Community Payback Order Practice Guidance

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Community Payback

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1. Introduction

This practice guidance has been agreed with a range of relevant organisations and agencies and is intended to support practitioners and managers to improve their performance.

To support this guidance a number of proformas have been attached as annexes. These were provided at the request of a number of practitioners. Developed by a practicing justice social work team manager, these are designed to help inform and improve the long term effectiveness of service delivery. It is for individual managers to judge the practical benefits of these proformas and the extent to which they will be used, or might usefully be adapted to suit local circumstances.

This guidance is aimed primarily at those practitioners and managers engaged in the delivery of justice social work services and specifically Community Payback Orders (CPOs), but should also be of assistance to those employed in other agencies and involved in the delivery of CPOs. Effective inter-agency and inter-discipline working is critical to the success of CPOs in providing courts with an effective and robust community-based sentence for appropriate individuals. The guidance should be read both in conjunction with other relevant national standards and practice guidance, in particular the Criminal Justice Social Work Reports and Court Based Services guidance, designed to assist courts with arriving at the most appropriate sentencing option.

2. Legal Framework

The Community Payback Order (CPO) replaced community service orders, supervised attendance orders and probation orders on 1 February 2011, and is available to courts for offences committed on or after that date. Sections 227A to 227ZO, and Schedule 13 of the Criminal Procedure (Scotland) Act 1995 ("the 1995 Act") provide the legislative framework for CPOs.

In addition, section 82 of the Sexual Offences Act 2003 provides for the situation where an individual is convicted of a sexual offence and the court imposes a CPO on that individual with an offender supervision requirement. In those circumstances the individual is required to comply with the sex offender notification requirements for the specified period of the offender supervision requirement.

The Community Payback Orders (Prescribed Persons for Consultation) (Scotland) Regulations 2011, made under section 227ZL of the 1995 Act, prescribe the persons and classes of persons which local authorities must consult annually about the nature of unpaid work and other activities to be undertaken by individuals subject to CPOs in their area.

Community Justice (Scotland) Act 2016

This Act places a duty of co-operation on community justice partners (as defined by section 13) which includes local authorities, to work together to plan and decide how services are tailored locally, having regard to the National Strategy for Community Justice. This includes services which deliver CPOs. Such co-operation may include the sharing of information, providing advice and assistance, organising activities to prevent unnecessary duplication of effort and jointly funding activities where it is practical to do so.

The Management of Offenders (Scotland) Act 2019 allows the court to include a restricted movement requirement at first disposal. This complements the suite of options available to justice social work to help promote a person-centred package of support and monitoring, tailored to the needs, risks, and circumstances of the individual.

3. Data Protection

When local authorities process personal data, they must ensure that they have a power to process the data and that the processing of data under that power is carried out in accordance with data protection law.

The EU General Data Protection Regulation (GDPR)[1] does not apply to the processing of data by competent authorities for the purposes of the execution of criminal penalties including the safeguarding against, and the prevention of, threats to public security. The processing of data in these circumstances is instead covered by the EU Law Enforcement Directive[2] and Part 3 of the Data Protection Act 2018.

Compliance with data protection law is a matter for the local authority and consideration should be given to guidance on applicable data protection law from the Information Commissioner's Office. Local authorities should take their own independent legal advice on the application of data protection law in these circumstances.

Confidentiality underpins all areas of social work practice and this influences the day to day work undertaken by all social service workers. Certain types of information require to be shared between all community justice partners in order to effectively deliver CPOs and prevent the risk of harm to others.

Information sharing should only take place when it is considered to be justified, necessary and lawful to do so. If an individual is to be placed with another organisation to complete an unpaid work requirement, for example, the local authority may require to share limited, relevant information about the individual subject to the CPO with the placement provider. This should only be the information which is necessary to arrange and manage the placement. Appropriate arrangements should be in place for processing and storing the data, including arrangements to ensure personal data is stored securely and not kept longer than is necessary.

Regarding restricted movement requirements, information sharing protocols can be developed (by Regulation as introduced in the Management of Offenders (Scotland) Act 2019), to allow or restrict the use or sharing of information obtained through monitoring. It is likely these will be brought forward when any new technology such as GPS or remote substance monitoring is introduced.

Individuals should be made aware of their rights in relation to their data, including their right to ask for a copy of it. They should be aware that in considering a subject access request, the local authority will require to comply with the requirements of all relevant data protection law.

[1] Regulation (EU) 2016/679
[2] Directive (EU) 2016/680

It is good practice to have a clear policy on how long personal information relating to CPOs in a local authority area is retained.

4. Roles and Responsibilities

The delivery of justice social work services requires a staff team with a relevant mix of appropriate skills and experience. The Scottish Government recognises the significant contribution that highly trained and skilled workers make in a range of complex circumstances.

To assist clarity the following terms are used in this guidance in relation to staff roles:

- The **justice social work manager** will oversee the work of the justice team. They will ensure that all work undertaken by justice staff is carried out in accordance with the authority's policy and procedures in relation to working with individuals subject to the different licences and court orders imposed and where reports are requested. The justice social work manager is also responsible for using the resources available to the local authority to ensure that facilities are available for the delivery of CPOs that are imposed by courts. This responsibility extends to working with community justice partners and others to ensure a collaborative approach.

- The **responsible officer** is an officer of the local authority nominated under section 227C(2)(b) of the 1995 Act who will have responsibility for the delivery of the CPO. The responsible officer is given the following functions under section 227C(3) of the 1995 Act:
  (a) making any arrangements necessary to enable the individual to comply with each of the requirements imposed by the CPO;
  (b) promoting compliance with those requirements by the individual; and
  (c) taking such steps as may be necessary to manage compliance with the requirements of the CPO or taking the necessary steps to vary, revoke or discharge the order.

- Where the court has imposed an unpaid work requirement alone, the **responsible officer will be the unpaid work case manager**.

- Where the court has imposed any other form of CPO, the **responsible officer will be the justice social worker** who will supervise the individual subject to the order.

- Where the term **justice social worker** is used, this means those who possess an entitling professional qualification in social work within section 77 of the Regulation of Care (Scotland) Act 2001.

- The **unpaid work team manager** is the member of unpaid work staff with overall responsibility within the local authority for the unpaid work scheme. They will ensure that all work undertaken by justice unpaid work staff is carried out in accordance with the local authority's policy and procedures in relation to working with individuals subject to the unpaid work or other activity requirement.

- The **unpaid work case manager** is the member of unpaid work staff who has oversight of the unpaid work element of each CPO. They have decision-making authority and responsibility with regard to compliance.

- The **unpaid work supervisor** is the member of unpaid work staff responsible for delivering unpaid work projects, undertaking health and safety assessments and site assessments, demonstrating safe systems of work, and supervising up to a maximum of 5 individuals on work groups. Their role will promote pro-social modelling, challenge inappropriate behaviour, attitudes or language, and record and/or report back any concerns to the unpaid work case manager.

- Where the individual is on a personal placement, the health and safety role in terms of local procedures, is carried out primarily by staff representing the organisation where the individual is placed, while the **unpaid work case manager** has the lead role in managing attendance and any issues around conduct.

  All individuals subject to a CPO with an unpaid work requirement are provided with information relating to general health and safety practice supplies as part of induction.

Role of the social worker in statutory interventions

In September 2005 it became mandatory for social workers to be registered with the Scottish Social Services Council (SSSC). The Codes of Practice for social service employers and social service workers lay down the standards of conduct and practice people can expect from social service workers and employers.

In March 2010 the Scottish Government published guidance on the role of the registered social worker in statutory interventions. This guidance acknowledges the importance of the public being confident that the accountability for statutory interventions rests with a registered social worker who retains accountability for:

- provision of all reports to courts which could have an impact on an individual's liberty;
- provision of all reports to the Parole Board for Scotland/the Scottish Prison Service as they could impact on public safety and/or on an individual's liberty.
- investigation, assessment, review and implementation of risk management plans and the supervision of those who will be subject to statutory supervision on release from prison; and
- directly undertaking case management work in respect of those who are subject to statutory orders or licences including the small number who are considered to pose a high risk of serious harm.

Where non-social work qualified workers compile reports which could have an impact on a person's liberty, these require to be countersigned by a member of staff with an entitling qualification in social work.

CPOs with an unpaid work or other activity requirement on its own

Where the court has imposed a level 1 or 2 unpaid work or other activity requirement but no other requirement as part of the CPO:

- The role of the "responsible officer" as nominated under section 227C(2)(b) of the 1995 Act is exercised in these cases by the **unpaid work case manager**. The unpaid work case manager does not require to be qualified in social work.

- In these cases, the responsible officer will be responsible for:

  - the effective planning, management and monitoring of the unpaid work or other activity requirement;
  - monitoring of the individual's performance and compliance; and
  - issues of performance and compliance.

In these circumstances, the responsible officer will prepare the individual for the work placement or the other activity where it has been assessed that the individual will undertake "other activity" as part of their unpaid work requirement; encourage compliance and desistance from offending throughout the duration of the order; make decisions about the acceptability of absences; and support the individual to achieve a successful and speedy completion.

CPOs with an offender supervision requirement and an unpaid work or other activity requirement

Where the court has imposed a CPO with an offender supervision requirement and an unpaid work or other activity requirement (and possibly other requirements):

- The role of the "responsible officer" as nominated under section 227C(2)(b) of the 1995 Act is exercised in these cases by the **justice social worker** who will supervise the individual subject to the order.

- In these cases, the responsible officer will be responsible for:

  - the effective planning, management and monitoring of the unpaid work or other activity requirement;
  - monitoring of the individual's performance and compliance; and
  - issues of performance and compliance.

- The unpaid work case manager will assist the responsible officer in performing these duties. The unpaid work case manager will be responsible for following up absences from unpaid work or other activity; investigating reasons for absence; and making a decision as to the acceptability or otherwise of the reasons provided.

It is expected that the responsible officer and the unpaid work case manager will work closely together, sharing information and agreeing the way forward if issues arise. This includes whenever a warning letter is being considered by either party.

Where the decision of the unpaid work case manager is that the absence is acceptable, the individual will require to continue to attend unpaid work or other activity as instructed. Where the absence is unacceptable, the unpaid work case manager should discuss with the responsible officer prior to a warning letter being issued. This letter should be signed by both the unpaid work case manager and the responsible officer and recorded by the unpaid work case manager. The unpaid work case manager is required to record the absence and the decision.

Where an individual, who has accrued 2 unacceptable absences and is subject to a Final Warning, incurs a further unacceptable absence, the unpaid work case manager may use their professional judgement to suspend the unpaid work requirement and notify the responsible officer. The suspension will be justified by the individual's failure to comply with the requirements of the sentence of the court.

Where the individual is deemed to have failed to comply with their unpaid work requirement, the unpaid work case manager must ensure that all relevant information and correspondence is available to the responsible officer for the consideration of a breach report being submitted to the court. The decision to invoke breach proceedings and return the CPO to court is the responsibility of the responsible officer. Where the decision is to invoke breach proceedings, the responsible officer will be required to notify the appropriate court that the individual is deemed to be in breach of their CPO by virtue of failing to undertake and comply with the unpaid work or other activity requirement.

