



Ministry
of Justice

Community Orders with punitive requirements

Results from the Offender Management
Community Cohort Study

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Get the Data and NatCen Social Research**

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1. Summary

This report is one of a series summarising the findings from the Ministry of Justice (MoJ) Offender Management Community Cohort Study (OMCCS), a longitudinal cohort study of offenders, aged 18 and over, who started Community Orders between October 2009 and December 2010. The report describes which offenders received punitive¹ requirements as part of a Community Order, the nature of these punitive elements, offenders' views of their sentences and the level of compliance and breach with these Community Orders. A report which describes the characteristics of the whole cohort of offenders on Community Orders, their sentences, their needs and sentence plans, and which includes details of the methodology for the OMCCS, is available on GOV.UK (Cattell *et al*, 2013).

The OMCCS uses three sources of data: a longitudinal survey of a representative sample of 2,919 offenders starting Community Orders between October 2009 and December 2010, central administrative records for all offenders starting a Community Order in this time (144,407 offenders) and local administrative records from 10 Probation Trusts over the same period (covering 48,943 offenders).

In the context of changes to make Community Orders more demanding, this report draws upon the evidence in the OMCCS to provide information on the operation of punitive elements of Community Orders in recent years.

The central administrative data showed that:

- Nearly two-thirds of Community Orders (64 per cent) contained a punitive element.
- Unpaid work was the most common punitive requirement (found in 55 per cent of sentences) followed by curfews (found in 12 per cent of sentences).
- Nearly three-fifths (59 per cent) of offenders had a single punitive requirement, with just four per cent of having two or more punitive requirements.
- The use of unpaid work as a requirement decreased as the risk of reoffending increased.
- Unpaid work was more common in the sentences of men, younger offenders and those offenders without problematic drug use needs.

¹ For the purposes of this report 'punitive' elements includes unpaid work, curfews and requirements aimed to be a direct restriction of activity, i.e. prohibited activities and exclusions from specified locations.

- Curfews were used more evenly across risk of reoffending levels. Curfews were most common among younger age groups and there was little difference in their use between men and women.

The survey found that:

- Offenders with an unpaid work requirement typically did the equivalent of about one day of work per week.
- Almost half of offenders 47 per cent said that their unpaid work was 'very' or 'quite' demanding; whilst 21 per cent said it was 'not at all' demanding.
- Offenders with a curfew tended to have that curfew applied overnight.
- Forty-five per cent of offenders said they found it 'very' or 'quite' difficult to fit their curfew around existing commitments, although 19 per cent said it was 'very easy'.

If offenders do not comply with the requirements of their Community Order it can have significant resource implications. Offenders were asked about their compliance with their Community Order in the OMCCS survey:

- Nearly three-quarters of those who undertook unpaid work reported that they missed at least a day of it, and 42 per cent of these offenders reported that they went through breach proceedings as a result of this.
- Compliance (measured using offender reported warnings or breaches) with unpaid work was better where offenders felt they had been listened to by their Offender Manager when the work was set up for them, and where they felt the work was not demanding. Compliance was also better amongst older offenders, offenders without an accommodation need, and those with children. There were differences between Probation Trusts which may be due to local practice.
- Having unpaid work or a curfew was associated with an increased likelihood of the offender reporting that they had breached their Community Order, even after controlling for factors such as pre-existing risk of reoffending, other elements in the sentence and lifestyle characteristics, such as problems with drug use.
- Younger offenders, offenders at higher risk of reoffending, and those with accommodation needs were more likely to report that they had breached their Community Order. Offenders were less likely to report that they had breached if they said they had an 'excellent' relationship with their Offender Manager.

The research suggests that there are particular groups of offenders with a greater likelihood of breaching the punitive requirements in Community Orders, but that if Offender Managers discuss individual needs with offenders this may help to address breach and non-compliance. However, this analysis only covered those offenders who received a punitive requirement in their sentence and it is not known how far findings could be generalised to different groups of offenders. In addition, much of the analysis in this report excluded Tier 1 offenders as they were excluded from the OMCCS survey as they have minimal levels of interventions in their sentence.² However, a large proportion of this group would be affected by any changes to Community Orders.

² A system of 'tiering' of offenders is used to identify levels of resource to be directed towards offenders, Offenders are assigned to one of four 'tiers' during their management by the National Offender Management Service; Tier 1 is the lowest level.

2. Introduction

This report is one of a series summarising the findings from the Ministry of Justice (MoJ) Offender Management Community Cohort Study (OMCCS), a longitudinal cohort study of offenders aged 18 and over who started Community Orders between October 2009 and December 2010. The report describes which offenders receive punitive requirements as part of a Community Order, the nature of these requirements, offenders' views of their sentences, and the level of compliance and breach in Community Orders containing these requirements.

2.1 Background

Community Orders are non-custodial sentences which impose requirements on offenders. Judges and magistrates can choose from a menu of requirements³ to tailor each Community Order to the individual offender. Sentencing decisions are guided by the five purposes of sentencing, set out in the Criminal Justice Act 2003:

- the punishment of offenders;
- the reduction of crime (including its reduction by deterrence);
- the reform and rehabilitation of offenders;
- the protection of the public; and
- the making of reparation by offenders to persons affected by their offence.

A MoJ report found that, for equivalent groups of offenders, reoffending rates for those serving Community Orders were lower than for those serving short-term custodial sentences (MoJ, 2011).

