18(1), 31-38.
- Sturmey, P., & McMurrin, M., (Eds.) (2011). *Forensic Case Formulation*. Chichester: Wiley-Blackwell.

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