



Policy name: Enforcement of Community Orders, Suspended Sentence Orders and Post-sentence supervision Policy Framework

Reference: N/A

Re-Issue Date: 26 June 2021

Implementation Date: 26 June 2021

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:

- PI 24/2014 – Enforcement of the Post-Sentence Supervision Requirements
- PI 06/2014 – Enforcement of Community Orders and Suspended Sentence Orders

Introduces amendments to the following documents:

N/A

Action required by:

<input checked="" type="checkbox"/>	HMPPS HQ	<input type="checkbox"/>	Governors
<input type="checkbox"/>	Public Sector Prisons	<input type="checkbox"/>	Heads of Group
<input type="checkbox"/>	Contracted Prisons	<input type="checkbox"/>	Contract Managers in Probation Trusts
<input checked="" type="checkbox"/>	Probation Service	<input type="checkbox"/>	HMPPS-run Immigration Removal Centres (IRCs)
<input type="checkbox"/>	HMPPS Rehabilitation Contract Services Team	<input type="checkbox"/>	Under 18 Young Offender Institutions
<input checked="" type="checkbox"/>	Other providers of Probation and Community Services		

Mandatory Actions: All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions.

For Information:

Regional Probation Directors must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

Section 6 of the Policy Framework contains guidance to implement the mandatory requirements set out in section four of this Policy Framework. Whilst it will not be mandatory to follow what is set out in this guidance, clear reasons to depart from the guidance should be documented locally. Any questions concerning departure from the guidance can be sent to the contact details below.

How will this Policy Framework be audited or monitored: Mandatory elements of instructions must be subject to management checks and may be subject to self or peer audit by operational line management or HQ managers, as judged to be appropriate by the managers with responsibility for delivery. In addition, HMPPS will have a corporate audit programme that will audit against mandatory requirements to an extent and at a frequency determined through the appropriate governance.

Resource Impact: No additional resource demand will be made by this Policy Framework.

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Approved by OPS for publication: Sarah Coccia and Ian Barrow, Joint Chairs, Operational Policy Sub-board, April 2021.

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Enforcement of Community Orders, Suspended Sentence Orders and Post-sentence Supervision requirements

1. Purpose

- 1.1 Effective enforcement of any sentence of the court is essential in ensuring sentencer and public confidence in the management of individuals subject to Probation supervision. This policy framework sets out the mandatory actions for PS, and EM providers to ensure that the enforcement of Community Orders (COs), Suspended Sentence Orders (SSOs) and Post-sentence supervision (PSS) is both appropriate and timely.

2. Evidence

- 2.1 There is a growing body of evidence that applying procedural justice principles to Probation practice helps individuals accept and abide with decisions made by those in authority. It is therefore important that decisions and processes related to the enforcement of sentences are fairly applied, in order to have a positive impact on future engagement. This policy framework supports this aim.

3. Outcomes

- 3.1 Implementation of this policy framework supports the transition of Probation services to a unified model and ensures that staff:
- Understand the mandatory actions to enforce COs, SSOs, and PSS so that enforcement is not only timely, proportionate and defensible but also underpins effective risk management and rehabilitation of individuals;
 - Are aware of the breach process for a requirement of a Post-Sentence Supervision Period, and how this differs from dealing with breaches of Community Orders, Suspended Sentence Orders and licence revocations;
 - Understand the roles and responsibilities for COs and SSOs with electronic monitoring requirements.

4. Requirements

- 4.1 All relevant PS and EM provider staff that have a direct responsibility for managing the sentence of the court and its enforcement, are required to read this instruction so that they are familiar with the correct processes for COs, SSOs and PSS.
- 4.2 The legal framework for the enforcement of COs and SSOs is set out in Schedules 10 and 16 respectively of the Sentencing Act 2020 (which applies to all convictions made on or after 1 December 2020, irrespective of the date on which the offence was committed). For individuals released from custodial sentences of more than one day but less than two years, Section 256AA of the Criminal Justice Act 2003 provides an additional period of post-sentence supervision to the licence period; Section 256AC provides for breach of a requirement of the PSS period, to be heard by a magistrates' court. This framework encompasses the provisions for the enforcement for COs, SSOs and enforcement and of the post-sentence supervision requirements (PSS), which were brought into force under the Offender Rehabilitation Act 2014 (ORA).