The Government has encouraged the use of Community Orders, while also calling for more to be done to increase their effectiveness and credibility (MoJ, 2012a). Recently the Legal Aid, Sentencing and Punishment of Offenders Act 2012 increased the maximum length of a curfew to 16 hours a day and the maximum duration to 12 months. Operational changes are making some Community Order requirements more demanding, for example by requiring unemployed offenders to complete more hours of unpaid work each week. The MoJ consultation 'Punishment and Reform: Effective Community Sentences' proposed that every Community Order should include an element designed to fulfil the purpose of punishment

³ At the time the OMCCS was carried out there were 12 requirements. This has been increased to 13 under the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, with the introduction of a foreign travel prohibition requirement, which was commenced on 3 December 2012. Requirements that have been added to statute but not yet commenced are: the electronic location monitoring requirement (Crime and Courts Act 2012) and the alcohol abstinence and monitoring requirement (LASPO Act 2012).

(MoJ, 2012b). Provisions to give legislative effect to this proposal are contained in the Crime and Courts Act.

In this context, it is important to understand what influence certain types of Community Orders might have on key outcomes, such as compliance with sentences, and what other factors might influence these outcomes.

Recent research (Bewley, 2012) found there was evidence that adding certain punitive elements (a curfew or unpaid work) to Community Orders would not have a detrimental effect on the reoffending rate. Furthermore, in some combinations it may reduce the number of reoffences committed by those subject to a Community Order. This research also indicated that it is important to ensure that these punitive requirements are used in combination with others, such as supervision and programme requirements, to enhance their effectiveness.

2.2 Aims

This report aims to describe the recent operation of certain punitive elements of Community Orders and explores some of the outcomes of these sentences. The requirements considered in this report include unpaid work, curfews and elements aimed to be a direct restriction of activity, namely prohibited activities and exclusions from specified locations.

This report refers to these requirements as 'punitive elements' or 'punitive requirements'. This is not to imply that other Community Order requirements do not have a punitive impact on offenders. Requirements such as treatment for drug, alcohol and mental health issues; accredited programmes and Attendance Centres aimed at addressing offending behaviour; and specified activities that include education and skills courses can be very demanding for individual offenders and may be punitive to some. Equally, it is possible that the elements considered in this report may affect offenders in ways that go beyond punishment, for instance in providing skills or disrupting risky or harmful social groups and behaviours.

2.3 Approach

The OMCCS follows a cohort of offenders who started Community Orders between October 2009 and December 2010 in England and Wales. The study provides insight into the application and outcomes of Community Orders and looks at how Community Orders operate and their effectiveness.

The study uses three sources of data:

- A longitudinal survey of a representative sample of 2,919 offenders classified as Tier 2 to 4,⁴ drawn from 10 Probation Trusts. The survey provides information on offenders' perceptions and experiences of Community Orders, their backgrounds, attitudes and needs, and how these change over time. Tier 1 offenders, those with the lightest contact with the National Offender Management Service, were excluded from the survey.
- Central administrative records for all offenders, including Tier 1, starting a Community Order during the period (144,407 offenders) describing the sentence received, offences and the risks and needs of offenders as assessed by practitioners. These records include: FORM20 data detailing Community Order commencements and terminations; Offender Assessment System (OASys) data, containing details of the needs and risks that offenders present with; and Interim Accredited Programmes System (IAPS) data on offenders' attendance on accredited programmes.
- Local administrative records from the 10 Probation Trusts selected for the survey (covering 48,943 offenders) which describe how offender management operates and how offenders complete or breach their sentences.

Individual offenders' records have been linked across these three sources to form a 'Universal Dataset'. Further details of the methodology are published in the report *Results from the Offender Management Community Cohort Study (OMCCS): Assessment and sentence planning* on GOV.UK (Cattell *et al*, 2013).

⁴ Offenders are assigned to one of four 'tiers' during their management by the National Offender Management Service, based on a number of factors including their risk of reoffending, with the aim of directing appropriate resource towards them. Tier 1 is the lowest level, where the aim is largely punishment, whilst substantial management is required of Tier 4 offenders with the aim of controlling risk.

The analysis in this report uses data from all three sources and focuses on the operation of punitive elements of Community Orders for offenders who started Community Orders between October 2009 and December 2010. Analysis of the survey data presented in this report is based on 1,640 offenders who responded to both the first interview and a subsequent interview.⁵ Differences discussed in the report have been tested for statistical significance at the 95 per cent level.

A limitation of the OMCCS data in investigating punitive elements of Community Orders is that the survey element of the study excludes Tier 1 offenders, who account for 39 per cent of those on Community Orders. A large proportion of this group may be specifically affected by MoJ proposals to attach punitive elements to all Community Orders or to increase the severity of punitive requirements. For example, 90 per cent of Tier 1 offenders receive an unpaid work requirement (see Cattell *et al*, 2013). The results presented here can only provide an indication of the operation of punitive elements of Community Orders for the cohort of offenders in the OMCCS.

⁵ The first, baseline, survey was followed up by a second and third wave of face-to-face interviews with offenders at points around the middle and after the end of their Community Order. Not all offenders who responded to the first survey took part in subsequent surveys. Attrition of this kind is common in longitudinal surveys; however, this may impact on how representative the later survey samples are compared to the original sample and the general population of offenders on Community Orders during the period. The data were weighted to take account of this.

3. Results

3.1 Who receives punitive requirements?

This section uses central administrative data⁶ which shows that nearly 150,000 Community Orders were issued between October 2009 and December 2010. Around half (52 per cent) of these Community Orders had only one requirement (punitive or otherwise) in the sentence, 34 per cent had two requirements and 14 per cent had three or more.

Numbers of punitive requirements

The majority of Community Orders (64 per cent) included some kind of punitive requirement. Nearly three-fifths (59 per cent) had a single punitive requirement, with just four per cent of all Community Orders in the study having two or more punitive requirements (Table 3.1).

Unpaid work was by far the most frequent punitive requirement, included in over half (55 per cent) of sentences, followed by curfews,⁷ included in 12 per cent of Community Orders. Requirements stipulating prohibited activities or exclusions were much rarer. Most of the following analysis in this report focuses on unpaid work and curfews due to small base sizes for the other requirements, but prohibited activities and exclusions are included where possible.

