



HM Prison &  
Probation Service

## ENFORCEMENT ORDERS

<b>This instruction applies to:-</b>		<b>Reference:-</b>
Probation Service HMPPS HQ		PI 07/2016
<b>Issue Date</b>	<b>Effective Date</b>	<b>Expiry Date</b>
Revised 20/02/2024	26/06/2021	N/A
<b>Issued on the authority of</b>	HMPPS Operational Policy Sub-Board	
<b>For action by</b>	All staff responsible for the development and publication of policy and instructions <input checked="" type="checkbox"/> HMPPS HQ <input type="checkbox"/> Public Sector Prisons <input type="checkbox"/> Contracted Prisons <input type="checkbox"/> Governors <input type="checkbox"/> Heads of Groups <input checked="" type="checkbox"/> Probation Service <input type="checkbox"/> Other Providers of Probation and Community Services	
<b>Instruction type</b>	Service Specification Support	
<b>For information</b>	All staff	
<b>Provide a summary of the policy aim and the reason for its development / revision</b>	<p>The Children and Adoption Act 2006 enables the Family Court to impose an Enforcement Order when it is satisfied there has been a breach of a Child Arrangement Order. An Enforcement Order may impose an Unpaid Work Requirement. This Instruction sets out the expectations of staff involved in the management of persons subject to Enforcement Orders.</p> <p><b>February 2024</b> - This revised PI updates the information from the last 2021 edition including links to Probation Instructions and provides contact points for each probation region for use by Cafcass staff.</p>	

	<p><b>Updated 26 June 2021</b> – With effect from June 2021 Unpaid work will cease to be contracted out to Community Rehabilitation Companies and will instead be delivered by the Probation Service directly. This updated Probation Instruction introduces new language and terminology and removes reference to CRCs but does not change the practice set out in the mandatory actions.</p>
<p><b>Contact</b></p>	<p><a href="mailto:Probationpolicy.enquiries@justice.gov.uk">Probationpolicy.enquiries@justice.gov.uk</a></p>
<p><b>Associated documents</b></p>	<p>Community Payback Operations Manual  <a href="#">Probation Reform Programme Target Operating Model</a>  <a href="#">PI 04/2019 Unpaid Work</a>  <a href="#">PI 05/2014 – PSI 14/2014 Case Allocation</a></p>
<p><b>Replaces the following documents which are hereby cancelled:</b> PC 18/2008 – Children and Adoption Act 2006</p>	
<p><b>Audit/monitoring:</b> Mandatory elements of instructions must be subject to management checks (and may be subject to self or peer audit by operational line management/contract managers) as judged to be appropriate by the managers with responsibility for delivery. In addition, HMPPS will have a corporate audit and assurance programme that will audit against mandatory requirements and good practice to an extent and at a frequency determined from time to time through the appropriate governance.</p>	
<p><b>Introduces amendments to the following documents:</b> None</p>	
<p><b>Notes:</b> <i>All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.</i></p>	

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## 1. Executive summary

### Background

1.1

1.2 The Children & Adoption Act 2006 gives Family Courts provisions in relation to arrangements for children following separation or divorce. These provisions include Enforcement Orders imposing Unpaid Work of between 40 and 200 hours where the court is satisfied beyond reasonable doubt that a person has failed to comply with a provision of a Child Arrangement Order (section 11J Children Act 1989).

1.3 The Probation Service is required to assess and allocate unpaid work placements on the basis of the risk of serious harm which an individual poses and their personal circumstances. The Probation Service will also, appoint a Probation Practitioner to manage and deliver the Unpaid Work Requirement of an Enforcement Order. Having consulted with the relevant Probation Service Region, Children and Family Court Advisory and Support Service (Cafcass) or CAFCASS Cymru is required to advise the Family Court if a person is suitable for Unpaid Work.

1.4 Cafcass or CAFCASS Cymru are responsible for reporting to the court if the Probation Practitioner advises there has been a breach of the order, or if the individual is, or becomes, unsuitable, to perform work under the requirement. The officer of the service or the Welsh Family Proceedings Officer may request the Probation Practitioner report to them on such matters relating to the order as they may require for the purpose of making a report under section 11M(1)(c) of the 1989 Act - to report to the court on such other matters relating to the person's compliance as may be specified in the request; or under (d);- to report to the court if the person is, or becomes, unsuitable to perform work under the requirement - and it shall be the duty of the Probation Practitioner to comply with such a request. In other respects, the Children Act 1989 replicates the provisions of the Criminal Justice Act 2003 in relation to the duties of the Probation Practitioner, the enforcement, breach and revocation of an Unpaid Work Requirement.

1.5 The provisions of the Community Payback Operations Manual are applicable to Unpaid Work Requirements imposed by an Enforcement Order, with the exception of the requirement to make the work visible by the use of the high visibility Community Payback tabards.

### Desired outcomes

1.6 This instruction supports the delivery of the Unpaid Work Probation Instruction and the Community Payback Operations Manual by ensuring that Unpaid Work is provided for people subject to Enforcement Orders.

