

MOJ consultation on Effective Community Sentences and Probation Services.

Detailed below is a copy of the response submitted to the Ministry of Justice in relation to the two consultations on Community Sentences and Probation Services. Both consultations were included in a summary report presented at the last Safer Stockton Partnership meeting on the 8th May. A number of the questions asked relate to the operational delivery of community sentences and probation services and as such a partnership response has not been provided.

Effective Community Sentences Response:

1. What should be the core elements of Intensive Community Punishment?
The core elements of Intensive Community Punishment should include a combination of Community Payback, Curfews and exclusion zones where appropriate, an element of restorative practice and where appropriate a financial penalty/compensation.
2. Which offenders would intensive Community Punishment be suitable for?
Offences such as drink driving, low level assault, shoplifting, theft, low level drug and alcohol offences etc. could be suitable for ICPs. However, where there is an issue in relation to drug and alcohol dependency/abuse an ICP may not be the most suitable form of punishment.
3. Do you agree that every offender who receives a community order should be subject to a sanction which is aimed primarily at the punishment of the offender ('a punitive element')?
It is difficult to say as it would always depend on the nature and circumstances of each case. This would also depend on the circumstances of the individual for example are they 'fit to work' do they have any drug and alcohol dependency issues. Officers should retain the right to determine the punitive element of the punishment.
4. What requirements of the community order do you regard as punitive?
Community Payback, Electronic Monitoring, Curfew can all be regarded as punitive.
5. Are there some classes of offenders for whom (or particular circumstances in which) a punitive element of a sentence would not be suitable?
A punitive element of a sentence would not necessarily be suitable for individuals who are drug and alcohol dependent.
6. How should such offenders be sentenced?
Individuals with drug and alcohol dependency should be managed through an Integrated Offender Management process which is likely to have more impact and provide them with the best opportunity to address their dependency issues and related offending.
7. How can we best ensure that sentences in the community achieve a balance between all five purposes of sentencing?
There is a need to ensure that community sentences are pitched correctly to ensure that elements of punishment, rehabilitation, and

reparation are clearly identified within each order whilst also providing protection to the general public and reducing the risk of reoffending.

8. Should we, if new technologies were available and affordable, encourage the use of electronically monitored technology to monitor compliance with community order requirements (in addition to curfew requirements)?

New technologies should be used if available to improve monitoring and compliance of orders, however, this should be seen as appropriate option in every case.

9. Which community order requirements, in addition to curfews, could be most effectively electronically monitored?

The enforcement of exclusion zones and the monitoring of prohibited activities in including computer/internet use could be electronically monitored.

10. Would tracking certain offenders (as part of a non-custodial sentence) be effective at preventing future offending?

Yes

11. Which types of offenders would be suitable for tracking? For example those at high-risk of re-offending or harm, including sex and violent offenders?

Sex offenders, perpetrators of domestic abuse, shoplifters and metal thieves could all be suitable enabling their location to be monitored and restricting them from certain areas.

12. For what purposes could electronic monitoring be best used?

Electronic monitoring could be best used to monitor the location of an offender, to identify whether they were in a restricted area or exclusion zone and to monitor timekeeping for appointments.

13. What are the potential civil liberties implications of tracking offenders and how can we guard against them?

It is likely that this issue will generate considerable debate in terms of the restriction of liberties over the wider protection and reassurance of the community. A view will more than likely be dependent on each individual case or on the nature of offences committed. For example the public opinion in relation to the restriction of a sex offender may be different to that of a convicted shoplifter.

14. Which offenders or offences could a new power to order the confiscation of assets most usefully be focused on?

Drug dealers, shoplifters, individuals who commit fraud and in some cases sex offenders (seizure of I.T. equipment)

15. How could the power to order the confiscation of assets be framed in order to ensure it applied equitably both to offenders with low-value assets and those with high-value assets?

This would need to be determined on a case by case basis and 'means' tested.