Table 3.1: Proportion of Community Orders with punitive requirements

| | % |
|--|---------|
| Any punitive requirement | 64 |
| Number of punitive requirements | |
| 0 | 36 |
| 1 | 59 |
| 2 | 4 |
| 3 | 0 |
| Type of requirement¹ | |
| Unpaid work | 55 |
| Curfew | 12 |
| Prohibited activity | 1 |
| Exclusion | 1 |
| Base | 144,407 |

Base: all Community Orders started between October 2009 and December 2010.

Source: Form20 data.

1. Only punitive requirements are presented here; offenders may have had other requirements in their sentence.

⁶ The central administrative data cover Tier 1-4 offenders, whereas the OMCCS survey data exclude Tier 1 offenders.

⁷ Curfew compliance is monitored remotely via an electronic tag.

Who receives unpaid work?

Unpaid work can include a range of tasks such as clearing and cleaning local community spaces, graffiti removal, street clean-ups, environmental projects and improvements to parks and community facilities.

Seventy per cent of Community Orders for motoring offences included unpaid work, compared with 16 per cent of those for sexual offences.⁸ Offenders on 7-12 month sentences were most likely to receive an unpaid work requirement (66 per cent), with the percentage decreasing as sentence length increased. Longer sentences may reflect sentencers' aims to treat or control over the longer term and unpaid work may be seen as less relevant in these cases. The use of unpaid work decreased as the risk of reoffending (as measured by OGRS)⁹ increased (see Table 3.2).

Unpaid work was more common in the sentences of men than women, and for younger offenders than older offenders (Table 3.3). It was also more frequently used with those offenders who had lower levels of need, for instance those without problematic drug use.

Who receives curfews?

Curfews typically require offenders to remain in their homes from the early evening to morning, with compliance monitored remotely via an electronic tag. In addition to punishment, they can also disrupt patterns of offending linked to certain times or locations, and prevent association with peers who may make offending more likely.

The use of curfews was more evenly spread across levels of risk of reoffending (from 11 per cent to 13 per cent) compared with unpaid work. The use of curfews was particularly common among those on short sentences (38 per cent of offenders on a sentence of 1-6 months had a curfew) and like unpaid work the sexual offences group were least likely to receive a curfew (6 per cent) (Table 3.2).

⁸ However, relatively small numbers of offenders had committed sexual offences (n=2,174).

⁹ The Offender Group Reconviction Scale (OGRS) uses static factors, such as age at sentence, gender, offence committed and criminal history to predict the likelihood of proven reoffending within a given time (usually one or two years after starting their Community Order). This report uses the OGRS3 score which predicts proven reoffending within two years.

Table 3.2: Proportion of Community Orders with unpaid work or curfew requirements by offence characteristics

| | Unpaid work % | Curfew % | Base |
|--|------------------|-------------|---------|
| All offenders in cohort¹ | 55 | 12 | 144,378 |
| Offence type | | | |
| Violence against the person | 53 | 12 | 44,420 |
| Theft, burglary, fraud | 52 | 12 | 42,549 |
| Sexual offences | 16 | 6 | 2,174 |
| Drug offences | 53 | 11 | 10,057 |
| Motoring offences | 70 | 9 | 18,721 |
| Other offences | 56 | 14 | 26,457 |
| Sentence length² | | | |
| 1-6 months | 13 | 38 | 14,488 |
| 7-12 months | 66 | 9 | 108,034 |
| 13-18 months | 33 | 10 | 10,985 |
| 19-24 months | 23 | 7 | 8,944 |
| 25-36 months | 8 | 5 | 1,812 |
| Risk of reoffending (OGRS3)³ | | | |
| Low | 64 | 11 | 81,101 |
| Medium | 49 | 11 | 35,931 |
| High | 38 | 13 | 22,073 |
| Very high | 27 | 12 | 5,273 |

Base: all Community Orders started between October 2009 and December 2010.

Source: Form20 data.

1. Some offenders did not have any requirement information listed (n=29).
2. Some offenders with only an unpaid work requirement did not have their sentence length recorded in the FORM20 data (n=134).
3. OGRS3 is a measure of risk of reoffending based on static risk factors, such as offending history, which has been developed for operational use.

Curfews were most common among younger age groups; for example, 17 per cent of 18–20 year olds on Community Orders had a curfew requirement, compared with nine per cent of those aged 50 and over. There appeared to be little difference in their use between men and women (Table 3.3).

Table 3.3: Proportion of Community Orders with unpaid work or curfew requirements in sentence by offender characteristic

| | Unpaid work % | Curfew % | Base |
|--|------------------|-------------|---------|
| All offenders in cohort¹ | 55 | 12 | 144,378 |
| Sex | | | |
| Male | 57 | 12 | 121,072 |
| Female | 44 | 11 | 23,306 |
| Age | | | |
| 18-20 | 67 | 17 | 24,414 |
| 21-24 | 62 | 13 | 26,996 |
| 25-29 | 55 | 11 | 26,015 |
| 30-39 | 48 | 10 | 35,912 |
| 40-49 | 48 | 9 | 22,437 |
| 50+ | 47 | 9 | 8,604 |
| Ethnicity² | | | |
| White | 53 | 12 | 119,662 |
| Black and minority ethnic | 65 | 9 | 20,344 |
| Drug needs³ | | | |
| Yes | 11 | 11 | 254 |
| No | 29 | 10 | 1,385 |

Base: all Community Orders started between October 2009 and December 2010.

Source: Form20 data.

1. Some offenders did not have any requirement information listed (n=29).
2. Some offenders' ethnicity was stated as unknown or was not recorded (n=4,732).
3. Based on survey measures, limited to Tier 2 to 4 offenders.