4.3 This framework uses the term ‘Enforcement Officer’ which refers to an employee of the PS responsible for taking breaches and variations of CO, SSOs and PSS to court: The Enforcement Officer must consider the case and where appropriate, to cause an information to be laid before a justice of the peace in respect of the individual’s failure to comply with the requirements” (see Para 7, Schedules 10 and 16 to the Sentencing Act 2020. The term ‘Responsible Officer’ is (a) *an officer of a provider of probation services, or (b) a person responsible for monitoring the offender in accordance with an electronic monitoring requirement imposed by the relevant order as defined by Section 213 and 299.*

4.4 Enforcement of PS managed Community Orders and Suspended Sentence Orders

- On the first alleged unreasonable failure to comply with a requirement of their CO or SSO, the Responsible Officer must issue a warning; or, if the individual has already been given a warning in the previous twelve months; or if in the judgement of the Responsible Officer the breach is serious enough then breach proceedings should be commenced (*see section 6.2 for further guidance on factors to be considered before proceeding with enforcement action*);
- Responsible Officer makes final decision about whether to breach an individual if they fail to comply with their order by the 7th working day¹ after the second alleged unreasonable failure to comply or after one alleged unreasonable failure/non-compliance where in the view of the Responsible Officer, this is a serious breach;
- Breach information is prepared to the required standard (see guidance) and sent to the relevant Enforcement Officer function by the 8th working day using the national breach template in NDelius;
- Enforcement Officer will quality assure the breach information, ensuring that paperwork is correct, has sufficient evidence to proceed, with a clear proposal and makes the decision to present the breach on this basis or requests additional information/documents which the PS must produce where appropriate to enable the breach to progress to court;
- Enforcement Officer will apply to the court for a summons and court date within 10 working days of the unreasonable failure to comply and notification of breach proceedings is sent to the individual being supervised;
- Enforcement Officer presents the breach in court;
- Report the Court result to the Responsible Officer and record it on n-Delius within 1 working day.

4.5 PS Managed Community Order and Suspended Sentence Order Breach referral timelines

- Responsible Officer notifies the individual being supervised of the potential for breach action within 2 working days of the alleged breach occurring;
- Allow up to a further 5 working days for the individual being supervised to produce evidence that the failure was reasonable;

¹ The day of the failure to comply is day zero in the calculation of working days.

- If no contrary evidence is produced or the evidence is not accepted, the Responsible Officer must supply the Enforcement Officer with the breach information within 8 working days of the alleged unreasonable failure to comply occurring;
- The Enforcement Officer will then within 2 working days lodge the breach application with the Court (within 10 working days of the alleged unreasonable failure to comply occurring);
- Result is reported by the Enforcement Officer to the Responsible Officer and recorded on n-Delius within 1 working day;
- Where a ViSOR record exists for the individual the breach information must be added to the record as soon as possible.

4.6 Enforcement of PSS:

- On the first failure to comply with the Post-Sentence Supervision Period either issue a formal warning or if in the view of the Responsible Officer the failure to comply is serious enough then breach proceedings should be commenced.
- On the second failure to comply, issue a second and final warning or if in the view of the Responsible Officer the failure to comply is serious enough, then breach proceedings should be commenced. A decision by the Responsible Officer not to proceed to breach will require the agreement of a Line Manager or equivalent.
- A third failure to comply will require breach action. The Responsible Officer will ensure that a breach information pack of the required standard (see guidance notes) is sent to the Enforcement Officer.

4.7 PSS Breach referral timelines

- The Responsible Officer must notify the individual of the potential for breach action within two working days of the alleged breach occurring.
- Allow up to a further five working days for the individual to produce evidence that the failure was acceptable or produce a court ready breach pack.
- If no contrary evidence is produced or the evidence is not accepted, the Responsible Officer must supply the Enforcement Officer with the breach pack within 8 working days of the alleged failure to comply with Post-Sentence Supervision Conditions.
- The Enforcement Officer will within 2 working days lodge the breach application with the court (within 10 working days of the alleged failure to comply with PSS).

4.8 Enforcement of Electronic Monitoring Single Requirement Orders

- Electronic Monitoring Service (EMS) is the Responsible Officer for Community Orders and Suspended Sentence Orders with Electronic Monitoring and Curfew Requirements only²;

² Such Orders are sentenced at Court as a multiple requirement Order, consisting of Electronic Monitoring and a Curfew but should be treated for enforcement purposes as a standalone Order with EMS retaining the Responsible Officer role.