16. What would an appropriate sanction be for breach of an order for asset seizure?

Custody

17. How can compliance with community sentences be improved?
Prior to receiving a sentence the motivation of an offender to complete an order needs to be assessed as part of the pre-sentence report process. Utilising an IOM approach with a co-ordinated effort will also assist in maintaining compliance. Each order should also contain a fair balance between punishment and support with incentives built in to acknowledge compliance.
18. Would a fixed penalty-type scheme for dealing with failure to comply with the requirements of a community order be likely to promote greater compliance?
Not sure how this will be enforced and administered therefore it is likely that the scheme would not be effective.
19. Would a fixed-penalty type scheme for dealing with failure to comply with the requirements of a community order be appropriate for administration by offender managers?
It is felt that offender managers would not have the capacity and necessary resources to administer a scheme of this nature.
20. What practical issues do we need to consider further in respect of a fixed penalty-type scheme for dealing with compliance with community order requirements?
How is the scheme going to be administered? Who will administer the scheme? How will the scheme be enforced?
21. How can pre-sentence report writers be supported to advise courts on the use of fines and other non-community order disposals?
In order to effectively advise the courts on the use of fines pre-sentence report writers would need to have access to a full financial statement of the offender to determine whether an offender has the means to pay and the correct level of fine.
22. How can we better incentivise offenders to give accurate information about their financial circumstances to the courts in a timely manner?
The general view is that it is difficult to identify any incentives to encourage offenders to provide accurate and timely information about their financial circumstances.
23. What are the benefits and risks of pre-sentence RJ?
Pre-sentence RJ could be a more cost effective solution to dealing with the offender/offence; it could also be seen as a more effective way of dealing with young people to avoid criminalisation at an early age. However, there is a risk that RJ is not suitable for all cases and could inflame the situation between the offender and the victim. There is also a risk that the victim does not see pre-sentence RJ as punitive.
24. How can we look to mitigate any risks and maximise any benefits of pre-sentence RJ?
Each potential RJ case would have to be explored in detail to ensure that both the victim and offender are motivated to take charge and to ensure that there are no additional factors or concerns which could

inflame the situation or increase the risk of repeat offending and victimisation.

25. What more can we do to boost a cultural change for RJ?
There is a need to provide a diverse evidence base which shows how effective RJ has been in addressing a range of offences. There also needs to be more evidence in terms of the impact RJ has had on an offenders overall repeat offending and the additional cost benefits of RJ as opposed to other offender management options.
26. How can we ensure that courts are provided with the best possible information about injury, loss or damage in order to support decisions about whether to impose a compensation order?
Report writers would need to ensure that they have clear and detailed victim impact statements which clearly state the financial, emotional and social impact the crime has had on their lives.
27. Would removing a £5,000 cap on a single compensation order in the magistrates' court give the magistrates greater flexibility in cases where significant damage is caused and offenders have the means to pay?
Yes, this may also encourage the increased use of fines in certain cases.
28. How else could our proposals on community sentences help the particular needs of women offenders?
There is a view that the proposals would not help the particular needs of women offenders. The proposals appear to be imposing additional punitive sanctions on a group that according to the view of practitioners is often least likely to get out of trouble.
29. What is the practitioner view of implementing enforced sobriety requirements?
How could this be done? There may be medical implications to consider in some cases and it is difficult at this stage to establish how this could be enforced.
30. Who would compulsory sobriety be appropriate for?
Enforced sobriety would be appropriate for individuals where alcohol is a major contributing factor of their offending, but they are not dependent on alcohol.
31. Are enforced sobriety requirements appropriate for use in domestic violence offenders?
Yes, but again at this stage it is not clear how this could be enforced effectively.
32. What additional provisions might need to be in place to support the delivery of enforced sobriety requirements?
There needs to be a clear testing and monitoring system put in place which is likely to have cost and resource implications.
33. What other areas could be considered to tackle alcohol-related offending by those who misuse alcohol but are not dependent drinkers?

Curfews and exclusion zones could be considered to tackle alcohol-related offending, for example limiting access to town centres at certain peak times and restricting offenders from meeting at 'drinking dens' with their peers.

Effective Probation Services Response

Due to the largely operational nature of the consultation on Probation Services it was felt that the partnership should support the response provided by Durham Tees Valley Probation Trust (DTVPT). DTVPT circulated a detailed response to the consultation addressing the major consultation points. A copy of this is provided at Appendix 1.