3.2 The nature of punitive requirements

This section looks at the typical content of punitive requirements and offenders' perception of them. The analysis is based on the longitudinal survey of offenders on Tiers 2 to 4, using data from offenders who responded to both the first and later surveys.¹⁰ As noted above, many of those with unpaid work requirements are Tier 1 offenders, so these findings do not relate to the whole population of offenders doing unpaid work.

¹⁰ Those offenders who were classified as Tier 1 and who therefore had the lightest contact with NOMS were excluded from the survey.

Hours of unpaid work

Looking at the level of unpaid work:

- There was a wide range in the number of hours of unpaid work in sentences, with 41 per cent of offenders reporting being sentenced to less than 100 hours, 43 per cent between 100 and 199 hours, and 16 per cent to 200 hours or more.
- The median number of hours of unpaid work offenders reported in their sentences was 100 hours.¹¹
- There were no statistically significant differences between type of offence and the number of hours in the sentence.
- Nearly two-thirds (64 per cent) of those with an unpaid work requirement were not in paid work.
- Over three-quarters (77 per cent) reported doing the equivalent of a day a week (six to eight hours); four per cent were doing less than 6 hours a week, 12 per cent doing nine to 17 hours, and seven per cent doing 18 hours or more.

Role of Offender Managers in unpaid work

An offender’s relationship with their Offender Manager can underpin the nature and extent of compliance with their Community Order (Ugwudike, 2010). The survey asked offenders about the role of their Offender Manager in listening to offenders’ views on the implementation of the unpaid work requirement. The majority said that the Offender Manager had listened ‘a lot’ when they discussed the type of unpaid work they would be doing (57 per cent), and when deciding the timing of it (64 per cent) (Table 3.4).

Table 3.4: Offenders’ opinions on the extent that Offender Managers listened to their views on the type and timing of unpaid work

| | Offender Manager listened regarding type of work % | Offender Manager listened regarding timing of work % |
|-----------------|--|--|
| A lot | 57 | 64 |
| A little | 16 | 19 |
| Not at all | 27 | 16 |
| Total | 100 | 100 |
| Unweighted base | 434 | 434 |

Base: all survey respondents starting unpaid work during the survey, Tier 2 to 4 offenders.

Source: survey data.

Hours and length of curfew

For those offenders in the survey cohort with a curfew:

- The median number of hours per day that a curfew applied was 12 hours (overnight).
- Curfews were applied for a median of three months.

3.3 Offenders' views of their sentences

Looking at the views of all offenders in the survey, the majority (83 per cent) thought that a prison sentence would have been harsher than the Community Order. Thirteen per cent disagreed; that is, they felt that a Community Order was a harsher sentence.

Responses to this question may have been affected by considerations such as what sentence the offender thought they might have received instead of a Community Order, or how long they thought they might have spent in prison had they been given custodial sentences. Past experience of prison appeared to have been a factor; those who had been to prison were somewhat less likely to think a prison term would have been harsher than the Community Order, with 77 per cent of those with prison experience agreeing or strongly agreeing compared to 87 per cent who had no prison experience (Table 3.5).

There was some variation by different offender and offence characteristics; however, the majority of offenders felt that a prison sentence would have been a harsher sentence. Having unpaid work or curfew requirements was not associated with a statistically significant difference in views on whether prison would have been harsher than the Community Order.

¹¹ The mean was 113 hours and the standard deviation was 63 hours; the distribution of hours of unpaid work was skewed, therefore the median is a more appropriate measure.

Table 3.5: Offenders' opinions of whether a prison sentence would have been harsher than the Community Order

| | Prison experience % | No prison experience % | Total % |
|---------------------------------------|------------------------|---------------------------|------------|
| Prison would have been harsher | | | |
| Strongly agree | 37 | 49 | 44 |
| Agree | 40 | 38 | 39 |
| Neither agree nor disagree | 7 | 4 | 5 |
| Disagree | 14 | 7 | 10 |
| Strongly disagree | 2 | 3 | 3 |
| Total | 100 | 100 | 100 |
| Unweighted base | 1,052 | 588 | 1,640 |

Base: all survey respondents, Tier 2 to 4 offenders.

Source: survey data.

Offenders' views of unpaid work

Offenders' opinions were divided on whether or not unpaid work was demanding, with 47 per cent saying it was 'very' or 'quite' demanding and 53 per cent saying it was 'not very' or 'not at all' demanding. Only eight per cent regarded the work they did as 'very' demanding, whilst 21 per cent said it was 'not at all' demanding.

Whether or not unpaid work is perceived as demanding may depend on the context for individuals in terms of their needs and other commitments. However, no statistically significant differences were found in offenders' views by whether or not they: were in paid work; had children at home; had drug use problems; or had mental health conditions.

Offenders' views of curfews

Offenders' opinions were also split as to whether they found it easy to fit their curfew around existing commitments; the majority (55 per cent) said it was 'very' or 'quite' easy, but a large minority (45 per cent) found it 'very' or 'quite' difficult (19 per cent said 'very easy' and 17 per cent said 'very difficult').

There was little difference in views between those offenders who had children and those who did not, or between those who were in paid work and those who were not. Having drug problems or mental health conditions also made little difference.

Effect on offender motivation to desist

Unlike requirements such as substance misuse programmes, unpaid work in particular does not primarily have rehabilitative aims or mechanisms consistent with a ‘good lives’ approach where offenders take responsibility for making changes to their behaviour (for example, see Maruna, 2001). However, it can have rehabilitative aspects (for example, through reparation, building routines, improving skills, building confidence, disrupting unhelpful social groups and behaviours) and can also act as a deterrent. The survey asked offenders, for each of the requirements that they had started, whether they felt it made them less likely to commit crime.