- EMS must supply the Enforcement Officer with the breach information within 8 working days of the alleged event that led to the referral for enforcement action;
- The Enforcement Officer will quality assure the breach;
- The Enforcement Officer must within 2 working days of receiving the breach information lodge the breach application with the court (i.e. within 10 working days of the alleged breach occurring);
- The Enforcement Officer must inform the EM provider of the court date within 1 working day and the subsequent outcome within 1 working day of receipt of the information;
- PS is the Responsible Officer for Community Orders and Suspended Sentence Orders with trail monitoring³ as a single requirement. The Responsible Officer will enforce the Order in line with the process and timescales for other PS managed Community Orders and Suspended Sentence Orders.

4.9 Enforcement of the Electronic Monitoring Requirement as part of a multi-requirement Order

- On receipt of the notification from EMS of a single serious violation⁴ or second curfew breach⁵ the PS Responsible Officer must decide whether to proceed to enforcement action (note that the notification of curfew violation is despatched to the Responsible Officer by 10am on the working day following the curfew violation);
- The Responsible Officer must inform EMS within 2 working days of receipt of notification whether enforcement is proceeding;
- The Responsible Officer must send a letter to the individual stating that they have violated their electronic monitoring requirement and allow them 5 working days to produce evidence that they have a reasonable excuse for failure to comply with the requirement;
- If no evidence is produced or the evidence is not accepted, the Responsible Officer must supply the Enforcement Officer with the breach information within 8 working days of the alleged second curfew breach event;
- The Enforcement Officer will quality assure the breach (see guidance)
- The Enforcement Officer must within 2 working days of receiving the breach information lodge the breach application with the Court (within 10 working days of the alleged breach occurring);

³ Trail monitoring is using a GPS tag to monitor an individual's whereabouts otherwise than for the purposes of monitoring compliance with another requirement of the order.

⁴ A serious violation is described as: violation of the entire curfew period (the full daily curfew period);

any tamper violation with the monitoring equipment where the individual has already received a formal written warning for a curfew or tamper violation, or a single case of removal of equipment fitted to the subject, or a single case of damage causing the non-functioning of any part of the equipment;

⁵ A breach is not necessarily a single violation, but an accumulation of time see Annex B.

- The Enforcement Officer must inform the Responsible Officer of the court date within 1 working day and outcome within 1 working day;
- The Responsible Officer must in turn inform EMS of the court, date and outcome within 1 working day of receiving the information.

5 Constraints

5.1 No identified constraints.

6. Guidance

- 6.1 It is important that PS staff and EM Providers understand the interfaces between both organisations to ensure the effective enforcement of COs and SSOs. PS staff must also recognise how enforcement of PSS requirements, with its rehabilitative focus, differs from COs and SSOs. Responsible Officers should continue to maintain contact, where possible, with individuals and encourage ongoing engagement, irrespective of sentence type.
- 6.2 There are a number of reasons why individuals fail to comply, and it is not the intention of this policy framework to provide an exhaustive list. Every effort must be made by the Responsible Officer to allow the individual to submit reasonable excuse for non-compliance and assess this using professional judgement principles; however, this process should not delay the timetable for the breach process and Responsible Officers should guard against condoning repeated non-compliance. Responsible Officers should consider:
- If it is indicative of a serious, gross, wilful or fundamental failure to comply, taking into consideration personal and domestic circumstances and responsibilities, particularly in respect of women;
 - Whether there is a significant rise in the risk of serious harm or likelihood of re-offending presented by the individual;
 - Where the risk of harm is not considered to be manageable in the community, action should be taken to apply for a warrant, not backed by bail (WNBBB), as soon as possible following a breach.
- 6.3 Instructions given by a Responsible Officer (verbal or written) should be clearly recorded within case records, as should the decision to breach or not, to ensure the decision-making process is documented. The decision to enforce an alleged breach of a CO or SSO does not need to be endorsed at managerial level. However, where systems are in place where managerial endorsement is a routine business process to ensure appropriate enforcement action is (or not) being undertaken these should continue.
- 6.4 **Breach Information**
- 6.5 Breach information is a set of documents prepared by the Responsible Officer to support their decision to give notice to the Enforcement Officer to instigate breach proceedings against the individual. It must be of sufficient quality to enable the Enforcement Officer to present the case, and be accurate, coherent and comprehensive.
- 6.6 The Enforcement Officer needs to ensure that the breach pack contains the evidence required to present a breach in court. Should this not be the case and the Enforcement Officer requires further evidence to strengthen the case or clarify information then a request for such information must be made.