5. Key Features of the Community Payback Order

Key features of the order include:

- A CPO is a sentence of the court.
- A CPO can be imposed concurrently with another sentence e.g. a CPO can be imposed alongside a fine.
- Monetary penalties (e.g. fines, compensation orders) and deferred sentences remain available to the court as disposals separate from CPOs.
- There is no minimum age for a CPO (other than the age of criminal responsibility) except where an unpaid work or other activity requirement is made in which case the individual must be aged 16 or above.
- Where an individual is under 18 years of age, the court can remit back to the children's hearing system for disposal. The CPO is not however available to the children's hearing system as a disposal.
- CPOs can be made for a period of between 6 months and 3 years other than an order consisting solely of an unpaid work or other activity requirement. The latter requirement must be completed within 6 months (3 months for a level 1 requirement) unless the court determines otherwise at the point of sentence.
- No requirement, other than an unpaid work or other activity requirement, will be in operation longer than that of any offender supervision requirement.
- Where existing provisions require to be extended to allow for completion of the requirement; this can be sought through application to the court.
- An offender supervision requirement is mandatory when a CPO is imposed on an individual under 18 years old.
- An offender supervision requirement is mandatory when the following requirements are imposed by the court: a programme requirement; a residence requirement; a mental health treatment requirement; a drug treatment requirement; an alcohol treatment requirement; a conduct requirement; a compensation requirement: and a restricted movement requirement.
- The consent of the individual is needed before the court can impose a CPO unless the order is imposed under section 227M(2) of the 1995 Act for fine default.

- There is no limit on the number of requirements which can be imposed by the court. However, in writing a Criminal Justice Social Work Report (CJSWR) for the information of the court, report writers must consider the risks of reoffending and the harm caused by previous behaviours, the needs of the individual and the intensity of supervision required, to inform the court as to appropriate requirements which could be included. The requirements recommended by the CJSWR should be proportional, relevant and outcome focussed.

- The requirements that can be imposed by a Justice of the Peace court as part of a CPO are limited to an offender supervision requirement; level 1 unpaid work or other activity requirement; a residence requirement; a compensation requirement; and a conduct requirement.

- A further offence committed during a CPO is not a direct breach of the order; however, if an offence is committed which contravenes a requirement, and guilt is established, this may result in the CPO being breached through failure to comply with that requirement.

- Application can be made to the court for early discharge of a CPO. This might be appropriate in circumstances where an individual has exerted significant effort, made highly positive progress, and the assessed risk/needs are reduced to the extent that there is little benefit in continuing to intervene in the individual's life. The power for a court to discharge a CPO applies irrespective of the requirements contained in the CPO.

- An application to the court to vary a CPO can be made by the responsible officer[3] or the individual if the individual's circumstances have changed since the imposition of the order.

- There is facility for the court to conduct discretionary progress review hearings at any time within the duration of the CPO. Where the court decides to conduct a review hearing this will be included in the CPO at the point of sentence. The responsible officer is required to submit a progress report in advance of the review hearing.

- There is a statutory requirement upon local authorities to consult annually with communities, representatives of community organisations and other relevant organisations about the type of unpaid work or other activities to be undertaken by individuals on whom such a requirement is imposed.

- Although not a statutory requirement, for individuals subject to a CPO who have caring responsibilities, every attempt must be made to accommodate such responsibilities in the case management plan so that they do not impede, and are not impeded by, the individual's ability to comply with the CPO.

[3] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

- Consideration must also be given to section 227E of the 1995 Act which sets out a number of conditions which must be met with regard to an individual's religious beliefs, and employment, voluntary work and education.

6. Assessment of suitability for a Community Payback Order

In proposing to the court that a CPO may be an appropriate sentence to be imposed, account should be taken of the following factors:

- Where a court intends to impose a CPO (other than one imposed under section 227M(2) of the 1995 Act for fine default) on an individual, the individual first requires to indicate their consent (See section 227(B)(9)(b) of the 1995 Act). A pre-sentence assessment of the extent of the individual's needs, ability and willingness to successfully complete a CPO should, except where it is imposed under section 227M(2), be a key consideration.

- A pre-sentence assessment should consider the pattern, nature, seriousness, likelihood and imminence of reoffending to inform decisions about whether a community sentence is appropriate. The assessment should also consider whether supervision/intervention is required to address the individual's offending behaviour, or whether there are indicators of harm to others which warrant more in-depth, offence specific or specialist assessment (e.g. Spousal Assault Risk Assessment (SARA), Risk Management 2000 (RM 2000) or Stable and Acute 2007 (SA07)). A full risk of serious harm (RoSH) assessment at the pre-sentence stage is unlikely to be feasible/possible unless the court allows sufficient time. (For additional information in relation to domestic abuse offences, please refer to the end of this section).

- A CPO can consist of a number of requirements – up to ten are available at the point of sentencing, from which the court may select one or more when imposing a CPO. A CPO may also be imposed instead of a fine in which case only three of the ten requirements can be applied (an offender supervision requirement, a level 1 unpaid work or other activity requirement and a conduct requirement). It is good practice for those preparing the CJSWR to discuss in the report those requirements which would be particularly useful (and those regarded as particularly unhelpful where applicable), having regard to the risk assessment and the individual's circumstances.

- It may be assessed by the CJSWR author that in order to address risks and needs in relation to offending behaviours, particular requirements would be appropriate. If the individual expresses their disagreement to those requirements, it is the CJSWR author's responsibility to notify the court of the requirements assessed as appropriate and indicate to which of these the individual withholds their consent. In such cases the court will decide whether to impose a CPO incorporating only the requirements which the individual consents to, or whether to impose an alternative sentence.

- Where a restricted movement requirement is being considered, additional consideration must be given to the impact this may have on co-habitants within the household including children and vulnerable adults, as well as any

victims and residents within the local community. This assessment should include:

- a summary of the accommodation (e.g. electricity supply, size, etc. both the purpose of the individual's welfare and for the installation of monitoring equipment);
- a summary of domestic/family responsibilities (including the composition of any family living there);
- a description of regular activities in which the individual needs to take part;
- information on any relationship/victim issues, including domestic abuse and/or child or adult protection concerns;
- any current substance use issues;
- the views of those likely to be affected by the enforced presence of the individual; and
- any other issues considered relevant.

Where it is not clear whether an individual would be likely to comply with or manage a CPO, and it is considered appropriate to do so, the CJSWR author may wish to consider recommending a short Structured Deferred Sentence, where available, in order to assess their level of engagement with supervision prior to sentencing. This may serve to assess an individual's ability to comply with supervision in the community and may be used in circumstances where there is more persistent offending and complex needs. A Structured Deferred Sentence may also be an appropriate option where a CPO is considered unwarranted but the individual would benefit from a short period of structured intervention.

Periodic (Progress) Reviews

Progress review hearings have proved to be a useful tool in sentence management and can have a positive impact on levels of compliance. When proposing a CPO as a viable sentencing option to the court, the CJSWR author should consider whether regular progress reviews would assist successful compliance/completion of the order and the achievement of desired outcomes.

In determining whether regular progress reviews would be appropriate, the CJSWR author should have regard to the outcome of assessment of the individual's circumstances, the complexity of their needs (including, for example, difficulties in relation to institutionalisation, mental health issues, substance misuse, developmental stage, trauma or adverse childhood experiences), their current level of motivation and their recent response to supervision. Progress reviews held by the court could also help inform, or be informed by internal department reviews i.e. 3 months, 6 months and 6 months thereafter. (See section 16 of this guidance.)

Domestic abuse

Domestic abuse is often hidden or unreported and so care should be taken to fully explore the offence history, features of which might indicate a pattern of abusive behaviour (e.g. offences under Section 1 of the Domestic Abuse

(Scotland) Act 2018, offences under the Communications Act 2003, Breach of the Peace prior to the recording of aggravation categories, Section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 and Sections 38 and 39 of the Criminal Justice and Licensing (Scotland) Act 2010). It is important to note that the statutory aggravation of domestic abuse was not available prior to 2016.

Where available, other agencies (e.g. Multi-Agency Risk Assessment Conference/Multi-Agency Tasking and Coordination group), the CAADA-DASH checklist (also known as Safe Lives Risk Indicator) and the Police Scotland Domestic Abuse Questions (DAQ) may provide relevant victim-specific information. Domestic Abuse Court support and advocacy services, where available, may also provide additional information in relation to compliance with statutory orders.

It is nevertheless important to carry out a thorough analysis of current and historical offences where no domestic abuse aggravator may have been recorded, but concern remains that domestic abuse may be a factor. The CJSWR author should also check information held on local authority systems and where there has been local authority involvement due to a concern about a child or vulnerable adult in the household, identify to whom the concern refers, and take account of the views of the other professionals involved when making a decision as to whether to recommend a CPO. This information can assist in informing an appropriate disposal recommendation. Where appropriate, a check with the Police Domestic Abuse Investigation Unit will establish if there is a history of call outs to the individual's home for domestic incidents.

Domestic abuse takes many forms and the individual may score low on general risk assessments, therefore a specialist assessment tool such as SARA should also be considered at this stage. It is entirely reasonable for justice social work to request an adjournment where a SARA assessment is considered appropriate, in order to establish suitability for an appropriate programme requirement. The CJSWR author should also consider recommending a non-harassment order if appropriate. It is important to note that separation does not eliminate risk to the victim of domestic abuse and risk may in fact be elevated during the period following separation.

16 - and 17- year olds

For children aged under 17 years 6 months, it would be expected that remittal to the children's hearings system would always be considered and the CJSWR should always comment on the option of remittal, and "be clear that remittal is being considered with a view to work being undertaken" (Scottish Government, 2010, p.52.) The rules on remittal are set out in section 49 of the 1995 Act. Remittal to the children's hearings system can be either for advice prior to the court determining how to dispose of the case or for disposal, at which stage the court's involvement with the child would cease.

Justice social work staff working with this group should be familiar with the principles of Getting It Right For Every Child, the Whole System Approach, and reflect this in their practice.

7. Risk Assessment

The frequency of contact and levels of supervision will vary according to the nature of the CPO requirements imposed on the individual, and will reflect the intensity of input required to manage and address the issues associated with the individual's offending, in line with the Risk Management Authority's Framework for Risk Assessment, Management and Evaluation.

Individuals subject to a CPO with an offender supervision requirement should be seen at least weekly in the first four weeks by the responsible officer[4] (nominated under section 227C of the 1995 Act). Further types of contact can be by various means including office contacts, home visits, contact with other agencies, telephone contact, letters, use of texts etc., but this will essentially be informed by the assessed risk and the individual's circumstances. Where home visits are required as part of the management of the CPO, all staff must adhere to their local authority's safe working practices.

In most cases where an offender supervision requirement has been imposed as part of the CPO, an initial analysis of the individual's offending - which considers the pattern, nature, seriousness, likelihood and imminence of offending - will have been carried out at the CJSWR stage.

A fuller risk/needs assessment and analysis of the individual's offending will be required in every case where an offender supervision requirement has been imposed, whether the requirement was informed by a CJSWR or not. This fuller assessment, using a validated tool such as LS/CMI (Level of Service Case Management Inventory) should be completed (by a trained practitioner) within 4 weeks of the requirement being imposed. In the event that the responsible officer, in consultation with their line manager, considers that the assessment does not adequately reflect the level of risk posed, the professional override feature of LS/CMI may be used. A clear rationale and supporting evidence must be provided and recorded in case records.

Risk assessment should be used to help inform the main elements of the case management plan, including the level of supervision necessary to support rehabilitation. Supervision levels should be considered as:

- Very high intensity
- High intensity
- Medium intensity
- Low intensity

Very high intensity – Individuals should be seen by the responsible officer at least once a week and there should be up to 7 contacts per week with other staff or partners. Contact should include arranged and unannounced home visits with due care to the safety of staff to be informed by the assessment and review

[4] The role of the "responsible officer" is exercised in these cases by the justice social worker who is supervising the individual subject to the order.

process. The levels of contact, along with the overall case management plan, should be reviewed at least every 3 months. The frequency of reviews should remain at least at 3 monthly intervals for as long as very high intensity levels of contact are in place.

High intensity – Individuals should be seen by the responsible officer at least once per week and there should be up to 3 contacts per week with other staff or partners. Contact should include planned and unannounced visits with due care to the safety of staff to be determined by the assessment and review process. The frequency of reviews, where the level of contact is reviewed, should remain at 3 monthly intervals for as long as high intensity levels of contact are in place.

Medium intensity – Individuals should be seen by the responsible officer once per week and this should be reviewed after the first 3 months. Contact may then be reduced to once per fortnight where an individual's circumstances and level of risk is assessed as stable. This would then be reviewed after a further 6 month period. Contact should include at least one planned or unannounced home visit between reviews.