Table 3.6 shows the level of agreement relating to unpaid work and curfews, compared to drug treatment and general offending programmes:

- Nearly two-thirds (64 per cent) of offenders agreed that the unpaid work made them less likely to commit crime, but around one in five (19 per cent) disagreed.
- Similarly, just over two-thirds (69 per cent) agreed that their curfews made them less likely to commit crime, with just over one in five (22 per cent) disagreeing.
- A majority (84 per cent) of those with drug treatment requirements thought that these made them less likely to commit crime, with seven per cent disagreeing.
- The proportions for the general reoffending accredited programme were closer to unpaid work and curfews.

Table 3.6: Offenders’ opinion of whether the requirements made them less likely to commit crime

| | Unpaid work % | Curfew % | Drug treatment % | General reoffending accredited programme ¹ % |
|--|------------------|-------------|---------------------|---|
| The [requirement] made me less likely to commit crime | | | | |
| Strongly agree | 24 | 26 | 31 | 25 |
| Agree | 40 | 43 | 53 | 43 |
| Neither agree nor disagree | 16 | 9 | 9 | 17 |
| Disagree | 14 | 17 | 6 | 8 |
| Strongly disagree | 5 | 5 | 1 | 7 |
| Unweighted base | 434 | 238 | 299 | 192 |

Bases: all survey respondents starting the specified requirement during the survey, Tier 2 to 4 offenders.

Source: survey data.

1. In particular, accredited programmes aimed at general reoffending include those aimed at addressing thinking skills.

3.4 Punitive requirements and breach

This section looks at compliance with the punitive elements of sentences, and their effect on levels of breach using local administrative data and survey data.

At the time of writing seven of the 10 Probation Trusts had provided complete administrative data on breach for the study. Trusts use different recording practices and definitions of breach. The study is exploring these differences and validating results with each data provider; therefore the findings presented here are provisional and indicative and likely to change as the study develops its methodology.¹² There may be biases in the data and these data are not representative of all Probation Trusts.

Extent of breach

When an offender does not comply with their sentence requirements, he or she is said to have breached. If an offender unreasonably fails to comply with the requirements of a Community Order, the responsible officer (usually the Offender Manager) must either issue a written warning or return the offender to court. Only one warning may be issued within a 12 month period; any second unreasonable failure to comply within 12 months must result in a return to court. The court can then either revoke the current order and resentence the offender, or modify the current order by extending requirements or adding additional requirements. Since 2012 the court has also had the option to impose a fine. The court can also find the breach not proven, or the Probation Trust can withdraw a breach proceeding before a court outcome.

The administrative data from the seven Probation Trusts that provided data on breaches showed that 23 per cent of offenders breached within 12 months of their sentence starting.¹³ Offenders with higher numbers of requirements in their sentence were more likely to breach than those with fewer requirements (Table 3.7) and were more likely to breach at an earlier point than those with fewer requirements (Table 3.8). To understand the relationship between breach of and the number of requirements in more detail, logistic regression analysis was conducted to explore what factors were independently associated with offender reported compliance with unpaid work (see page 18).

¹² The analysis included only those Probation Trusts where 12 months of breach data had been collected at the time of report (base=18,939). There were 1,257 offenders with just a curfew that commenced and terminated on the same day. This was thought to be a recording practice to identify offenders who were not managed by the Probation Trust after sentencing; the Probation Trusts in the study did not hold breach information on these offenders, and so they were excluded from the analyses, leaving 17,682 in the sample.

¹³ This includes those with modified orders and new sentences.

Table 3.7: Percentage of offenders who breach their Community Order by number of requirements

| | Offenders % | Base ¹ |
|-------------------------------|----------------|-------------------|
| Number of requirements | | |
| 1 | 18 | 9,262 |
| 2 | 25 | 6,224 |
| 3 | 36 | 1,917 |
| 4 or more | 48 | 276 |
| All offenders | 23 | 17,679 |

Base: all offenders starting Community Orders between October 2009 and December 2010 in seven Probation Trusts.

Source: local administrative data and FORM20 data.

1. Offenders with just a curfew that commenced and terminated on the same day were excluded as these offenders were not were not managed by the Probation Trusts after sentencing; therefore the Probation Trusts did not hold breach information on these offenders.

Table 3.8: Number of days to first breach of the Community Order by number of requirements

| | Mean no. of days ¹⁴ | Base ¹ |
|-------------------------------|--------------------------------|-------------------|
| Number of requirements | | |
| 1 | 128 | 1,633 |
| 2 | 123 | 1,586 |
| 3 | 109 | 693 |
| 4 or more | 88 | 133 |
| All offenders | 122 | 4,045 |

Base: all offenders starting Community Orders between October 2009 and December 2010 in seven Probation Trusts.

Source: local administrative data and FORM20 data.

1. Offenders with just a curfew that commenced and terminated on the same day were excluded as these offenders were not were not managed by the Probation Trusts after sentencing; therefore the Probation Trusts did not hold breach information on these offenders.

Compliance with punitive elements

Breaches have significant resource implications for the Criminal Justice System. To examine if there were particular circumstances that improved offenders' compliance with the requirements of their Community Order offenders were asked about compliance with specific requirements in the OMCCS survey.

¹⁴ The median number of days to first breach for all offenders was 100 days.

Compliance with unpaid work

Nearly three-quarters (72 per cent) of those who undertook unpaid work reported in the survey that they missed at least a day of it. Of those who missed any work, almost two-thirds (65 per cent) missed just one or two days, 24 per cent missed 'a few' days and 11 per cent missed more than this.

Some of this may have been justified, such as absence through illness. However, a substantial proportion of it was likely not to have been justified, as suggested by the percentage of offenders that were subject to breach proceedings as a result; of all of those doing unpaid work 30 per cent reported that they were subject to breach proceedings as a result of missing work.

Of those offenders who missed at least one day of their unpaid work, 42 per cent reported that they had breach proceedings as a result of this (Table 3.9). There was a clear relationship between the number of days missed and breach proceedings. Just over a third (35 per cent) of those who missed one or two days faced action, compared to just over a half (53 per cent) of those who missed a few days.