6.7 Breach information must include, as applicable:

- copies of any Pre-Sentence Reports;
- CPS documentation including case summary;
- copies of the relevant community order(s)/Suspended Sentence Order/Post-Sentence Supervision requirements;
- a copy of a breach presentation report that will include details of previous failures to comply with the current sentence;
- details of any relevant activity to promote compliance such as instructions, warning notice letters, texts, phone messages, home visits;
- details of any action taken by the Responsible Officer to improve compliance;
- any relevant information from other agencies providing any service to the individual as part of the sentence;
- indications of any increase in risk of serious harm arising from the failure by the individual to comply with the sentence;
- proposals for dealing with the alleged breach or resentencing, including specific consideration of personal and domestic circumstances and responsibilities, particularly in respect of women;
- updated bad character/dangerous offender information;
- Police National Computer record showing previous convictions;
- warrant risk form.

6.8 The Responsible Officer must provide the Enforcement Officer with any additional information requested to enable them to decide on whether to proceed with the breach presentation or to strengthen the case regarding the validity of the breach. The Enforcement Officer will review the breach pack to ensure that it is sufficient to proceed i.e. contains correct order or notification of the sentence from the court confirming the individual was subject to the requirement(s) they have allegedly breached, has sufficient evidence to support the breach and proposal.

6.9 Where the breach is contested by the individual the Responsible Officer shall provide the Enforcement Officer with any additional information to that contained in 6.8 above, as applicable and requested by the Enforcement Officer. This information may include:

- Witness Statement(s) (Section 9) and witness availability
- full case contact records excluding confidential victim information under the non-disclosure procedures
- copies of any compacts/agreements between the Responsible Officer and the individual at induction or start of order
- the most recent risk of serious harm assessment and plan

6.10 Where an alleged breach of a CO, SSO or PSS requirement by an individual subject to PS supervision occurs and the breach relates to a service being delivered by a third party, the third party shall provide the Responsible Officer, annexaaon request, all the information required by the Enforcement Officer to present the breach at court. This information may include:

- Witness Statement(s) (Section 9)
- availability of the relevant third-party personnel to attend Court on the date of the hearing if required

6.11 Warrants

6.12 There will be instances where the Responsible Officer will need to consider an application to the court for a Warrant Not Backed By Bail (WNBBB) in the first instance, instead of a summons

when initiating a breach, although ultimately the decision to issue a warrant lies with the court. Guidance on applying for a warrant in such instances can be found in Annex A.

6.13 Enforcement of Post-Sentence Supervision

The Post-Sentence Supervision Period begins at the end of an individual's licence period. Responsible Officers (referred to as the 'Supervisor' in section 256AA Criminal Justice Act 2003) should note the rehabilitative focus of the Post-Sentence Supervision period and view any non-compliance within this rehabilitative framework. **Any breaches of the preceding licence period cannot be carried over to the Post-Sentence Supervision Period.** The licence period is separate from the Post-Sentence Supervision Period and any warning issued whilst on licence cannot be counted for enforcement purposes once the Post-Sentence Supervision Period begins. In addition, any alleged breaches that have not been resolved during the licence period cannot be revisited or activated during the Post-Sentence Supervision Period.

6.14 The decision on whether an individual has failed to comply with the Post-Sentence Supervision Requirements and what if any sanctions should be imposed for a proven breach will fall to magistrates' courts (not to HMPPS acting on behalf of the Secretary of State, as with recall from licence). Proposals for dealing with the alleged breach should reflect the aim of the Post-Sentence Supervision Period of promoting rehabilitation in the community, wherever possible and appropriate.

6.15 The court has the following options where a breach of a requirement under the Post-Sentence Supervision Period is proven:

- No action – the individual continues with the requirements of supervision
- Fine
- Committal to prison for up to 14 days
- Supervision Default Order (SDO).