Therefore where an individual requires a medium level of intensity, departmental reviews should be held 3 months after the imposition of the CPO, and if circumstances remain stable, at 9 months after the imposition of the CPO and 6 monthly thereafter.

Low intensity – Where a court imposes a CPO in such circumstances, there should be one contact per week with the responsible officer for the first month, reducing to monthly contact thereafter. The overall case management plan, along with levels of contact, should be reviewed every 6 months. Should the review process determine that outcomes sought in relation to public safety, rehabilitation and reintegration have been sustained and evidenced, consideration should be given to application for early discharge following completion of unpaid work or the final payment of compensation, where applicable.

Where particular circumstances indicate that the level of contact differs from that outlined above, this should be discussed with the responsible officer's line manager and appropriate action taken as required.

Home Visits

Contact with the individual at home can assist the process of gathering and verifying information - either for an initial assessment at the CJSWR stage or for ongoing assessment and evaluation of progress during the period of supervision. In domestic abuse cases where a victim is resident with the person responsible for the abuse, it is good practice to contact the agency supporting the victim prior to making a home visit. In general, where the individual lives with others, home visits to assess the nature of the individual's relationship with family members and/or others can help to establish:

- whether the other person's or persons' attitudes and beliefs or own involvement in offending behaviour are contributing to the individual's

involvement in offending (for example, by reinforcing pro-offending attitudes or engaging in substance misuse);

- whether any significant family relationships have broken down, or are at risk of breaking down, as a consequence of the individual's involvement in offending behaviour (however, great care should be taken to ensure that victims of domestic abuse do not interpret this as pressure to provide support to an abusive partner or remain in an abusive situation);

- the potential (ability and willingness) of these others to engage with, and be involved in helping the individual move away from offending; and

- if there are any child protection or adult protection concerns (which must then be promptly addressed).

8. Particular Considerations

8.1 Victims

An understanding of the impact offending behaviour has on victims and the wider community should be taken into account in managing a CPO. Work should be undertaken with the individual to identify and explore attitudes towards the victim(s) of their offending, both immediate and in the wider perspective. It should involve targeted work with the individual subject to the CPO to identify and explore attitudes and understanding of the impact of their actions on the victim(s), and to explore ways of making changes to avoid future offending. This can be undertaken as part of an offender supervision requirement or can also be addressed through the "other activity" component of an unpaid work or other activity requirement. Payback to victims and society should always be a prominent focus within a CPO regardless of the nature of the requirements imposed.

Domestic abuse offences

The responsible officer[5] (nominated under section 227C of the 1995 Act) would not normally contact victims direct except in domestic abuse offences, when considerable care must be taken in planning this contact. Particular care must also be taken in making decisions related to how information gained during such contact is used. Where possible this should involve close contact with services providing support to the victim and the primary focus must be on maintaining the safety of victims, children and any other vulnerable people within the household. Where Caledonian System staff are already working with the victim, the responsible officer should not make direct contact with the victim but should contact the relevant Caledonian System worker.

During any contact with victims of domestic abuse, the responsible officer should adopt a trauma informed approach to ensure that victims experience the appointment as safe, and do not feel re-victimised during the interview process. Information on appropriate local support services should always be offered to victims who are not currently receiving such support.

Home visits may serve to monitor obvious changes in the behaviour of the individual (and the victim where possible), to help assess ongoing risks. However, responsible officers should have an awareness of the dynamics of coercive control and should understand which behaviours constitute abuse. Where victim support services are involved, responsible officers should be in contact with the agency providing support to help inform risk assessment and monitoring. Responsible officers should fully explore concerns in professional supervision and refer to local multi-agency forums as appropriate.

[5] The role of the "responsible officer" is exercised in these cases by the justice social worker who is supervising the individual subject to the order.

Responsible officers should recognise that abuse may continue despite the victim not being resident with the individual. Separation does not guarantee safety and the period following separation may be a time of increased risk.

Information gained through contact with victims must always be treated sensitively and must not be used with the individual if this may place the provider of such information, or other vulnerable people within the household at increased risk. Information provided by the victim should not be shared without consent.

Examples of measures that can be taken throughout the duration of a CPO to protect victims' safety are provided below. This is not intended to be an exhaustive list. The responsible officer may:

- provide advice to the victim on safety planning, who should be contacted, and the action they should take if the individual does not adhere to requirement/condition which is intended to prevent victim access;
- help the victim to secure assistance in improving household security (such as asking the landlord to fit more robust external locks, and fit internal door locks);
- flag the address with the police so that it can be patrolled and maintain regular contact with domestic abuse liaison officers;
- maintain contact with housing services/associations and community wardens (where available) to increase the monitoring of the situation;
- undertake home visits to the victim when the individual subject to the CPO is attending unpaid work or a programme, and request that other professionals (women's worker, police domestic abuse officer) do so;
- offer to meet the victim outside the home in a place where they feel safe and comfortable having a discussion;
- undertake victim safety planning and keep their safety under regular review;
- refer the case to multi-agency decision making bodies such as the Multi-Agency Risk Assessment Conference (MARAC) and/or the Multi-Agency Tasking and Coordination group (MATAC) when multi-agency actions are required in relation to the safety, health and wellbeing of the victim (and their children);
- invoke Multi-Agency Public Protection Arrangements (MAPPA) if appropriate; and
- recommend to court a restricted movement requirement to allow effective monitoring of whether people are kept away from specific location as part their order.

<u>Service Generated Risks</u>

Justice Social Work Services play a significant role in reducing service generated risks to victims of domestic abuse by responding to and addressing the individual's abusive behaviour in a way which does not increase the risk to the victim. For example, while it is important that court reports are informed by partner information, this should be provided in such a way that it does not jeopardise the safety of the victim or others by identifying the source. This

includes information received via other sources such as support workers from other organisations/agencies.

Unsafe case recording can also generate risks to the victim. Sensitive information pertaining to risk may be received direct from the victim, their children or family members, or indirectly via their contact with other agencies. This should only be included in the case record of the individual (subject to local authorities' procedures and protocols under the EU General Data Protection Regulation (GDPR))[6] where this is clearly identified as information which must not be disclosed. Such information must be redacted in versions of documents such as court reports or risk assessments to which the individual may gain access.

8.2 Child Protection

It is the responsibility of individual Child Protection Committees to develop local procedures which take account of justice social work as a potential source of information in cases where there are child protection concerns. In such cases justice workers will share information with children and family social work teams. All staff who are working in justice social work should be aware of their role in child protection, what kinds of circumstances constitute grounds for concern about the safety of a child, and the local protocols for referring to child protection colleagues. Responsible officers should ensure that practitioners possess both sufficient awareness of child protection issues and access to appropriate training to enable them to correctly interpret what is potentially important information. Responsible officers and unpaid work case managers have a duty to provide information, either in person, and/or by report, to any departmental meetings to address the needs of, and risks to, the child.

Where a drug and/or alcohol treatment requirement is imposed, an offender supervision requirement will also be in place. A qualified social worker will therefore always have ultimate accountability for ensuring protocols that refer to child protection issues are followed. This social worker will also ensure that responsibilities for children affected by parental substance misuse (CAPSM) in the context of Getting It Right For Every Child are taken into account, even if elements of the CPO are carried out by non-social work qualified staff. For further information, refer to the National Guidance for Child Protection in Scotland.

8.3 Adults In Need Of Support And Protection

The Adult Support and Protection (Scotland) Act 2007 sets out duties and powers to identify vulnerable adults at risk of harm, provides the means to protect them from harm, and enables the provision of support when it is needed. Crucially, it places a duty on local authorities to make inquiries about a person's wellbeing, property or financial affairs if the local authority knows or believes that the person is an adult at risk and that intervention is necessary in order to protect the person's wellbeing, property or financial affairs.

[6] Regulation (EU) 2016/679

It is the responsibility of individual local authority Adult Support and Protection Committees to develop local procedures which take account of justice social work staff as a potential source of information in cases where there are adult support and protection concerns. In such cases justice social work staff must share information with adult support and protection (or relevant community care) social work colleagues.

All justice social work staff should be aware of their role and responsibilities in relation to adult support and protection, what kinds of circumstances constitute grounds for concern about the safety of a vulnerable adult, and the local protocols for referring to adult support and protection (or relevant community care) colleagues.

Justice social work managers should ensure that justice social work staff possess both sufficient awareness of adult support and protection issues and access to appropriate training to enable them to correctly interpret what is potentially important information. Responsible officers and unpaid work case managers have a duty to provide information, either in person, and/or by report, to any departmental meetings to address the needs of, and risks to, adults in need of support and protection.

The following sources provide further information.

The Adult Support and Protection revised Code of Practice can be accessed here: Adult Support Revised code of Practise

The Act Against Harm website, which has information relating to the Adult Support and Protection (Scotland) Act 2007 (which is in place to protect adults vulnerable to harm/abuse) can be accessed here: Act Against Harm

8.4 16 - and 17 - year olds

As part of the Whole System Approach to working with children and young people, alternative approaches can be adopted such as early and effective intervention, diversion from prosecution and referral to the children's hearings system. These alternative approaches may help to keep children out of the criminal justice system while addressing their needs and any harmful behaviours. justice social work staff working with this group should be familiar with the principles of Getting It Right For Every Child and the Whole System Approach, and reflect this in their practice.

Where an offence is alleged to have been committed by a young person aged 16 or 17, justice social work staff should be aware of the definition of children under section 199 of the Children's Hearings (Scotland) Act 2011. The Lord Advocate's Guidelines to the Chief Constable on the Reporting to Procurators Fiscal of offences alleged to have been committed by children make clear the types of offences which require to be jointly reported and therefore may result in prosecution.

Young people appearing before the court may also be subject to a Compulsory Supervision Order (CSO) through the children's hearings system, or they could

be assessed as requiring further support on care and protection grounds. Such individuals should be appropriately referred to address both the risk and the needs they present. Professionals should work in partnership on these occasions with the most appropriate worker taking the lead. The imposition of a CPO does not require a CSO to be terminated and recommendations on whether a child continues to require compulsory measures should be assessed on a case by case basis.

Provision continues to be available to the court for those under 18 to be remitted to the children's hearings system for advice. However, a CPO cannot be imposed by the children's hearing.

CPOs should take consideration of the child's age, developmental capacities and likely limited knowledge and experience of measures of this nature, whilst also considering potential fears and a sense of hopelessness about successfully completing orders. Consideration should be given to how barriers to successful compliance can be reduced and what support may be required, not just to the individual child but to the systems around that child such as family, education community and peers, for example. Full explanations should be given to the child of the conditions which must be met in relation to each requirement, who they must report to and engage with, as well as the consequences of non-compliance.

Where a CPO is imposed on a young person aged 16/17 under section 227G(2)(a) of the 1995 Act, the court must also make an offender supervision requirement. Such supervision may present particular challenges for responsible officers due to the requirement for additional resources to be invested and consideration being given to a wide range of interventions to meet the specific needs of the individual effectively. However, given the well-established consequences for children and young people of non-compliance, the provision of such support is imperative.

Where an offender supervision requirement is imposed with a level 1 unpaid work or other activity requirement, the supervision requirement is likely to be of short duration with the aim largely consisting of supporting the young person to complete their period of unpaid work. However, other identified needs should be addressed as part of the CPO as necessary. In managing such a requirement, whilst the responsible officer would retain overall responsibility, the unpaid work case manager may undertake some of this work (for example, via pro-social modelling and addressing attitudes supportive of offending, where these are identified during regular contact, in the course of unpaid work).

Where the child has a support worker from another department/agency, frequent liaison and joint working should take place to address areas of need such as education, training and employment, family work, benefits, accommodation, health and any difficulties with substance misuse. The support worker should also be included in any departmental reviews. Where necessary, additional input from other agencies should commence during the CPO so that if the child continues to require support upon completion of a CPO, this can be provided to help promote their reintegration. Any referrals/signposting to relevant organisations identified should be made by the responsible officer supervising the CPO prior to its completion to facilitate ongoing support.