Table 3.9: Percentage of offenders where breach action occurred by days of unpaid work missed

| | Days of unpaid work missed | | | Total % |
|----------------------------|----------------------------|--------------|-----------------------|------------|
| | 'One or two' % | 'A few' % | 'More than this' % | |
| Breach action taken | | | | |
| Yes | 35 | 53 | 59 | 42 |
| No | 65 | 47 | 41 | 58 |
| Total | 100 | 100 | 100 | 100 |
| Unweighted base | 186 | 71 | 35 | 292 |

Base: all survey respondents starting unpaid work during the survey who missed a day or more, Tier 2 to 4 offenders.

Source: survey data.

Logistic regression analysis was carried out to explore which factors were independently associated with compliance with unpaid work, measured using offender reported receipt of any warnings or breaches during their unpaid work. This analysis controlled for the influence of other factors on compliance; these included type of offence, drug and accommodation needs and number of requirements (see Appendix Table A.1).

This found:

- Compliance was improved where offenders thought their Offender Manager listened to them 'a lot' compared with 'a little' in deciding the type of unpaid work.
- Compliance was better where the offender felt the unpaid work was 'not demanding at all' compared with those who said it was 'very' demanding.
- Compliance was better amongst older offenders, offenders without an accommodation need, and those with children.
- There were differences between Probation Trusts; this may be due to differences in local practice.
- There was no evidence of a link between better compliance and sentences with fewer hours of unpaid work in the sentence or lower numbers of hours per week. However, the implications of this finding are limited, as there was minimal diversity in the number of hours of unpaid work each week, with the vast majority of the cohort working between six and eight hours.

There may be further factors that are associated with compliance with unpaid work that were not included in this analysis or the OMCCS survey. More information on the methodology used and the variables included in the logistic regression model is included in the Appendix (Table A.1).

Compliance with curfews

The majority of offenders (86 per cent) stated that they always followed the rules of their curfew, while 14 per cent did not. Due to small numbers in this group it is not possible to look in further detail at non-compliance among this group.

Are Community Orders containing punitive requirements more likely to be breached?

This section explores the association between punitive elements of Community Orders and breach. A measure of breach was developed, based on the survey, where the offender reported either:

- the Community Order having been ended by the court following breach proceedings; or
- having been taken to court for a breach of the Community Order but it had continued.¹⁵

In total, by the time of their last survey interview, 20 per cent of offenders said that they had breached their Community Order:

- 3 per cent said that the Community Order had been ended by the court following breach proceedings; and
- 16 per cent said that they had been taken to court for breaching the Community Order but it had continued.¹⁶

Table 3.10 shows the percentage of offenders who reported that they had breached by the type of Community Orders requirements they started. It shows that offenders were more likely to report that they had breached if they had one of the following requirements: unpaid work; curfew; or treatment. The association was not statistically significant in the case of prohibited activities, exclusion or accredited programmes.

¹⁵ For example, the Community Order may have been modified, with requirements extended or additional requirements added.

¹⁶ Figures do not sum to the overall figure (20 per cent) due to rounding.

Table 3.10: Percentage of offenders who reported a breach by type of requirement

| | Offender reported breach % | Unweighted base |
|--|----------------------------------|-----------------|
| Hours of unpaid work per week¹ | | |
| None | 16 | 1,206 |
| Low level | 33 | 168 |
| Higher level | 26 | 266 |
| Curfew | | |
| Yes | 35 | 238 |
| No | 17 | 1,402 |
| Prohibited activity | | |
| Yes | 24 | 115 |
| No | 20 | 1,525 |
| Exclusion | | |
| Yes | 26 | 223 |
| No | 19 | 1,417 |
| Treatment | | |
| Yes | 22 | 591 |
| No | 18 | 1,049 |
| Accredited programme | | |
| Yes | 24 | 385 |
| No | 19 | 1,254 |
| Total | 20 | 1,640 |

Base: all survey respondents, Tier 2 to 4 offenders.

Source: survey data.

1. Low level defined as 'less than 8 hours per week over 1-4 months', higher level defined as '8 or more hours per week or any number of hours a week for 5 months or more'.

However, the findings in Table 3.10 do not account for the fact that Community Orders are tailored by magistrates and judges to the circumstances of the offence and the offender. Logistic regression analysis was carried out to explore which factors were independently associated with offender reported breach. This analysis controlled for the influence of other factors, such as type of offence, drug and accommodation needs, and risk of reoffending (OGRS3), on compliance (see Appendix Table A.2).

This found that:

- Having unpaid work or a curfew in the sentence increased the likelihood of offenders reporting that they had breached their Community Order after other factors were controlled for.
- There were differences between Probation Trusts; this may be due to differences in local practice.
- Offenders who were at increased risk of reoffending (as measured by OGRS) were more likely to report that they had breached.
- As offender age increased the chance of them reporting that they had breached decreased.
- Offenders who said they had an 'OK' or 'bad' relationship with their Offender Manager were more likely to report a breach, compared with those with an 'excellent' relationship. However, offenders' views of their relationship may be affected by the fact that their Offender Managers had breached them for non-compliance with their sentences.
- Offenders who had more problematic attitudes to crime¹⁷ were more likely to report a breach.
- Those offenders with accommodation needs were more likely to report that they had breached.
- Being involved in requirements aimed at treatment, for instance for drug use, were no longer associated with increased likelihood of offenders reporting that they had breached, once factors indicating drug use and other needs were controlled for.
- Similarly, the number of meetings required with the Offender Manager was not significant when other factors were controlled for.

There may be further factors that are associated with offender reported breach that were not included in this analysis or the OMCCS survey. More information on the methodology used and the variables included in the logistic regression model is included in the Appendix (Table A.2).

