



COMMUNITY SENTENCES

REASONS FOR A COMMUNITY SENTENCE

The purpose of a community sentence is to provide a rigorous and effective punishment for an offender whose offence requires more than a financial penalty, but is not so serious as to necessitate imprisonment. A community penalty has three principal elements: -

- a) Restriction of liberty
- b) Reparation
- c) Prevention of re-offending.

In community sentences, the guiding principles are proportionality and suitability. Once the Court has decided that the offence has crossed the community sentence threshold and that a community sentence is justified, the initial factor in defining what requirements to include in a community sentence, should be the seriousness of the offence committed.

The justification for imposing a community sentence in response to persistent petty offending, is the persistence of the offending behaviour, rather than the seriousness of the offences being committed.

Any person aged 16 or over who is convicted of an offence, and who has had at least three earlier convictions since the age of 16 resulting in a fine, may receive a community sentence rather than a fine, simply as a result of being a persistent offender. However the requirements imposed (see below) should ensure that the restriction on liberty is proportionate to the seriousness of the offending.

A community sentences means a sentence which consists of:

- a) A community order or
- b) One or more youth community orders

COMMUNITY ORDER

When a person aged 16 or over is convicted of an offence, the Court may impose on him / her, any one or more of the following requirements.

The Court will consider the effect of one requirement on another, and that they do not place conflicting demands on the offender.

Those requirements can include:

- a) Unpaid work.
- b) Activity.
- c) Programme.

- d) Prohibited activity.
- e) Curfew.
- f) Exclusion.
- g) Residence.
- h) Mental health treatment.
- i) Drug rehabilitation.
- j) Alcohol treatment.
- k) Supervision.
- l) Attendance centre (where the offender is aged under 25)

Where the Court makes a Community Order imposing a curfew requirement or an exclusion requirement, the Court must normally impose an electronic monitoring requirement. In all other cases electronic monitoring is discretionary.

UNPAID WORK REQUIREMENT

The minimum number of hours of unpaid work is 40 hours, and the maximum number is 300 hours.

You will be notified in early course of where and when to present yourself for your first work session. May I impress upon you to keep all appointments promptly, and to polish off the hours as quickly as possible. The Community Punishment Order organizer does not take kindly to absences from work, and will only accept medical excuses for non-attendance. If you are ill, please be sure to have a medical note delivered in advance of your appointment, and make certain that you present yourself for work as soon as you are fit again.

If you do not abide by the rules, the organizer will not hesitate to bring you back before the Court, even if you have almost finished the Order, and ask the Court to give you a harsher sentence for the original offences.

Finally, if it is necessary for you to leave telephone messages for the organizer, always be sure to keep a note of the name of the person with whom you leave the message, and the date and time of your call, so that even if the message goes astray, you can prove that you telephoned.

The order must be completed within 12 months.

ACTIVITY REQUIREMENT

This places you under an obligation to present yourself to a person at a place specified and / or participate in activities on days specified, up to a maximum of 60 days.

PROGRAMME REQUIREMENT

This places you under an obligation to submit to a treatment, rehabilitative or other programme recommended to the court by probation.

There is not time limit for the length of programme.

PROHIBITED ACTIVITY REQUIREMENT

This places you under an obligation to refrain from activities decided by the court, after consultation with probation or the youth offending team.

It may include a requirement that you do not possess, use or carry a firearm.

It is without limit of time.

CURFEW REQUIREMENT

A Curfew Order means that for a period of time specified by the Court (which may be up to a maximum period of six months), you must remain at your home address (or other specified place) for between 2 to 12 hours a day and from one to seven days a week.

If you are under 16 on conviction, the maximum period is three months.

A person is made responsible for monitoring your whereabouts during the curfew period.

The aim of the Order is to restrict your liberty and thus make it harder for you to commit further offences.

A Court should not make a Curfew Order, until it has obtained and considered information about the address to be specified in the Order, and the views of people likely to be affected by your enforced presence there.

A Curfew Order may be imposed in combination with any other Community penalty, but not with a discharge or custody.

EXCLUSION REQUIREMENT

This prohibits you from entering a specified place or area, for a period not exceeding two years.

The court may specify different places for different days.

RESIDENCE REQUIREMENT

This places you under an obligation to live at a specified address.

MENTAL HEALTH TREATMENT REQUIREMENT

This allows the court to specify that you receive in patient or out patient treatment at a specified institution, if your condition is susceptible to treatment, but is not so bad as to require a hospital or guardianship order.

DRUG REHABILITATION REQUIREMENT

This has the aim of preventing you re-offending, by reducing or eliminating your misuse of drugs.

You must submit to treatment and testing for a period of at least 6 months.

If it is for more than 12 months, then the court also provides for periodic reviews at intervals of not less than one month. These hearings will be at Court and you must attend the review **unrepresented**.