In supervising a young person on a CPO, an outcome focussed case management plan that meets their needs should be devised. In addition, where a CJSWR is requested, consideration should be given to this report being prepared by a member of staff with the appropriate skills and experience in working with this specific age group. The Framework for Risk Assessment, Management and Evaluation (FRAME) for children and young people under 18 years is a helpful guide when addressing moderate to serious offending behaviour. The selection of appropriate risk instruments is the responsibility of the practitioner and the agency and guided by the Risk Management Authority (RMA) Risk Assessment Tools Evaluation Directory (RATED). Risk assessment tools should be appropriate for the age and development level of the young person being assessed.

The impact of transitioning from childcare to adult services should also be given careful consideration.

9. Post Sentence

Arrangements for post sentence interview are the same for all the requirements of a CPO. It is recognised that local procedures may vary and the focus of this guidance is to give a framework within which local practice can operate.

Court staff will arrange for a copy of the order to be printed off and available within a short time of the imposition of the sentence. As a separate exercise, sheriff clerk staff will provide an electronic version of all orders made that day to a central receiving point, usually a secure email box, within the local authority where the court is located, by close of business that same working day. Where a restricted movement requirement is imposed and made subject to electronic monitoring, court staff will also provide the local authority with a copy of the Electronic Monitoring Order (EMO), and send a copy of both orders to the electronic monitoring (EM) service provider.

Where an order is received by a local authority for an individual not resident within its area, arrangements should be made by the receiving local authority for its immediate electronic transfer to the relevant authority. All authorities require to carry out a daily check of the secure email box for receipt of CPOs and where necessary, to electronically forward order(s) to the appropriate relevant authority. This will ensure that local authorities have the earliest possible notification of all cases where a CPO has been imposed.

Written instructions with details (time and location) of the individual's post sentence interview with a member of justice social work staff must be given to the individual following sentence. How this is achieved can be agreed locally e.g. the instructions may be incorporated in the CJSWR or attached as an annex to the CJSWR.

Where the court has imposed a restricted movement requirement, it is imperative that the serving of the CPO, EMO and the post-sentence interview be carried out with the minimum of delay and within the locally agreed procedures and arrangements. As the EM service provider will generally attend the individual's home or restricted location within the first curfew period to install the monitoring equipment and fit the personal identification device (PID), also known as a 'tag', the individual needs to understand their obligations, rights and responsibilities and the consequences of non-compliance from the outset. These matters need to be addressed within the post-sentence interview.

If it is not possible for justice social work services to be present in court on the day of sentencing, a member of the justice social work team should attempt to contact the individual by telephone following sentencing to outline the individual's obligations where a CPO with restricted movement requirement (RMR) has been imposed. The individual should be instructed that they are required to be at the restricted location from the time indicated on the order to await the EM service provider attending to install the equipment and fit the tag. It is also expected that where a CJSWR has been submitted prior to sentencing, and where RMR has

been recommended, that these issues are discussed with the individual at this time.

An example of good practice may be for the individual to sign an agreement at the CJSWR stage to attend for post-sentence interview at an agreed time and place. Consideration can then be given as to the appropriate action in respect of disciplinary matters if the individual fails to attend.

Where in exceptional circumstances it is not possible for the post sentence interview to take place on the day of sentence, the written instructions given to the individual should be for them to report for an initial appointment no later than the next working day.

The serving of the CPO should be undertaken at the post sentence interview by a member of the justice social work team within the court or at a previously agreed location. The member of staff must explain to the individual in detail the nature of the order and check that the individual understands their obligations, rights and responsibilities and the possible consequences of breach. The serving of the CPO does not necessarily require to be carried out by a social work qualified member of the justice social work staff. In line with good practice, the individual must sign and date two copies of the order to signify that they understand and accept the order. A copy must be retained in the department's records.

During the post-sentence interview, information can be gathered which will help give an overview of the individual's circumstances, and living arrangements, and will also inform staff safety assessments pertaining to home visits and overall supervision of the CPO. (See Section 10 (Case Management Plan) and Annex 1 of this guidance).

In addition, the opportunity of the post-sentence interview should be used to obtain a medical mandate so that contact can be made at a future point, if necessary, with the individual's General Practitioner. Consent to this should be sought and a mandate fully explained and signed by the individual. The mandate should then be retained on file (Annex 2).

Reference should also be made to section 21.5.2 of this guidance, which contains further information about the purpose of a post sentence interview when the CPO includes an unpaid work or other activity requirement.

10. Case Management Plan

Case management plans should be developed in collaboration with the person subject to the CPO, to increase their motivation and engage them in the process of change. By establishing a good relationship, an individualised plan can be co-produced by the person and their responsible officer[7] (nominated under section 227C of the 1995 Act). By taking a strengths based approach, and developing achievable future goals which are inconsistent with offending, engagement and compliance may be increased. Programmed interventions are more likely to be effective where a good working relationship is established and sustained.

A full risk and needs assessment (which would include an analysis of the individual's offending) will be required in all cases where an offender supervision requirement has been imposed - whether the requirement was informed by a CJSWR or not (for example, where a CPO with a level 1 unpaid work or other activity requirement is imposed).

The initial plan should be identified at the CJSWR stage and contained within that report. Where a CPO containing an offender supervision requirement is imposed, the responsible officer should arrange to meet the individual within 5 working days of the date of imposition of the order. The plan should be collaboratively developed with the individual and expanded upon during the initial stages of the offender supervision requirement. Where appropriate this may involve input from other agencies and, with the individual's consent, family members.

A full assessment, informed by an agreed method or tool such as the LS/CMI, should be undertaken within 20 working days of the requirement being imposed, taking into account the assessments of the likelihood and imminence of further offending, along with a consideration of the pattern, nature and seriousness of the offending to date. This will help to inform the main elements of the plan, including the level of supervision intensity necessary to support rehabilitation. It is important to adopt a strengths based, as opposed to a deficit based, approach to developing the plan. Care should be taken to tailor the plan to the individual.

The development of any plan should not delay the commencement of an unpaid work or other activity requirement which should commence within 7 working days of the order having been made and sooner, wherever possible.

Regular appointments immediately after sentence will contribute to the ongoing development of the plan, which should be co-produced by, and agreed with the individual, and be based on SMART principles (Specific, Manageable, Achievable, Realistic, and Time Bound). The plan should be recorded in case files and stored accordingly. Plans should be jointly reviewed, recognising progress and, where necessary, revised at regular intervals. Reviews should be scheduled in accordance with the agreed supervision intensity levels or convened where there is a significant change in circumstances or in the progress of the

[7] The role of the "responsible officer" is exercised in these cases by the justice social worker who is supervising the individual subject to the order.

individual being supervised. Positive developments should be recognised during the review and sustained positive change should be supported by gradually increasing the individual's level of autonomy whilst reducing restrictions as appropriate.

Where an unpaid work or other activity requirement has been imposed in addition to an offender supervision requirement, it is expected that the responsible officer, (the justice social worker in these circumstances), would discuss progress and compliance with the relevant unpaid work staff prior to every review meeting with the individual. In addition, the responsible officer should invite the relevant unpaid work staff to attend the meeting, particularly if there have been conduct issues in relation to unpaid work.

Where an unpaid work or other activity requirement is the sole requirement of the CPO, it is expected that the responsible officer, (the unpaid work case manager in these circumstances), would invite relevant unpaid work staff to attend, where available.

The case management plan should take account of both criminogenic and other needs to meet the specific goals of the individual on their unique journey towards desistance. This may involve improving significant relationships, restoring health and well-being, securing sustainable/stable accommodation, achieving financial stability or maximising benefits, taking advantage of meaningful learning opportunities and developing new employment skills.

Creating the circumstances for successful reintegration requires the active participation of community justice partners and others, communities, families and the individual mainstream agencies, such as Jobcentre Plus, the health service and local authority housing departments. Voluntary and private sector organisations will also play important roles. Early in the life of a CPO, opportunities should be identified to motivate and engage the individual in accessing support services which, where necessary, can extend beyond the term of the CPO.

In addition to the case management plan, an 'Engagement Contract' agreed with the individual can, in appropriate cases, provide a clear way for them to be a full partner in the process. While the plan is shared and agreed with the individual, the Engagement Contract provides an opportunity for more specific aims or targets to be agreed between the individual and the responsible officer or unpaid work case manager. It should offer real gains for the individual, but also require them to take responsibility for reducing their risk of reoffending. The contract should ensure that the package is tightly managed, and that supports are tailored to the individual while the individual's responsibilities are clearly set out. The contract should be both realistic and achievable and should be signed off by both parties. The contract should be shared, as appropriate, with the other relevant agencies involved in providing services or support to the individual.

Any Engagement Contract should be drawn up in consultation with the individual following a full assessment of their needs. It could cover a wide range of issues, including:

- education and training;
- help with family issues & parenting;
- advocacy – benefits and housing;
- participation in offending behaviour programmes;
- participation in drug and alcohol programmes;
- constructive use of leisure time; and
- physical and mental health.

10.1 Individual learning

Every individual on a CPO should, where appropriate, be assessed for literacy and numeracy needs. When an individual has literacy or numeracy needs, every opportunity should be taken throughout the period of the CPO to address those needs and any proposed individual learning action should form part of the case management plan. Literacy and numeracy needs may also be addressed under the other activity component of an unpaid work or other activity requirement.

At the first post sentence meeting, the responsible officer interviewing the individual should open a general discussion with them about their previous education/learning experiences. If it becomes clear during further discussions that literacy/numeracy needs exist, help should be offered and, where the individual agrees, referrals made to local literacy and numeracy service providers who should be able to identify the individual's particular needs using an alert tool designed for that purpose.

Such a tool will enable the individual to demonstrate what they can do and identify potential areas for improvement. They should be reassured that participating should not be seen as a "test" or a pass/fail scenario and nor will it be any indication of Core Skill Levels. The alert tool should ensure that further assessments are made where necessary in order to identify the most appropriate learning provision for the individual. This might be accessed through Community Learning and Development in the local authority, the voluntary sector or through a local college. The individual must be fully involved in identifying and agreeing this plan and agree goals and incremental milestones within the terms of the order.

For younger individuals, it should be noted that Scotland's Curriculum for Excellence covers ages 3 to 18 and therefore extends to young people subject to a CPO. Curriculum for Excellence aims to provide learners with a well-rounded education that allows them to thrive. Multi-agency working with local learning providers is therefore vital to ensure that young people on CPOs access the same learning opportunities as their peers. It is important that links are made, and every encouragement is given, to allow for continuation of individual learning on completion of the order.

Further information on Curriculum for Excellence can be found on the Education Scotland website and regard should also be given to the recommendations of the Offender Learning Report "*Options for Improvement*" and the Scottish Government's response to this.

Where employment is identified as a need, local employability and employment service providers such as Jobcentre Plus and Fair Start Scotland programme should be approached to provide support to the individual in accessing routes into employment.

Engagement in learning will always be of a voluntary nature and will require the individual to be fully motivated if it is to be successful. The focus of individual learning is not to be viewed as a punitive action but as means to community reintegration. Any decision by an individual not to take up an educational opportunity should not therefore be regarded as an appropriate issue for disciplinary action. Where an individual has agreed to participate in learning as part of their CPO, failure to follow instructions in relation to that activity – for example by not observing proper behaviour in a class situation - should be considered in context to determine whether or not it is appropriate to invoke disciplinary action.

11. Requirements

There are ten requirements that may be imposed as part of a CPO:

- Compensation requirement
- Offender supervision requirement
- Unpaid work or other activity requirement
- Programme requirement
- Residence requirement
- Mental health treatment requirement
- Drug treatment requirement
- Alcohol treatment requirement
- Conduct requirement
- Restricted movement requirement

11.1 Compensation Requirement

An offender supervision requirement will be imposed in addition to a compensation requirement. A compensation order continues to be a disposal available to the court where a CPO has not been imposed.