¹⁷ Measured using CRIME-PICS II, a questionnaire that examines offenders' attitudes to crime and offending using responses to attitudinal statements such as 'Crime has now become a way of life to me'. Offenders 'general attitudes' were scored on a scale of 0-9, with attitudes assessed as being more problematic as the score increased.

4. Conclusion

This study found that most Community Orders contained a punitive element, with unpaid work being by far the most common punitive requirement. Around half of sentences had one requirement of any type and few had more than one specifically punitive requirement.

The findings suggest that unpaid work was given to particular types of offender and type of offence; it was particularly common among those who were at a low risk of reoffending. Most Tier 2 to 4 offenders with an unpaid work requirement did the equivalent of about one day of unpaid work per week (the majority were not in paid work). Differences in the total number of hours in the sentence among those doing unpaid work were not significantly associated with compliance.

Nevertheless, having a curfew or an unpaid work requirement in the sentence made it more likely that the offender reported that they had breached their Community Order, controlling for factors including the risk of reoffending. This was not the case for treatment programme requirements.

Looking at unpaid work, as the most common punitive requirement, the findings in this report suggest that outcomes such as breaches and non-compliance with Community Orders could be reduced, to some extent, if Offender Managers discuss individual needs with offenders when deciding the arrangements of unpaid work.

However, this analysis only covered those offenders who received a punitive requirement in their sentence and it is not known how far findings could be generalised to different groups of offenders. Very different patterns of breach might be seen if punitive requirements were given to all offenders on Community Orders. In addition, much of the analysis in this report excluded Tier 1 offenders; a large proportion of this group would be affected by any changes to Community Orders.

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Appendix: Methodology

All analysis of the OMCCS survey data was conducted using weighted data. Unweighted bases (the number of respondents who answered each question) are shown in the tables. Numbers of missing cases are not provided in tables except where the numbers are large enough to affect the interpretation of the analysis.

Survey findings are subject to a margin of error. Findings from the OMCCS survey were statistically tested; all differences included in the text are statistically significant at the 5 per cent level unless stated otherwise.

Percentages in tables may not sum to 100 per cent due to rounding.

Two logistic regression analyses were carried out to identify factors that were independently associated with:

- compliance with unpaid work; and
- offender reported breach.

This was to examine which factors had an independent relationship with the dependent variable of interest, taking into account the effect of the other variables in the regression.

Table A.1: Logistic regression of compliance with unpaid work (no breaches or warnings)

| Variable | Category | Odds ratio | Significance | Confidence interval | |
|--|--------------------------------------|----------------------------------|--------------|---------------------|--------|
| | | | | Lower | Upper |
| Hours per week of unpaid work | 18+ (reference) | | 0.739 | | |
| | 1 to 5 | 0.707 | 0.679 | 0.137 | 3.650 |
| | 6 to 8 | 0.571 | 0.287 | 0.203 | 1.603 |
| | 9 to 17 | 0.675 | 0.531 | 0.198 | 2.305 |
| Offender Manager listened when deciding type of work | A lot (reference) | | 0.018 | | |
| | A little | 0.392 | 0.006* | 0.200 | 0.768 |
| | Not at all | 0.614 | 0.112 | 0.336 | 1.120 |
| | How demanding was the work | Not at all demanding (reference) | | 0.089 | |
| | Very demanding | 0.323 | 0.033* | 0.114 | 0.913 |
| | Quite demanding | 0.545 | 0.101 | 0.263 | 1.127 |
| | Not very demanding | 0.848 | 0.665 | 0.402 | 1.790 |
| Curfew | Yes | 0.616 | 0.171 | 0.308 | 1.233 |
| Prohibited activity | Yes | 4.289 | 0.054 | 0.977 | 18.830 |
| Accredited programme | Yes | 0.935 | 0.840 | 0.487 | 1.795 |
| Age | Age (entered as continuous variable) | 1.052 | 0.001* | 1.021 | 1.084 |
| Gender | Female | 1.458 | 0.331 | 0.682 | 3.115 |
| Probation Trust | 1 (reference) | | 0.071 | | |
| | 2 | 0.472 | 0.266 | 0.126 | 1.773 |
| | 3 | 0.235 | 0.015* | 0.073 | 0.756 |
| | 4 | 0.493 | 0.250 | 0.148 | 1.643 |
| | 5 | 0.215 | 0.008* | 0.069 | 0.667 |
| | 6 | 0.691 | 0.554 | 0.204 | 2.346 |
| | 7 | 0.276 | 0.066 | 0.070 | 1.087 |
| | 8 | 0.814 | 0.752 | 0.228 | 2.912 |
| | 9 | 0.489 | 0.249 | 0.145 | 1.651 |
| | 10 | 0.294 | 0.070 | 0.078 | 1.108 |
| | Accommodation needs | Yes | 0.489 | 0.014* | 0.275 |
| Offender has children | Yes | 2.137 | 0.031* | 1.073 | 4.258 |
| Hours in sentence | 200+ hours (reference) | | 0.855 | | |
| | Less than 40 hours | 1.376 | 0.640 | 0.362 | 5.231 |
| | 40-59 | 0.627 | 0.385 | 0.218 | 1.800 |
| | 60-79 | 1.004 | 0.995 | 0.341 | 2.957 |
| | 80-99 | 1.328 | 0.562 | 0.509 | 3.469 |
| | 100-119 | 1.378 | 0.484 | 0.561 | 3.388 |
| | 120-149 | 1.308 | 0.598 | 0.482 | 3.548 |
| | 150-199 hours | 1.089 | 0.853 | 0.440 | 2.695 |
| Constant | | 4.214 | 0.109 | | |

Base: all survey respondents starting unpaid work during the survey, Tier 2 to 4 offenders (n=412).

Source: survey data.

SPSS logistic regression using enter method following backward stepwise to assess effect of wider group of variables. The table is presented the order in which the variables were entered into the model.

Dependent variable: no warnings or breaches during unpaid work.