Your suitability for such an Order may need to be assessed, as to:

- a) your motivation for successfully co-operating.
- b) that a place on a scheme is available as an in-patient or an out-patient.
- c) details of the proposed plan of treatment.
- d) details of the testing and reviews.

The Court will need to be satisfied at the end of the assessment period that you are susceptible to treatment and that you are dependent on drugs or have a propensity to misuse drugs .

ALCOHOL TREATMENT REQUIREMENT

This effectively is identical to the Drug Treatment requirement above, but instead addressing the problem of alcohol abuse.

SUPERVISION REQUIREMENT

This order is made if the Court is of the opinion that supervision of an offender by a probation officer is desirable in the interests of securing the rehabilitation of the offender or protecting the public from harm from the offender, or preventing the commission of further offences by the offender.

The order can be from 6 months to 3 years.

ATTENDANCE CENTRE REQUIREMENT

The court may order a defendant who is under the age of 21 to attend an attendance centre for a specified number of hours.

The minimum is 12 hours and the maximum is 36.

The power to make the order arises

- if the offender faces an offence punishable with imprisonment
- if the defendant appears before the court for failure to comply with a community rehabilitation order
- if the defendant faces committal to prison for failure to comply with an order of the court / failure to pay any sum of money

Times of attendance must try and avoid work or school hours, and is limited to a 3 hour session each time.

BANDS OF COMMUNITY SENTENCE

There are 3 sentencing ranges (low, medium and high) within the community sentence band based upon seriousness.

Low

An assessment of "low" is made for offences only just crossing the community sentence threshold, such as persistent petty offending, some public order offences, some thefts from shops or interference with a motor vehicle where the seriousness of the offence or the nature of the offenders record means that a discharge or fine is inappropriate. Suitable requirements might include:

- a) 40-80 hours of unpaid work, or
- b) A curfew requirement of up to 12 hours per day for a few weeks, or
- c) An exclusion requirement where appropriate, or
- d) A prohibited activity requirement where appropriate, or
- e) An attendance centre requirement where available.

Medium

This covers offences that obviously fall within the community sentence ban such as handling stolen goods less than £1,000 acquired for resale or somewhat more value goods acquired for the handler's

own use, some cases of burglary in commercial premises, some cases of taking a motor vehicle without consent or some cases of obtaining property by deception. Suitable requirements might include:

- a) 80-150 hours of unpaid work, or
- b) An activity requirement in the middle range (20-30 days), or
- c) A curfew requirement within the middle range (up to 12 hours for 2 –3 months), or
- d) An exclusion requirement lasting in the region of 6 months, or
- e) A prohibited activity requirement.

High

For offences that fall only just below the custody threshold or where the custody threshold is crossed but a community sentence is more appropriate in all the circumstances, more intensive sentences which combined 2 or more requirements may be appropriate at this level. Suitable requirements might include:

- a) An unpaid work order of between 150-300 hours, or
- b) An activity requirement up to the maximum of 60 days, or
- c) An exclusion order lasting in the region of 12 months, or
- d) A curfew requirement of up to 12 hours a day for 4 to 6 months.

At the same time of passing sentence, the Court should make clear whether or not credit for time on remand has been given and should explain its reasons for not giving credit when it considers that either this is not justified, would not be practical or would not be in the best interest of the offender.

Where an offender fails without reasonable excuse to comply with one or more requirements “the responsible officer” can either give a warning or initiate breach proceedings. Where the offender fails to comply without reasonable excuse for the second time within a 12 month period, this responsible officer must initiate proceedings. In such breach proceedings the Court must either increase the severity of the existing sentence or revoke the existing sentence and proceed as though sentencing for the original offence.

In circumstances where an offender has wilfully and persistently failed to comply with an order made in respect of an offence that is not itself punishable by imprisonment, the Court can nonetheless impose a maximum of 51 weeks custody.

It is generally good practice for the Court to require a pre-sentence report or fast delivery report when considering whether to impose a community sentence.

DEFERRED SENTENCE

A deferred sentence is designed to enable the Court to review the conduct of a defendant before passing sentence, having first prescribed certain requirements. It is meant to provide several opportunities for you to have some influence as to the sentence passed.

- a) It tests the commitment of an offender not to reoffend.
- b) It gives the offender an opportunity to do something where progress can be shown within a short period.
- c) It provides the offender with an opportunity to behave or refrain from behaving in a particular way that will be taken into account on sentence.

The decision to defer sentence is normally reserved for cases on the custody threshold or on the community sentence threshold where the Court believes there would be particular value in giving you the chance to prove yourself.

If you comply, then a lesser sentence will be justified at the end of the deferment period. This could be a community sentence instead of a custodial sentence, or a fine or discharge instead of a community sentence.

The Court may impose any conditions during the period of deferment that it considers appropriate.

A single deferment of up to 6 months is permitted, but only if the court believes there is likely to be an important change in your circumstances or future conduct relevant to the sentencing decision, and it would be in the interests of justice to do so.

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