A compensation requirement, as a requirement of a CPO, requires the individual to pay compensation for any personal injury, loss, damage or other matter incurred as a result of the individual's offending behaviour.

Compensation can be paid either by means of a lump sum or by instalments and should be paid directly to the court.

Where a compensation requirement is imposed:

- the compensation must be paid within 18 months, starting from the date the requirement was imposed; or

- if the offender supervision requirement is for a shorter period than 18 months, the total sum must be paid two months before the end of any supervision requirement. For example, where an offender supervision requirement and a compensation requirement are imposed as part of a CPO, and the offender supervision requirement is to last 12 months, the compensation requirement must be paid in full by the end of the 10-month period;

- the responsible officer[8] will monitor compensation payments through liaison with the court and by requiring the individual to produce receipts;

[8] The role of the "responsible officer" is exercised in these cases by the justice social worker who is supervising the individual subject to the order.

- if an individual fails to pay the compensation requirement within the required timescale, the responsible officer will notify the court by means of a breach report.

11.2 Offender Supervision Requirement

Where the order contains an offender supervision requirement (plus possibly other requirements) the responsible officer[9] will be a suitably qualified and registered social worker. Whilst accountability in such situations rest with the responsible officer, non-social work qualified staff may, where appropriate, undertake work with the individual as part of the order.

Section 227G of the 1995 Act defines offender supervision as:

'*.. during the specified period, the offender must attend appointments with the responsible officer or another person determined by the responsible officer, at such time and place as may be determined by the responsible officer for the purpose of promoting the offender's rehabilitation.'*

The court must impose an offender supervision requirement in the following situations:

- where the individual is aged under 18
- where the court imposes any requirement other than an unpaid work or other activity requirement
- where the court imposes two or more requirements

The responsible officer has two key roles:

- to work with the individual and relevant others to achieve change in the individual's behaviour to encourage desistance from offending behaviour; and
- to work with the individual to achieve compliance.

The responsible officer is responsible to the court for the effective planning, management and monitoring of the case management plan, which supports the offender supervision requirement and through that the order. This responsibility involves motivating and supporting the individual to desist from further offending, preparing and implementing the case management plan, keeping it to schedule, organising levels and types of contact and resources to support the interventions, and supporting the individual to achieve the intended outcome of each intervention. The responsible officer also reviews progress, reports to court as required and helps the individual to deal with any obstacles to the successful completion of the CPO.

The responsible officer will be responsible for ensuring the level of supervision intensity is adhered to. This will be determined by regular assessment of the pattern, nature, seriousness, likelihood and imminence of offending. Formal

[9] The role of the "responsible officer" is exercised in these cases by the justice social worker who is supervising the individual subject to the order.

departmental reviews will maintain or vary the case management plan following a review of progress and outstanding outcomes. It should be stressed that in addition to deciding the level of contact, the responsible officer must give consideration to the purpose and nature of that contact. This will be determined by the assessed likelihood of offending and will be geared towards meeting the stated outcomes of the case management plan. The responsible officer must clarify the separate but related issues of risk of offending and risk of harm to others.

11.3 Unpaid Work or Other Activity Requirement

Where an unpaid work or other activity requirement is imposed by the court, it will be for the responsible officer[10] to decide, following discussion post sentence with the individual and the unpaid work case manager, whether is it appropriate for them to undertake "other activity", and what the nature of that activity might be. Because of the complexities of the legislation, and the differing arrangements which operate when this requirement is used as a first or second instance disposal, a separate section can be found in section 21 of this guidance covering the specific procedures to be applied where a court imposes an unpaid work or other activity requirement.

11.4 Programme Requirement

An offender supervision requirement will always be imposed where a programme requirement is made by the court. The duration of the programme must not exceed the period of the offender supervision requirement.

Section 227P(2) of the 1995 Act defines a programme as:

'a course or other planned set of activities, taking place over a period of time, and provided to individuals or groups of individuals for the purpose of addressing offending behavioural needs'.

This includes accredited and non-accredited programmes.

Before a programme requirement can be imposed, the court must be informed (through the CJSWR) of the individual's eligibility and suitability for the programme, the programme availability and confirmation that the programme manager/provider has agreed to the individual's participation. This can be ascertained through consultation between the CJSWR author and the programme manager and should then be clearly identified in the CJSWR.

In some cases where a court has not imposed a programme requirement at first instance, it may become apparent during work with the individual that their participation in a programme could be beneficial. In such cases the responsible officer can apply to the court to have the CPO varied by the addition of an appropriate programme requirement. Consideration may also be given to

[10] Where the court imposes an unpaid work requirement alone, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

whether or not the same outcomes could be delivered by structured 1-2-1 work with the individual, which could be delivered as part of the offender supervision requirement.

In keeping with section 227ZA(7)(b) of the 1995 Act, this can in practice, only be done with the agreement of the individual. Where the individual is in agreement with seeking such a requirement, this can be undertaken by means of a letter outlining the request and the reasons for it, with the individual countersigning the request. Such an approach may, depending on the practice of the court, make it possible to avoid the individual having to appear in court.

With regard to best practice the high level standards state that responsible officers should work closely with, communicate effectively with, and participate in reviews with programme providers to ensure that:

- individuals are well prepared and motivated for participation in programmes;
- individuals are well supported to participate in the programme and to learn from it;
- any non–compliance or other practical hindrances to participation are addressed promptly and effectively; and
- individuals are well supported to follow up on goals they have set as a result of participation in the programme.

11.5 Residence Requirement

An offender supervision requirement will always be imposed by the court when a residence requirement is made.

Where a residence requirement is imposed by a court, the individual will require to reside within the designated accommodation. Where the accommodation is a hostel or institution, this requires to be recommended to the court as a suitable place for the individual to reside, and for the court to specify it in the residence requirement. Where the accommodation will require to be funded, the funding should be identified and agreed in advance in accordance with the procedure of the local authority. Where the address is that of a family member, the CJSWR author may wish to ascertain that the imposition of such a requirement will not have a detrimental impact on other residents at that address. (See section 8.1 of this guidance – Domestic Abuse Offences).

Most individuals who are made the subject of a CPO will not require any direct intervention by the responsible officer with regard to accommodation. However some individuals may lack settled accommodation and require practical assistance in securing suitable accommodation in order to stabilise their lives, and improve their prospects of engaging with a period of intervention aimed at reducing the risk of re-offending. Such assistance should be regarded as part of the normal duties undertaken by a responsible officer. Problems of homelessness alone should not suggest imposition of a residence requirement.

A small proportion of individuals who pose a risk of serious harm in the community, require a greater level of supervision with regard to their

accommodation in order to live successfully in the community. In these cases, the CJSWR author may recommend to the court that a residence requirement be imposed as part of a CPO, but should only do so after prior consultation about the feasibility of arranging a package consisting of designated accommodation, supervision and support within the community setting. From the court perspective, a residence requirement is likely to provide some reassurance that the individual will be living in a more stable environment, with access to appropriate guidance and assistance to address problems and issues relating to their offending behaviour.

In a small number of cases, the designated accommodation may also involve the provision of varying degrees of support/education, restrictions and stability with the provision of learning support for life skills and independent living. Where a residential placement is thought appropriate to help to address a substance use issue, a residence requirement may be applied in conjunction with a drug or alcohol treatment requirement.

11.6 Mental Health Treatment Requirement

Legal framework

In imposing a CPO with a mental health treatment requirement, an offender supervision requirement will always be imposed. Any period of a mental health treatment requirement imposed must not exceed the period of time specified in the offender supervision requirement.

In contrast, an individual in respect of whom a CPO with mental health treatment requirement is imposed must agree to the mental health treatment requirement otherwise the requirement cannot be made. Therefore a mental health treatment requirement cannot be imposed where the individual meets the criteria for either a compulsory treatment order (under the Mental Health (Care and Treatment) (Scotland) Act 2003 ("the 2003 Act")) or a compulsion order (under the 1995 Act). Whilst an individual must have a mental health condition to warrant a mental health treatment requirement under a CPO, the circumstances must fall short of meeting the criteria for the individual being made subject to compulsory measures under the 2003 Act by the Mental Health Tribunal or the 1995 Act by the court. Where the individual's mental health is assessed as requiring the imposition of more restrictive measures, and where the individual meets the criteria as laid out in section 57A(3) of the 1995 Act, the court should in such cases impose a compulsion order.

Responsible officers may face challenges in relation to a delay in treatment commencing, ambiguity regarding the duration of treatment or the potential for non-completion of treatment within the timeframe of the CPO. This will vary according to resources available locally.

Where it appears to the responsible officer that the individual is willing to engage with a course of treatment (for example, to treat depression or anxiety via their GP), use of this requirement may not be deemed useful or necessary. In such cases, signposting to treatment and providing ongoing encouragement for the individual to remain concordant with treatment may suffice.

Purpose of a mental health treatment requirement

The purpose of imposing a mental health treatment requirement is to ensure that an individual who has been diagnosed with a mental health condition and/or learning disability which contributes to the individual's offending receives support, care and treatment to enable them to improve their mental health in terms of their mental health needs. Section 328 of the 2003 Act provides that "mental disorder" means "any mental illness, personality disorder, or learning disability however caused or manifested". These definitions are adopted for the purposes of the guidance and the term "mental health" is used generically and includes individuals considered "learning disabled". In the latter, it is acknowledged that learning disability itself is not treatable, but that the behaviours that give rise to offending may be.

A mental health treatment requirement is imposed to enable the individual to access assessment and treatment by or under the direction of a registered medical practitioner or registered psychologist with a view to the improvement of the individual's mental health. This treatment will be determined by the opinion of a registered medical practitioner or registered psychologist and should be recorded and updated in the case management plan. A registered medical practitioner is a medical doctor who is registered with the relevant body, and as such is licensed by the General Medical Council to practice medicine.

Court consideration

For a mental health treatment requirement to be imposed under a CPO, the court has to be satisfied, following evidence from a registered medical practitioner, that:

- the individual suffers from a mental health condition;
- the condition requires and may benefit from treatment; and
- that the condition is not such as to require compulsory treatment under section 64 of the 2003 Act or a compulsion order under section 57A of the 1995 Act.

The court also has to be satisfied (on evidence from the registered medical practitioner or registered psychologist who will be giving the treatment), that the proposed treatment by the doctor or psychologist for the individual is appropriate, and that arrangements have been made for the treatment to be given to the individual. The CJSWR author must therefore liaise with the relevant medical personnel in advance to determine these facts.

Where consideration is being given after conviction to the imposition of a mental health treatment requirement, to assist in decision making the court may wish to request a psychiatric report which may include a multi-disciplinary assessment. In this instance a multi-disciplinary assessment may include the views of a registered medical practitioner, CJSWR author, community psychiatric nurse and a mental health officer if the individual has had contact with a mental health officer in the preceding 6 months. This assessment will address the need for a mental health treatment requirement and also the nature of treatment deemed appropriate within such a requirement.

Nature of treatment

Treatment can be provided to the individual either as:

- an inpatient in a hospital, (other than in the State Hospital);
- a non-resident patient at a hospital or other place as may be specified; or
- may be specified to be under the direction of such registered medical practitioner or registered psychologist as appropriate to the individual in terms of their mental health and social circumstances.

Otherwise the nature of the treatment is not to be specified in the CPO.

Therefore the individual may receive treatment as an outpatient, day patient or in patient. If treated as an inpatient, it would be inappropriate to treat the individual in a secure setting. If such a level of security is necessary, formal care and treatment under relevant provisions of the 1995 Act or the 2003 Act must be considered and applied.

Section 329 of the 2003 Act defines "medical treatment" as "treatment for mental disorder" and for this purpose "treatment" includes:

- nursing;
- care;
- psychological intervention; and
- rehabilitation (including education, and training in work, social and independent living skills).