Odds ratios of greater than one indicate relatively higher odds of complying with unpaid work than the reference category in that variable; less than one indicate relatively lower odds.

A significance level of 0.05 was used, indicating a statistically significant impact of that variable on the dependent variable (at the five per cent level).

* Indicates a statistically significant difference in the odds ratio compared to the reference category or for the variable in the case of continuous variables.

Categories found to be significant in this analysis: Conclusions valid when other variables held constant.

- a) Offenders who said that their Offender Manager listened 'a lot' when deciding the type of unpaid work were more likely to comply compared with those who said their Offender Manager listened 'a little'.
- b) Those saying work was 'very demanding' were less likely to be free from breaches or warnings relating to unpaid work compared to those who said it was 'not at all demanding'.
- c) Age: older offenders were more likely to comply.
- d) Trusts: there were differences between Probation Trust areas. Possible explanations include differences in practice concerning when breach action should be initiated.
- e) Accommodation needs were associated with a greater level of non-compliance.
- f) Having children was associated with higher levels of compliance, despite the additional pressures that this may bring in some cases.

Table A.2: Logistic regression of offender reported breach during the Community Orders

| Variable | Category | Odds ratio | Significance | Confidence Interval | |
|--|---|------------|--------------|---------------------|--------|
| | | | | Lower | Upper |
| Did unpaid work | No (reference) | | 0.000* | | |
| | Lower level | 3.292 | 0.000* | 2.235 | 4.849 |
| | Higher level | 2.560 | 0.000* | 1.784 | 3.672 |
| Had curfew | Yes | 2.284 | 0.000* | 1.654 | 3.153 |
| Prohibited activity | Yes | 1.121 | 0.688 | 0.641 | 1.962 |
| Exclusion | Yes | 1.462 | 0.056 | 0.990 | 2.157 |
| Treatment requirement | Yes | 1.278 | 0.110 | 0.946 | 1.726 |
| Accredited programme | Yes | 1.306 | 0.098 | 0.952 | 1.792 |
| Probation Trust | 1 (reference) | | 0.003* | | |
| | 2 | 3.104 | 0.003* | 1.460 | 6.598 |
| | 3 | 2.511 | 0.019* | 1.167 | 5.404 |
| | 4 | 1.612 | 0.197 | 0.781 | 3.329 |
| | 5 | 2.539 | 0.008* | 1.269 | 5.082 |
| | 6 | 1.486 | 0.303 | 0.699 | 3.161 |
| | 7 | 1.909 | 0.127 | 0.833 | 4.376 |
| | 8 | 2.321 | 0.019* | 1.146 | 4.700 |
| | 9 | 1.316 | 0.524 | 0.566 | 3.062 |
| | 10 | 3.237 | 0.001* | 1.572 | 6.668 |
| Risk of reoffending (OGRS) | OGRS (entered as continuous variable: higher=higher risk) | 1.007 | 0.024* | 1.001 | 1.014 |
| Gender | Female | 1.217 | 0.311 | 0.832 | 1.780 |
| Age | Age (entered as continuous variable) | 0.971 | 0.001* | 0.954 | 0.988 |
| Relationship with Offender Manager | Excellent (reference) | | 0.010* | | |
| | Good | 1.062 | 0.710 | 0.772 | 1.462 |
| | OK | 1.480 | 0.039* | 1.019 | 2.150 |
| | Not very good | 1.608 | 0.356 | 0.586 | 4.414 |
| | Bad | 5.606 | 0.002* | 1.834 | 17.140 |
| General attitude to offending (known as CRIME-PIC G) | CRIME-PIC G (entered as continuous variable: higher=pro-criminal) | 1.021 | 0.009* | 1.005 | 1.038 |
| Accommodation needs | Yes | 1.582 | 0.002* | 1.187 | 2.109 |
| Drugs needs | Yes | 1.373 | 0.096 | 0.945 | 1.993 |
| Offender has children | Yes | 1.167 | 0.280 | 0.882 | 1.545 |
| Offender in paid work | Working | 0.784 | 0.172 | 0.553 | 1.112 |
| Offender has mental health condition | Yes | 1.021 | 0.899 | 0.737 | 1.416 |
| Offender has physical health condition | Yes | 0.822 | 0.209 | 0.606 | 1.116 |
| | Constant | 0.027 | 0.000 | | |

Base: all survey respondents at Wave 2/3, Tier 2 to 4 offenders (n=1,590).

Source: survey data.

SPSS logistic regression using enter method following backward stepwise to assess effect of wider group of variables. The table is presented the order in which the variables were entered into the model. Variables found not to be significant and not included in this model: number of meetings with Offender Manager required in first two months; number of requirements; offence; tier.

Dependent variable: offender reported breach during the Community Order.

Odds ratios of greater than one indicate relatively higher odds of an offender reported breach than the reference category in that variable; less than one indicate relatively lower odds

A significance level of 0.05 was used, indicating a statistically significant impact of that variable on the dependent variable (at the 5 per cent level).

* Indicates a statistically significant difference in the odds ratio compared to the reference category or for the variable in the case of continuous variables.

Categories found to be significant in this analysis: Conclusions valid when other variables held constant.

- a) Doing unpaid work was associated with a greater likelihood of offender reported breach.
- b) Those with a curfew were more likely to have reported breach than those without.
- c) Trusts: there were differences between Probation Trust areas. Possible explanations include differences in practice concerning when breach action should be initiated.
- d) Those with higher risk of reoffending (based on OGRS3) were more likely to report breach.
- e) Younger offenders were more likely to report a breach.
- f) Offenders who said they had an 'OK' or 'bad' relationship with their Offender Manager were more likely to report a breach, compared with those with an 'excellent' relationship.
- g) Those with more problematic attitudes to crime (measured by CRIME-PICS) were more likely to report a breach.
- h) Offenders who had an accommodation need were more likely to report that they had breached.