6.16 Supervision Default Orders can be either Unpaid Work (a minimum of 20 hours and not to exceed 60 hours) or an electronically-monitored curfew (a minimum of 20 days and not to exceed the end of the Post-Sentence Supervision period). If the individual then breaches the SDO, the court can revoke it and apply any of the above sanctions in 6.15 for the initial breach. The Court can also recommend amendments to requirements following breach. Further details on how Post-sentence Supervision requirements can be temporarily suspended, amended or removed is included in Post Sentence Supervision Requirements Policy Framework.

6.17 Enforcement of Attendance Centre Orders imposed for non-payment of fines

6.18 Enforcement HMCTS Fines Officers enforce Attendance Centre orders imposed for the non-payment of fines. Where there is an alleged breach by an individual of an Attendance Centre order imposed for non-payment of fines, the officer in charge (OIC) shall provide Her Majesty's Court and Tribunal Service (HMCTS) with all the information required by the Court to prosecute the case plus any additional information and/or evidence required to enable the OIC to produce the breach information. Breach information for these orders may include:

- a copy of the Attendance Centre order and a copy of the notification of the imposition of the original financial penalty, as applicable;
- a copy of a breach presentation report that includes full details of any previous failure to comply with the sentence of the court;
- any additional information as requested by HMCTS following the HMCTS review of the breach information to enable a decision to be made whether or not to proceed with the Breach.

6.19 Breaches of Crown Court Orders

6.20 The role of the Enforcement Officer applies to both Crown Court and Magistrates Court. The enforcement process for the Crown Court will be the same as for the Magistrates Court. PS regions can use existing arrangements for lodging the breach and presenting the case in the court room.

6.21 Enforcement of the Electronic Monitoring (EM) Requirement

6.22 The PS Enforcement Officer will present the breach of any EM requirement including all where there is a standalone EM requirement. In the instance where an EM requirement forms part of a multiple requirement community order then preparation of the breach information is the responsibility of the PS Responsible Officer supervising the case. In the case of stand-alone Electronically monitored Curfew requirements, it is the responsibility of the EM provider. In the case of stand-alone Trail requirements, it is the responsibility of the PS (refer to requirements section).

6.23 The mandatory actions required of Responsible Officers in relation to the enforcement process are covered in the requirements section of the policy framework. Supporting guidance for Enforcement Officer and Responsible Officer for Accumulated Time Violations (ATV's) can be found at Annex B.

6.24 Enforcement of multiple orders

6.25 Guidance setting out the criteria under which the Responsible Officer and/or Enforcement Officer can determine the correct order against which to initiate breach proceedings where the individual is subject to two or more community orders or suspended sentence orders can be found in Annex C.

6.26 Enforcement of Orders imposed by a U.K. Court outside of England or Wales but resident in England or Wales

6.27 The process for transferring Orders between England and Wales and Scotland and Northern Ireland must be followed as set out in the Policy Framework 'CASE TRANSFERS: FOR OFFENDERS SUBJECT TO STATUTORY SUPERVISION EITHER PRE-RELEASE FROM CUSTODY OR WHILST COMPLETING AN ORDER OR LICENCE'. Practical guidance to PS staff regarding jurisdiction and practice for the enforcement of orders managed in England and Wales after being imposed elsewhere in the United Kingdom, is included in Annex D.

Annex A

GUIDANCE FOR THE CONSIDERATION OF APPLYING TO THE COURT FOR A WARRANT NOT BACKED BY BAIL (WNBBB) IN THE FIRST INSTANCE.

This guidance sets out the considerations to be applied when considering the need to apply for a Warrant Not Backed By Bail (WNBBB) instead of a summons.

- Sets out the criteria in which the Responsible Officer (RO) may wish to consider the need for applying for a WNBBB, instead of a summons.
- Outlines the various processes available to the RO when an individual either falls out of contact, can be of No Fixed Abode and/or fails to attend an appointment, where circumstances and/or risk levels have changed or increased and can be evidenced. In such cases this would point to a warrant application being more appropriate than a summons for breach.
- Reinforces the purpose and intention of rehabilitation and the effective role of enforcement, highlighting the ongoing need to ensure that the RO makes every attempt to re-engage the individual even after initiating a breach.