Implementation of a mental health treatment requirement

The responsible officer will hold overall responsibility for the CPO and will encourage concordance in relation to the individual's engagement with the mental health treatment requirement. This will require regular liaison with mental health specialists involved with the mental health treatment requirement.

Where treatment is being considered on a multi-disciplinary basis, and where this necessitates involvement from agencies other than justice social work services, a commitment from the agencies involved will require to be obtained in devising a case management plan. Treatment will be determined by the opinion of the registered medical practitioner.

Where appropriate, and to ensure safeguards, the Mental Welfare Commission[11] may be informed by letter, where a CPO with a mental health treatment requirement is imposed. This is the responsibility of the responsible officer. Circumstances under which the Mental Welfare Commission should be informed include:

- where an individual has previously had several previous periods of detention under the 2003 Act; and
- where an individual has significant learning difficulties or other mental disorder which could impair their capacity to consent/agree.

Review or alteration to the mental health treatment requirement

The responsible officer is responsible for convening departmental reviews where an offender supervision requirement has been imposed as part of the CPO, at the periods specified earlier in the guidance. All effort should be made for the CPO review and any necessary mental health review to be combined.

It is the responsibility of the responsible officer to record any changes to the mental health treatment requirement, in accordance with departmental policies.

It is possible to change the treatment originally authorised by the court to be given under the mental health treatment requirement. This could be appropriate when the registered medical practitioner or registered psychologist considers that it would be appropriate for the individual to receive a different kind of treatment from what was originally authorised. This might be a change in where the treatment is given, or a change to the treatment itself. In either case, the registered medical practitioner or psychologist may make the necessary arrangements for the individual's treatment to be varied. Such a change can, however, only be made if the individual and the responsible officer agree to the change. When a change in treatment or location of treatment is made, the responsible officer must notify the court of the arrangements. The legislation provides for the new treatment package to be substituted automatically for that which was originally authorised. (See Section 227T(7)(b) of the 1995 Act).

Any change to the provider of the treatment or to the location where the treatment is provided should follow full consultation with all those involved in the care of the individual. A review of the individual's circumstances and any changes since the mental health treatment requirement was imposed should be convened and undertaken, at which the individual should be present, where possible, to discuss and agree any such changes and amendments.

If an individual subject to a mental health treatment requirement withdraws consent to treatment, for example, failing to attend appointments with the psychiatrist, a registered medical practitioner should assess the individual. If their mental health has deteriorated to the point that they meet the requirements for detention under the 2003 Act, such detention should be considered. Withdrawal of consent should not, in itself, be seen as such an indication on its own however, and consideration should be given to the reasons behind the person's withdrawal

[11] Mental Welfare Commission for Scotland

of consent and whether these can be addressed, rather than moving directly to the option of compulsion or disciplinary procedures. In such circumstances, consideration should be given to returning the CPO to court for variation.

Where it is assessed that the individual does not meet the criteria for detention under the 2003 Act, but continues to refuse to comply with the mental health treatment requirement imposed by the court, despite efforts made by those involved in providing the care and treatment under the requirement, consideration should be given to the issuing of warnings, in accordance with disciplinary procedures invoked as specified in this practice guidance.

Where an individual's mental health deteriorates during the course of the CPO so that the individual, following assessment by a registered medical practitioner and a mental health officer, meets the requirements to be made subject to compulsory measures of care and treatment under the 2003 Act, the mental health treatment requirement will be suspended by justice social work staff and the court notified of any such changes.

Where an individual is assessed as requiring longer term detention under the 2003 Act in terms of detention under a compulsory treatment order, and once such an order is granted, a request should be submitted to the court for consideration of revoking the mental health treatment requirement and any other requirement which is deemed no longer appropriate. There may be occasions when the CPO is allowed to continue to ensure supervision and support beyond a compulsory treatment order. This may be in such situations where the patient's mental health improves and it is envisaged that the compulsory treatment order may be revoked after a short period. However, in the majority of cases, the CPO would be revoked to avoid a situation where an individual is moving between a CPO and a compulsory treatment order and back again for a period of years.

Additionally, a referral to the appropriate community care social work service should be considered where it is assessed there may be ongoing support needs, once a compulsory treatment order and CPO are no longer in force. It is good practice for the community care social work service to undertake an assessment to determine needs and services which can be offered to help provide support.

11.7 Drug Treatment Requirement

A drug treatment requirement might be imposed when there are drug issues identified, but where an individual has not established a chronic history of drug misuse. Such a requirement will only be imposed in addition to an offender supervision requirement.

The nature of work with individuals made the subject of a drug treatment requirement means that staff will inevitably come into contact with individuals who are parents or caring for other vulnerable people. The safety and wellbeing of children and other vulnerable people is of paramount importance at all times. justice social work staff's practice should reflect local authorities' procedures and protocols where substance misuse is a factor in relation to protecting others.

A CPO with a drug treatment requirement provides courts with an alternative sentencing option to a custodial sentence or a Drug Treatment and Testing Order (DTTO). In particular, individuals with drug problems who would not be eligible for a DTTO because their offending history is not sufficiently high tariff, should be considered by the CJSWR author for such a disposal. This may include, for example, female offenders who generally have a lower tariff offending history, or some first time offenders.

Drug treatment, in the context of CPOs, should focus on the needs of the individual. It should also, where possible, recognise that drug treatment programmes may have a higher rate of success where these include some family involvement.

The aim of all treatment should be recovery from drug use. Treatment does not require to be delivered by a drug specialist resource, but can be delivered by a responsible officer who has received appropriate training. However, different people have different routes to recovery and hence treatment could involve all, or some, of the following, as appropriate to the individual's needs and local resources:

- structured preparatory and motivational intervention;
- structured psychosocial intervention (such as cognitive behaviour therapy, trauma counselling or relapse prevention);
- support on family, social and financial issues as well as preparing individuals for education, training and employment;
- medical treatment to directly address the dependence such as prescription of substitute drugs or detoxification;
- relapse prevention; and
- peer support including mutual aid.

Where a drug treatment requirement is imposed, a case management plan will be compiled by the responsible officer setting out what treatment and interventions are planned to address an individual's drug misuse. This process will commence at the CJSWR stage and will be added to once the CPO commences. Depending on the stage of the process at which such an assessment is to be carried out, it may involve the CJSWR author, the responsible officer, substance use workers or others. As in all services providing treatment and care, the individual concerned should be consulted on all aspects of their needs and on the proposed approach to helping them achieve recovery.

Where treatment as a resident is required as part of a drug treatment requirement, such resources would require funding and advance agreement in accordance with the local authorities' procedures. Where individuals have responsibilities for the care of dependent children, particular attention should be paid to the impact for the children of their parent going into residential treatment.

11.8 Alcohol Treatment Requirement

The 1995 Act states that an alcohol treatment requirement will only be imposed in addition to an offender supervision requirement.

The nature of working with individuals affected by the problematic use of alcohol means that justice social work staff will inevitably come into contact with individuals who are parents or caring for other vulnerable people. The safety and wellbeing of children and other vulnerable people is of paramount importance at all times. justice social work staff practice should reflect local authorities' procedures and protocols where substance misuse is a factor in relation to protecting others.

An alcohol treatment requirement may be considered where the individual's dependence on alcohol contributes to the offending behaviour. Addressing an individual's alcohol dependence can therefore help address offending behaviour as well as wider personal and social needs.

The success of an alcohol treatment requirement may be enhanced where its implementation includes some family involvement.

Treatment can be targeted at individuals who:

- require treatment as a resident in an institution or other place;
- but can also be treated as a non-resident at a place and at intervals as specified as part of the treatment requirement;
- any such treatment is to be under the direction of such a person as specified.

Definition of alcohol dependency

The 1995 Act states that an alcohol treatment requirement aims to reduce or eliminate an offender's dependency on alcohol. Alcohol dependence is a medical term with a meaning distinct from the problems that can occur, sometimes as one-offs, through an uncharacteristic binge. The World Health Organisation (WHO) defines dependency as[12]:

- a strong desire or sense of compulsion to consume alcohol;
- impaired capacity to control drinking in terms of its onset, termination, or levels of use, as evidenced by:
  - alcohol being often taken in larger amounts or over a longer period than intended; or
  - by a persistent desire to or unsuccessful efforts to reduce or control alcohol use;
- a physiological withdrawal state when alcohol use is reduced or ceased, as evidenced by the characteristic withdrawal syndrome for alcohol, or by use of the same (or closely related) substance with the intention of relieving or avoiding withdrawal symptoms;
- evidence of tolerance to the effects of alcohol, such that there is a need for significantly increased amounts of alcohol to achieve intoxication or the desired effect, or
- a markedly diminished effect with continued use of the same amount of alcohol;

[12] This definition is provided as an illustration and may not be the definition used in any clinical assessment of alcohol dependency.

- preoccupation with alcohol;
- interests being given up or reduced because of drinking;
- a great deal of time being spent in activities necessary to obtain, take, or recover from the effects of alcohol; or
- persistent alcohol use despite clear evidence of harmful consequences, as evidenced by continued use when the individual is actually aware, or may be expected to be aware, of the nature and extent of harm.

In the WHO definition, three or more of the previous manifestations should have occurred together for at least 1 month or, if persisting for periods of less than 1 month, should have occurred together repeatedly within a 12-month period.

Court consideration

In relation to alcohol treatment being imposed as a requirement of a CPO, before a court issues an alcohol treatment requirement, the legislation states that the court must be satisfied that:

- the offender is dependent on alcohol;
- the dependency requires, and may be susceptible to, treatment;
- arrangements have, or can be made, for the proposed treatment to take place including where treatment is to be residential, and details of such arrangements.

The court is likely also to want to be satisfied that:

- the requirement is appropriate for the individual;
- the individual is motivated to comply with the requirement and engage in treatment;
- that the work undertaken is focussed on reducing or eliminating alcohol dependency;
- that alcohol is a significant factor in the individual's life, causing impaired general functioning e.g. impacting on health, relationships, employment and contributing to their offending behaviour.

These factors should be taken into account in the CJSWR.

Treatment

Alcohol treatment, in the context of CPOs, should put the needs of the individual at the centre of their care and treatment. The aim of the alcohol treatment requirement should be recovery from alcohol dependency. Different people have different routes to recovery and hence treatment should be individualised as appropriate to the individual’s needs and may include the following:

- structured preparatory and motivational intervention;
- psychosocial intervention (such as cognitive behaviour therapy, trauma counselling or relapse prevention);
- support for family, social and financial issues as well as preparing individuals for education, training and employment;
- detoxification;

- structured day care programmes; or
- more intensive residential inpatient care.

Where treatment as a resident is required as part of an alcohol treatment requirement such resources would require funding and advance agreement in accordance with the local authority's procedures.

Depending on the stage of the process, the potential need for this requirement would be identified by justice social work staff in consultation with relevant others involved in the treatment of the individual. Local policies and procedures would require to be followed to access funding in providing such resources.

Where a CPO including an alcohol treatment requirement is imposed, a case management plan will require to be compiled by the responsible officer which should indicate what treatment and interventions the individual will receive to address their alcohol dependency. It should also ensure that individuals are well supported to participate in treatment and follow up on goals they have set as a result of it.

Interventions relating to non-dependent alcohol problems

Problematic alcohol use can result in physical, psychological and social harm both for an individual and others and can be closely linked to offending behaviour. Where the degree of problematic alcohol use is hazardous or harmful but does not constitute dependency, this could be addressed through the offender supervision requirement of a CPO by the responsible officer, through a programme requirement, or possibly through the "other activity" element of an unpaid work or other activity requirement. In such cases interventions could generally be considered to include:

- motivational work;
- counselling;
- psychosocial education and provision of information;
- engagement with local projects and community based initiatives to raise awareness; or
- self-help groups.