### Application

1.7 Probation Service staff are responsible for the delivery of the unpaid work.

### Mandatory actions

1.8 *Probation Service Regional Probation Directors must ensure probation staff adhere to this Instruction and ensure that Enforcement Orders (in England) are allocated within two business days of the receipt of the order from the court.*

Mandatory Operational Instructions

- 1.10 *Probation Service staff responsible for the delivery and management of Unpaid Work must be available to advise Cafcass and CAFCASS Cymru staff about the availability and range of Unpaid Work provision within the Probation Service region and the suitability criteria. High or very high risk of harm cases are not suitable for an Enforcement Order.*
- 1.11 *The Probation Service must establish single points of contact for Family Courts, Cafcass and CAFCASS Cymru to ensure the timely allocation of Enforcement Orders. Suspended Enforcement Orders must not be allocated until the Unpaid Work Requirement is activated by the court.*
- 1.12 *Probation Service staff must assess and allocate persons subject to Enforcement Orders to suitable Unpaid Work projects, taking account of any potential vulnerability, protected characteristics or carer responsibilities.*
- 1.13 *Probation Practitioners must promote compliance with the order, monitor attendance, record hours worked and inform the agreed point of contact in Cafcass or CAFCASS Cymru when the order is completed.*
- 1.14 *If the Probation Practitioner is of the opinion that the person has failed without reasonable excuse to comply with the Unpaid Work Requirement imposed by the Enforcement Order, the officer must give the person a formal warning or if in the view of the Probation Practitioner the failure to comply is serious or at any time within the twelve months beginning with the date on which the first warning was given, the Probation Practitioner is of the opinion that the person has since that date failed without reasonable excuse to comply with the unpaid work requirement imposed by the enforcement order, prepare a report for Cafcass or CAFCASS Cymru describing the circumstances of the breach.*

Resource Impact

- 1.15 This Instruction replaces Probation Instruction 06/2014. It introduces no operational changes, other than those consequent of the unification of the Probation Service

(Approved for Publication)

**Kim Thornden-Edwards**  
**Chief Probation Officer**

## 2. Operating Instructions

- 2.1 To facilitate the commencement of Unpaid Work within fifteen days of the order being imposed, HMCTS will serve copies of Enforcement Orders on the Probation Service within one business day of the order being made by the court. The Probation Service are responsible for allocating the order using n-Delius in accordance with [PI 05/2014 - Case Allocation](#).
- 2.2 The effective management of Enforcement Orders requires that clear lines of communication are established between the Probation Service and Cafcass or CAFCASS Cymru. Contact details of Cafcass and CAFCASS Cymru are provided at Annex A and Probation Service in Annex B.
- 2.3 Before making an Enforcement Order the court must be satisfied that the order:
- Is necessary to secure compliance with the Child Arrangement Order;
  - The likely effect on the person of the Enforcement Order proposed to be made is proportionate to the seriousness of the breach of the Child Arrangement order.

The court must also:

- Confirm the availability of Unpaid Work in the local justice area in which the person resides or will reside.
  - Obtain and consider information about the person and the likely effect of the order on them, which may include any conflict with the person's religious beliefs or interference with the times the person is normally in employment or attending an educational establishment.
  - Take account of the welfare of the child who is the subject of the Child Arrangement Order.
- 2.4 Cafcass and CAFCASS Cymru are required to provide the court with this information following an interview with the person concerned and having confirmed the availability and suitability of Unpaid Work through contact with the relevant Probation Service region. There is no expectation that the Probation Service will interview the person concerned before the order is imposed. If a court has reached the point of considering the imposition of an Enforcement Order, it is likely that the person concerned, and their family will be known to Cafcass or CAFCASS Cymru.
- 2.5 An Enforcement Order imposing Unpaid Work may also be suspended. If a Suspended Enforcement Order is imposed, it is not allocated by the Probation Service until the Unpaid Work requirement is activated by the court.
- 2.6 Cafcass and CAFCASS Cymru routinely obtain previous criminal convictions in respect of people involved in family proceedings. If consideration is then given to imposition of an Enforcement Order, these previous convictions will be made available to the relevant Probation Service region, together with any other information relevant to the Unpaid Work placement allocation. When requesting that enquiries are made to determine a person's suitability for unpaid work, the court will give a standard direction to enable Cafcass or CAFCASS Cymru to disclose information to the Probation Service Region responsible for facilitating the Unpaid Work Requirement. If there is an indication from the information available that the person presents a high or very high risk of serious harm, then an Enforcement Order will not be considered suitable.
- 2.7 Having received a report from the Probation Practitioner describing the circumstances of the breach of an Unpaid Work requirement imposed by an Enforcement Order, Cafcass or CAFCASS Cymru will serve the report on the court and the other parties in the case. In

general, no action can be taken by the court until an application is made by one of the parties. If, following an application from one of the parties, the court is satisfied beyond reasonable doubt that that a person has failed to comply with the Unpaid Work Requirement without reasonable excuse (on the balance of probabilities), the court may amend the Enforcement Order to make the order more onerous, impose a second order or revoke the order.

- 2.8 If a person subject to an Enforcement Order changes their permanent address from one local justice area to another, the Family Court (or the High Court) can amend the order on the application of the person subject to the Enforcement Order. The court is also able to amend the order of its own motion after having been notified of the change of address by Cafcass or CAFCASS Cymru, acting on information from the Probation Practitioner.

**Annex A: Contact Details for CAFCASS and CAFCASS Cymru**

**CAFCASS**

3rd Floor  
21 Bloomsbury Street  
London  
WC1B 3HF

Tel: 0300 456 4000

**Webpage for local offices**

<http://www.cafcass.gov.uk/contact-us.aspx>

**CAFCASS Cymru**

Welsh Government  
Cathay's Park  
Cardiff  
CF10 3NQ

Tel: 02920 370888

**Annex B: Contact details for the Probation Service**

General enquiries

01633 630941

**Webpage for local offices**

<https://www.gov.uk/government/collections/probation-finder>