There will be instances where the RO will need to consider an application to the court for a WNBBB in the first instance, instead of a summons when initiating a breach, although ultimately the decision to issue a warrant lies with the court. This guidance refers to all community sentences and also includes notice of supervision cases. The enforcement process as laid out in the Enforcement Policy Framework allows for the use of a warrant when circumstances indicate that a warrant may be more applicable than a summons.

When considering an application to the court for a WNBBB rather than a summons there are a number of factors to be considered and they may include one or more of the following:

- Out of contact - can indicate an increase in risk of serious harm level. Changes in risk should be reviewed via the risk assessment and risk management plan, clearly evidenced and recorded.
- Non-compliance - can indicate changes in risk. The risk assessment and risk management plan should be reviewed and clearly evidenced as to why there is an increase in risk. In addition to initiating a WNBBB, if the risk level is indicated an increase to high, the RO should take all other appropriate action to manage and mitigate that risk.
- Any assessment should include consideration of intelligence gathering and the attempts made to re-contact and re-engage the individual by the Responsible Officer.
- In any situation where the risk of harm is not considered to be manageable in the community, action should be taken to apply for a WNBBB as soon as possible following a breach.
- When making an application for a WNBBB the court should be informed of the reasons why it is being invited to withhold bail, as an alternative to issuing a warrant backed with bail. The reasons given could include a belief that the individual would fail to attend future hearings, the nature and seriousness of the breach, the need to protect witnesses or the integrity of evidence surrounding the breach, the strength of evidence of the

breach having been committed and the probable outcome of breach proceedings, particularly if the individual is likely to be sent to custody.

NB: Even when a warrant has been applied for the Responsible Officer must, as with all enforcement processes, attempt to re-engage with the individual and ensure that risk is managed appropriately using other agencies e.g. the police, MAPPA, social services as necessary.

GUIDANCE ON ENFORCEMENT OF COMMUNITY ORDERS AND SUSPENDED SENTENCE ORDERS (EM).

1. This guidance sets out the criteria under which the Accumulated Time Violation (ATV) practice, applied by the Electronic Monitoring Service (EMS), operates.
2. The following Guidance is to assist the Responsible Officer when considering whether to initiate breach proceedings.

Guidance

3. ATV operates in two 2-hour segments as set out below.
4. Under ATV, there is a presumption that, unless proven otherwise (i.e. a rebuttable presumption), a subject will have a reasonable excuse for a violation of a curfew requirement up to a cumulative total of 2 hours. On each recorded violation, EMS will call the subject, discuss the reasons for the non-compliance, note the case management systems and encourage the subject to be compliant. If EMS receives evidence that the subject was in Police custody or at Hospital for treatment during the violation, this time will be discounted from contributing towards the 2-hour total.
5. If EMS receives evidence to rebut the excuse provided by the subject, the matter will be referred to the Responsible Officer for action. EMS are not required to actively look for such evidence.

Adult EM Single Requirement Orders

6. Once the first 2-hour ATV threshold is reached a warning letter is sent by EMS to the subject, unless they have had a previous warning in the last 12 months in which case a referral is made to PS for enforcement action. If, after the warning letter has been sent and within five days of the violation that led to it being issued, the subject is able to provide evidence that they were in Police custody or at Hospital, the letter will be rescinded and the time will be discounted from contributing towards the ATV threshold.
7. If a warning letter has been sent, from the next curfew period the subject has a further 2 hours of a rebuttable presumption of a reasonable excuse for failing to comply with the terms of the requirement before a referral for court action is made,
8. If court action is taken, ATV will cease, but every violation will still be recorded by the system. Prior to the Court hearing EMS will provide the Enforcement Officer with an update on the violations to date.
9. EMS will refer the matter for enforcement action at any time if there is:
 - a violation of the entire curfew period;
 - any tamper violation where the subject has already received a formal written warning for a curfew or tamper violation, or a single case of removal of equipment fitted to the subject, or a single case of damage causing the non-functioning of any part of the equipment;