The intention to address alcohol problems in any of the ways should be recorded in the case management plan which is, as noted in section 10 of this guidance, provided to the court as part of the CJSWR.

11.9 Conduct Requirement

A conduct requirement will only be imposed in addition to an offender supervision requirement.

The intention of the "conduct requirement" in section 227W of the 1995 Act is to provide the courts with additional flexibility to impose requirements on an offender to do or refrain from doing specified things not covered elsewhere in the legislation. In so doing, the court must be satisfied that this is necessary to

secure or promote good behaviour by the individual, or preventing further offending by the individual, and the conduct requirement is defined in the 1995 Act as such.

For example, the court may require the individual not to enter a certain street or not to enter a play park. In many circumstances, non-compliance with this requirement may not be known to a responsible officer until guilt is established – where an individual has committed a further offence but the responsible officer is not aware of this until the matter is dealt with in court.

A conduct requirement will not be imposed where another requirement would meet the objective. For example, where it is deemed necessary for an individual to undertake alcohol treatment it would not be necessary or permissible under the legislation, for the court to impose a conduct requirement to ensure that the individual complies with alcohol treatment.

11.10 Restricted Movement Requirement

This guidance is based on electronic monitoring of restricted movement requirements using radio frequency (RF) technology. This form of electronic monitoring can provide effective monitoring of an individual restricted to a particular place (usually their home address). It can also be used in circumstances where individuals are to be restricted from a specific location as part their order. Capabilities to introduce electronic monitoring based on GPS technology are provided in legislation but are not yet in force. Further guidance will be provided when GPS technology is ready for use.

The rationale for a restricted movement requirement curfew/restrictions, and how this might support the individual, should be outlined clearly in the CJSWR.

An offender supervision requirement will always be imposed by the court[13] when a restricted movement requirement is made. The court must ensure that the offender supervision requirement does not cease to have effect before the restricted movement requirement ceases to have effect; these timescales will be noted on the order.

If a restricted movement requirement is imposed subject to electronic monitoring, details of potential risk of serious harm to staff or others identified in the CJSW report should be shared with the EM service provider. The court imposing the order can then share appropriate information on risks to staff or others with the EM service provider. This will help inform any resource considerations when visiting the individual at home as EM service provider staff are usually lone workers.

The restricted movement requirement is similar to a Restriction of Liberty Order (RLO) in that it requires the individual to remain at a specific address for up to 12 hours a day and/or to stay away from a specific address for up to 24 hours a day.

[13] Reference to court excludes Justice of the Peace courts who do not have the power to impose a restricted movement requirement on first imposition of a community payback order. They will, however, retain a power to impose a restricted movement requirement via the variation procedure following breach.

The restricted movement requirement can be imposed by the courts for a period of up to 12 months.

The new Electronic Monitoring Order (EMO) can be imposed by a court alongside the restricted movement requirement and lasts for as long as the person is subject to that requirement. The underlying rationale for the restricted movement requirement is not changing. Where that condition would benefit from electronic monitoring then a court can now impose that at first instance not just at breach. The EMO is a common form of order, which will also be in place with all other court based electronic monitoring, as part of an approach of standardising the administration of electronic monitoring across court based disposals. The restricted movement requirement will include specified aspects of the curfew requirement, the new EMO will instruct the individual to obey instructions given by the EM service provider on how or when an approved device is to be (a) worn, or (b) used in some other way; and not to (a) tamper with the approved device, or cause or permit someone else to tamper with the device, or (b) intentionally damage or destroy the approved device, or cause or permit someone else so to damage or destroy the device.

Compliance with the restricted movement requirement and the EMO is monitored electronically by the same EM service provider responsible for monitoring compliance with RLOs. An RLO can still be imposed as a stand-alone sentence or concurrently with a CPO.

The responsible officer will be the justice social worker who will supervise the individual subject to the order. The EM service provider will monitor compliance with the terms of the curfew/restrictions imposed. The imposition of a restricted movement requirement can be used to strengthen and complement a person-centred package of support and monitoring tailored to the individual's needs, risks, and circumstances as evidenced by the LS/CMI risk/needs assessment and other appropriate specialist risk assessment tools, e.g. for sexual offending or domestic abuse. The composition of the curfew/restriction hours can be creative and tailored around the individual's offending behaviour, employment, family commitments, and so on. If it is identified that the individual poses a risk of offending during particular time periods, the curfew can be tailored to fit such patterns and this information should be included in the CJSWR report. Advice on flexible curfew/restriction options or suitability of the address can be obtained from the EM service provider.

<u>Particular Considerations</u>

Where a restricted movement requirement is being considered, additional consideration must be given to the impact on co-habitants, including children and vulnerable adults, as well as the proximity of any victims in the local community. Where there are concerns for specific victims or groups, conditions can be imposed to restrict the individual from certain locations.

If the individual is not the householder, consent needs to be obtained from the householder to agree that the EM equipment can be installed at their address and the individual can remain at the address for the duration of the requirement. The necessity for a home visit should be assessed on a case-by-case basis but where

records indicate there are child or adult protection or other risks (such as domestic abuse) within the home, a home visit would be necessary in these circumstances.

In general:

- The Clerk of Court will email a copy of the CPO and the EMO to the EM service provider and responsible officer.
- It is the responsibility of the court to explain to the individual the effect of the restricted movement requirement, the consequences of any non-compliance, and the power of the court to vary the terms of the requirement.
- Where a CPO is varied to include a restricted movement requirement subject to electronic monitoring the court will provide the EM service provider with a copy of the order making the variation and EMO.

Periodic (progress) reviews

The CJSWR author may wish to suggest that the individual returns to court for periodic CPO progress reviews. This may serve to incentivise the individual to engage and comply with the requirement and - should suitable progress be made - consideration can be given to curfew restrictions being altered accordingly, although this is a decision for the court. This may also support the judiciary with the more flexible use of restricted movement requirements. Progress reports would be prepared and provided for the court by the responsible officer, alongside the presence of the responsible officer at court if appropriate. The request for a first CPO progress review should be included in the CJSWR with a suggested timescale. Case managers should, as a matter of course, seek a report from the EM service provider prior to any progress review report in order to update the court on levels of compliance in line with overall engagement and progress on the order where appropriate. Case managers should also request a new Criminal History Check to monitor whether any new charges or convictions have been incurred since the commencement of the order.

Transfers

Existing procedures and arrangements for transfer of orders should be followed. However, it should also be noted that any new addresses will require a reassessment for suitability for the restricted movement requirement as detailed in Section 6 of this guidance as well as the order varied by court and a lead in time for the EM service provider to uninstall/re-install equipment.

Data Collection

Collection of national CPO data will continue. This will include information on completion of orders with restricted movement requirement, for example, and data on the reason why an order was terminated. Data will be capture in the returns for 2022/23 and an annual basis following that.

Unpaid Work / Other Activity Requirement

With a restricted movement requirement and the subsequent curfew times, any unpaid work or other activity should be scheduled to take place within the parameters set out by the curfew. Further details on unpaid work and other activity can be found in section 22 of this guidance.

12. Restriction of Liberty Orders

Restriction of liberty orders (RLOs) are available to courts as an alternative to custody and can be imposed concurrently with a CPO as a separate order. If a need for electronic monitoring of the individual is identified by the court at the point of imposition of the CPO, a restricted movement requirement or a concurrent RLO can be made. All failures to comply with the requirements of the RLO will be reported to the sentencing court, copied to justice social work, where appropriate.

Where a concurrent CPO is imposed alongside a RLO, a copy of the RLO will be sent by the court to the local justice social work manager for information. Similarly, the court will provide the EM service provider with a copy of any concurrent CPO.

If the individual fails to comply with the requirements of the CPO and a breach report is to be submitted to the court, a report of the individual's compliance with the RLO and EMO should be requested from the EM service provider at the same time. This should be included in the breach report to provide information to the court on the individual's overall level of compliance with their community orders.

Where the individual has breached the RLO or EMO, the EM service provider will send the breach report to the court and will send a copy to the relevant justice social work case manager for information. In these circumstances, it is likely that the court will request a report on compliance with the terms of the CPO from justice social work. However, due to the short contractual timescales for submitting breach reports, the EM service provider cannot request and include a CPO compliance report in the RLO breach report.

13. Drug Treatment and Testing Orders

These continue to be available to courts as a sentencing option. Both Drug Treatment and Testing Orders (DTTOs) and RLOs can be used as a concurrent sentence with a CPO.

A DTTO is a high tariff disposal for individuals with drug problems who might otherwise receive a custodial sentence.

The purpose of a DTTO is to focus on individuals for whom offending is a consequence of substance misuse (for example, acquisitive offending to support dependence), and who are at direct risk of receiving a custodial sentence. It is different from a drug treatment requirement, which is focused on individuals whose offending is not as prolific.

14. Compliance

Purpose of Managing Compliance

Managing compliance effectively is an important responsibility critical to achievement of the purposes of the CPO. The purposes of promoting compliance include:

- to ensure that an individual subject to an order pays back to society in accordance with requirements imposed by the court;
- to protect potential victims and the general public;
- to enable individuals to live law abiding lives; and
- to enable individuals to successfully complete their plan to change.

The process of encouraging compliance begins at the pre-sentence assessment stage when the author of the CJSWR clearly explains to the individual what will be expected of them should they be made subject to a CPO, and what each of the requirements will entail.

Where it is not clear whether the individual would be willing to comply with the order, and where it is considered safe to do so, the CJSWR author may consider recommending a short structured deferred sentence, where available, in order to assess their level of engagement with supervision prior to sentencing. These 'high tariff' schemes, where available, are explicitly designed to test an individual's ability to comply with supervision in the community and are most commonly used for more persistent offending, where there are complex needs. However, in the majority of cases, it is expected that a structured deferred sentence would be used as a less intensive measure where a CPO is considered unwarranted.

Following sentencing, an individually tailored approach should be taken with the person to identify barriers to compliance and also their strengths. Where appropriate, this process can be supported by way of an Engagement Contract drawn up between the responsible officer[14] and the individual at the first supervision appointment (see Section 10 of this guidance). Agreeing specific, realistic aims and targets can assist the individual in taking responsibility for reducing their risk of reoffending. It also highlights from the outset the importance of clear and transparent communication between both parties. An example of good practice which can reinforce to the individual the importance of compliance is for the responsible officer to work with them in identifying the pros and cons of compliance.

[14] Where the court imposes an unpaid work requirement alone, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

In the interests of justice and to maintain the credibility of the order, disciplinary procedures must reflect the legislation and be reasonable, clear and enforceable. They should be capable of being upheld in a court of law and also capable of swift implementation.

Responsible officers have a responsibility to take reasonable steps;

- to support the individual to enable them to complete their order; and

- to enforce the requirements of the order, should the individual not comply without reasonable cause.

Where an unpaid work or other activity requirement has been imposed in addition to an offender supervision requirement, the responsible officer and the unpaid work case manager must be fair, reasonable, transparent and consistent in their approach where issues of non-compliance occur. It is expected that they will work closely together, sharing information and agreeing the way forward should issues arise. This includes when a warning letter is being considered by either party - where possible, this should be signed by both the responsible officer and the unpaid work case manager.

The enforcement processes require the justice social work staff involved in the delivery of the order to be diligent in their case recording of all aspects of management of the individual from the very first serving of the order.

<u>Means of managing compliance</u>

All means of available technology should be used throughout the order to ensure that compliance is encouraged and directed. The responsible officer may make use of a variety of means of doing so, for example:

- Regularly confirming house and/or mobile phone numbers and recording these on case files so that contact can be maintained by phone.

- Use of phone calls/texts to remind individuals of appointments, reviews and to instruct contact where there has been an absence.

- Use of emails to individuals (where they have the technology to support this form of communication). This will require the individual's permission. Emails must be kept concise and not disclose personal information about the individual.