Adult Multi-Requirement Orders with EM

10. On multi-requirement orders the Responsible Officer in the PS is informed by EMS after the 2-hour threshold is reached⁶ (but not before, unless the RO requests data). It is for the Responsible Officer to decide whether to issue a warning letter or take enforcement action at that stage. EMS apply the same consideration to each curfew violation as for single requirement orders and only excuse absences from contributing to the ATV threshold in limited circumstances.
11. Unless advised by the Responsible Officer that enforcement proceedings have commenced, from the next curfew period the subject has a further 2 hours of a rebuttable presumption of a reasonable excuse for failing to comply with the terms of the requirement, with time in Police custody and Hospital discounted.
12. Once the second threshold is reached the Responsible Officer will be informed again and must consider appropriate action.
13. On receipt of the first and second notification from EMS the Responsible Officer will write to the subject giving them 5 days to provide a reasonable excuse and supporting evidence (there is no need for EMS to seek the information at these points). The Responsible Officer will use their professional judgement to decide whether the excuse is a valid one that negates the need for enforcement action.
14. If the Responsible Officer advises EMS that the subject was with the Police or at Hospital for treatment, EMS will discount the time from contributing towards the ATV threshold.
15. If enforcement action has commenced, the Responsible Officer will continue to get a notification from EMS for every 2 hours or more of subsequent violations that have occurred. Prior to the Court hearing, EMS will provide the Responsible Officer with an updated list of all the violations that have occurred to date.
16. EMS will refer the matter to the Responsible Officer at any time if there is a violation of the nature described in paragraph 9 above.
17. Responsible Officers and Enforcement Officers should continue to consider cases as they have always done and operating in accordance with this guidance should introduce no changes to current practice in that regard. Responsible Officers should continue to consider all the evidence available to them before determining whether to instigate breach proceedings.

⁶ Save for MAPPA 3 cases which follow their own individual protocol with any violation being reported to the RO.

Enforcement of Multiple Orders

1. This guidance sets out the criteria under which the Responsible Officer/Enforcement Officer can determine the correct order against which to initiate breach proceedings where the individual is subject to two or more community orders or suspended sentence orders.
2. Provide scenarios to assist the Responsible Officer / Enforcement Officer in ensuring the correct enforcement process is initiated.
3. To ensure that the correct breaches against orders are listed accurately as they are reflected on the individual's previous convictions.

When an individual is subject to multiple orders, they may comply well with all the requirements of one of the orders, however fail to comply with a requirement attached to another order. In these instances, it may not be necessary to initiate breach against all the orders, given that there has been good compliance. It is important that the correct order/requirement is enforced and that this is accurately reflected on their offending history. Below are a number of scenarios to assist in determining which order the alleged breach has occurred.

Scenario 1:

1. An individual has two COs, one with an unpaid work requirement and one without, and they fail to turn up for unpaid work without a reasonable excuse. In this situation, they should only be breached for the order with the unpaid work requirement. As this is the only allegation of breach, the breach proceedings should only be brought against that one CO with the unpaid work requirement as there is no basis for alleging that they are in breach of the other order.

NB (However, there is the possibility that the court may wish to revoke both their orders to resentence them e.g. to custody if the breach was deemed wilful and persistent, which it could do without the need for breach proceedings having to have been commenced for the second matter).

Scenario 2:

2. The individual is subject to two COs but fails to keep in touch with his Responsible Officer as instructed (for both orders). In this instance, the breach pertains to both orders, so it is necessary to lay two information's to commence breach proceedings – one for each CO.

Scenario 3:

3. Where an individual is sentenced to unpaid work on two separate orders, ordered to run concurrent to one another, then it is necessary to bring breach proceedings for both orders as they would be in breach of both.

Scenario 4:

4. An individual is sentenced to unpaid work for two cases 6 weeks apart. Order 1 – 100 hours and Order 2 – 60 hours, with the court ordering that the two unpaid work requirements run consecutively. The individual completes 110 hours within six months of Order 1 starting but then stops attending their unpaid work but keeps all appointments with the Responsible Officer. One interpretation is that the individual is not in breach of order 1 as they have completed the unpaid work hours. In such instances, the court might refuse to allow an information to be laid for a breach on order 1. Even if the court did grant process there is the possibility that the court would find that the individual was not in breach of order 1 as they had completed the hours but find that they are in breach of the second order.

Guidance on managing enforcement for orders that cross jurisdictions can be found using the following link for Equip:

https://equip-portal.rocstac.com/CtrlWebIsapi.dll/UK%20Jurisdiction%20community%20penalties.doc?__id=webFile.save&doc=D52927F1211848DCAB19A316A71A3D87&dpt=1&save=1