- Unless handed direct to the individual, recorded delivery letters must be used to issue formal written warnings. Texts and emails must not be used to issue warnings. However, as referred to above, where the individual has provided an email address and given their consent to receiving emails, the responsible officer may email the individual to ask them to contact them. They can then discuss delivery of the formal written warning.

Home visits, in response to any non-compliance, can improve the chances of the individual continuing to engage in the supervisory/rehabilitative process since such a visit:

- reinforces to the individual the importance of compliance (reinforces the care and control elements of supervision);

- allows speedy decisions about whether failure to comply was for acceptable or unacceptable reasons;

- provides opportunity for early identification of any problems or barriers which are impacting upon the individual (e.g. relapse in to alcohol or drug use); and

- provides confirmation that the individual is still resident at that address (or, conversely, that the individual no longer stays at that address thus allowing prompt and appropriate action - such as notification to the court).

Home visits do not necessarily have to be made by the responsible officer. For example, where there is a need to simply verify home circumstances - or check whether the individual is still resident at a particular address - this could be carried out by another member of staff who feeds back to the responsible officer.

The responsible officer may use their discretion as to the degree of flexibility afforded to the individual in terms of appointments. For example, offering more appointments where appropriate (weekly rather than monthly), may prove helpful in encouraging compliance. In these circumstances, formal disciplinary actions would only be expected to be taken if the individual did not attend at least one appointment during the month.

<u>Engagement with the judiciary</u>

The courts need to have confidence that poor compliance with CPOs is managed appropriately, and effectively. It is therefore important that justice social worker develop and maintain a good working relationship with their local judiciary by way of regular and routine engagement.

Examples of how this may be accomplished are provided below. This is not intended to be an exhaustive list.

- The justice social work manager meets with the local Sheriff(s) regularly (every quarter), in order to air any issues and to keep them abreast of developments such as a new service provision or the cessation of one.

- Regular liaison meetings are held (every quarter) involving justice social work, Sheriff(s), Sheriff Clerk, Police, EM service provider and defence agents.

- Justice social work hold awareness raising meetings or events for Sheriffs, sheriff clerks and court staff (at lunch time or late afternoon if possible). Shrieval engagement is likely to be maximised if some of these are only for Sheriffs.

- A social worker attends court at least once per week.

- Allocating a specific justice social work administrative worker to specialise in dealing with court paperwork, thereby providing an opportunity to develop good working relationships with the Sheriff Clerk and court staff.

- New Sheriffs are invited to visit the services (not just those for CPOs) to show what is available.

- Floating Sheriffs are provided with an online information pack about the services that are available and evidence of outcomes achieved. It is important that this is kept up to date.

- The local authority CPO annual report is made available to the Sheriff online.

- Regular unpaid work newsletters are made available to Sheriffs online to provide timely first hand evidence of the impact of CPOs.

Management of apparent failures to comply with a CPO

(The management of apparent failures to comply with unpaid work or other activity is separately addressed in section 21 of this guidance).

In all cases where the individual is alleged to have failed to comply with an aspect of the CPO other than unpaid work, the responsible officer should investigate including through full discussion with the individual, whether the explanation provided by the individual for the alleged failure is acceptable or not. It is important that the responsible officer identifies the reasons for the lack of engagement (e.g. ill health, major life event, relationship problems, childcare issues), and supports the individual to address the problem. At the start of a CPO in particular, the individual may test boundaries. This **must** be dealt with firmly and swiftly to demonstrate the importance of compliance.

If necessary, visits to the individual's home should be carried out as part of these investigations - which should be the norm and carried out with immediate effect where high or very high intensity contact levels are required. Such home visits should be undertaken in accordance with departmental policies and with regard to staff safety.

In this context the following reasons for failure to comply will generally be acceptable:

Ill health. The individual must provide a certificate either in the form of self-certification or a fitness to work certificate dependent on their circumstances.

- individuals should complete a self-certification form for a period up to 7 consecutive days if unfit to work (it can be useful to have a supply of these forms available at the justice social work office);

- if the individual is unfit to attend a CPO appointment at any other time during the six weeks following the end of their self-certified absence, a fitness to work certificate will be required. On a fitness to work form, doctors will be able to advise one of two options:

- ***Not fit for work*** - this means that the doctor's assessment of the individual is that they have a health condition that prevents them from attending for the stated period of time.

- ***May be fit for work*** *taking account of the following advice* - this means the doctor's assessment of the individual is that their condition does not necessarily stop them from participating (e.g. they may be restricted in some of the activities required of them). In the statement, the doctor will state the period of time for which their advice is valid (i.e. for how long alternative arrangements may be required to allow the individual to comply with the requirements of the CPO). In such circumstances, and depending upon the facilities available, the CPO may require to be suspended. Where an order may require to be suspended for 3 months or more, consideration may be given to returning the order to court for variation.

If the individual is unfit for work for a short period (one or two days) during the six weeks following the end of their self-certified absence, and they are not able to obtain a fitness to work certificate from a GP for such a short period, a practical solution may be for them to request a compliment slip from the surgery receptionist which is date stamped. This would support the individual's claim that they had attended the surgery in order to obtain a certificate, albeit unsuccessfully.

The responsible officer should not accept more than two self-certificates within 6 months and should not accept any self-certificate after a final warning for non-attendance has been issued. In circumstances where contact is required with an individual's GP, a medical mandate will be required. (Consent to this should be sought and a mandate fully explained and signed at the post sentence interview, and retained on file). Any information sought from the GP should only be pertinent to the absence and no information other than that which contributed to the absence should be requested.

When the individual has failed to comply with a requirement, responsible officers should exercise their judgement as to the appropriate action to be taken. For example, a review of the individual's case by the responsible officer's line manager with the individual present, may prove useful in securing compliance.

Once invoked, however, disciplinary actions must be followed through unless there are exceptional circumstances which warrant use of discretion (for example, where there has been a significant period since the previous formal disciplinary action was taken).

Where discretion is used, this should be linked to the level of risk the individual is assessed as presenting. In general, the higher the assessed risk, the less discretion should be used. Where it is proposed that discretion is used, this should be discussed and agreed between the responsible officer and their line

manager. The outcome of the discussion and the reasons for the use of discretion should be clearly recorded. Where discretion is exercised it should be recorded in the case file.

Breach of RMR and EMO

Sections 12 and 13 of the Management of Offenders (Scotland) Act 2019 set out the standard obligations put on monitored persons and what is deemed a breach of the EMO as well as how breach of an EMO can be taken to be a breach of the requirements of the underlying order (in this case the CPO).

Non-compliance[15] with a restricted movement requirement or EMO includes (but is not limited to):

- arriving at the place where the individual is restricted too late;
- failure to be present for the installation or withdrawing consent;
- leaving the place of restriction during restriction times;
- attending the place where exclusion applies
- attempting to remove the tag;
- interfering with or damaging monitoring equipment;
- moving address without seeking permission;
- threats or violence towards monitoring staff.

Each non-compliance alert requires a different response from the EM service provider. The EM service contract sets out how and when non-compliance is reported to justice social work. If the non-compliance is a time violation, the individual will receive a warning letter for the first accumulated time violation trigger level breached (and the responsible officer will not receive a copy of this). For any subsequent accumulated time violations breached a non-compliance report will be submitted to the responsible officer.

However, some absences may not constitute a failure to comply. These include, for example, medical or dental appointments, job interviews, attendance at court and police custody, provided these have been independently confirmed. In such cases, these absences will not trigger a compliance report, but will always be reported at the end of monitoring.

Where the individual denies an absence or any interference with the equipment, the EM service provider will take steps to identify the cause of the alert, including checking the equipment for any potential issues and replacing it if necessary before reporting the circumstances to justice social work services.

The EM service provider will produce a report detailing any failure to comply and any reasons for the failure provided by the individual. The report will be accompanied by a computer-generated report which will be certificated as evidence and which will provide the exact date and time of the failure as identified by the electronic monitoring system.

[15] The EM provider refers to 'non-compliance' rather than 'breach' of a restricted movement requirement; justice social work services should consider this as 'breach'.

The report and accompanying evidence provided by the EM service provider should be submitted to the responsible officer at justice social work services within 12 or 24 hours depending on the exact nature and seriousness of the non-compliance. Under the legislation the responsible officer **must** submit a CPO breach report to the court upon receipt of the non-compliance report from the EM service provider. This should occur within 5 working days of receipt of the non-compliance report.

When preparing and submitting the CPO breach report, the responsible officer should provide the court with full information on the individual's engagement with all other aspects of the CPO as well as detailing the circumstances of the breach of the restricted movement requirement.

As with breaches of any requirement, where possible, the responsible officer should continue to engage with the individual in relation to any other requirements imposed. The EM service provider will also continue, wherever possible, to monitor compliance with the restricted movement requirement and EMO.

Should the non-compliance incident indicate a new or increased risk to an individual, group, the community, or the monitored person, justice social work services should take action (such as contacting the police) as soon as possible rather than waiting until the submission of the CPO breach report.

If the individual has entered an exclusion zone this should automatically be reported to police by the EM service provider. In cases where the responsible officer deems that police notification is appropriate, it is advised that they contact the Police directly then the EM service provider to advise of action taken. Consideration should also be given as to whether other partners besides the police need to be notified, such as organisations supporting the individual or any victims.

Restrictions intended to prevent access to a victim/potential victim

In cases involving domestic abuse, stalking and other serious offences including sexual/violent offending, a breach of a condition which is intended to prevent access to victims should be acted upon immediately. Police must be made aware of such a breach as soon as possible in order to ensure appropriate victim safety considerations.

Use of applications to vary a CPO in managing compliance

Circumstances may arise where a second unacceptable failure to comply has not occurred and a final warning has not been issued but it is nevertheless apparent to the responsible officer that the individual may fail to comply with the requirements of the order. In these circumstances the responsible officer should consider whether any variation to the order might help to promote compliance without diminishing the aims of the order in terms of ensuring payback and promoting behavioural change.

Such a variation might be helpful, for example, if the individual has shown themselves unable to comply with a conduct requirement imposed by the court but the responsible officer considers that they would be more likely to comply if subject to a simultaneous residence requirement. An early application to vary may help to avoid the necessity later of instituting breach proceedings. A court may also be able to deal with an application to vary more quickly than with breach proceedings.

Progress review hearings have proved to be a useful tool in sentence management and can have a positive impact on levels of compliance. Responsible officers should consider whether an application to the court to vary the CPO by including provision for progress reviews (under section 227Z(4)(d) of the 1995 Act) would assist successful compliance with/completion of the order, and achievement of desired outcomes. Refer to section 15 of this guidance for further information about progress reviews.

An application to vary should not be used however simply to attempt to reduce the burden of a CPO on an individual where the individual has shown themselves to be unwilling to comply with the requirements of the order.

If the responsible officer considers that variation might be helpful, they should discuss with their line manager whether an application to vary the order should be made to the court for variation as set out in section 15.1 of this guidance. Such an application will only be granted by the court if the individual consents; this requirement is contained in section 227ZA(7)(b) of the 1995 Act.

Where a CPO is varied to include a restricted movement requirement the court will provide the EM service provider with a copy of the order making the variation and EMO.

Formal disciplinary action

Where disciplinary actions are invoked during the course of a CPO in relation to one or more requirements, this should be done where possible in a manner which allows the individual to continue to focus on progress towards successful completion of other requirements, rather than regarding the disciplinary action as inevitably leading to breach. For example, where an individual has not complied with an unpaid work or other activity requirement, but is attending supervision and drug treatment requirements, the individual should continue to be offered opportunities to continue to engage with the supervision and drug treatment requirements.

Significant Occurrence

However, where there has been a significant occurrence, for example, where the responsible officer doubts whether the objectives of the CPO remain appropriate or can be achieved, it may be appropriate to return the CPO to court regardless of the stage the individual is at in the warning process.

An occurrence is regarded as 'significant' when it is deemed to compromise the safety of another person (including justice social work or unpaid work members of staff), or where a condition which was imposed for the purpose of preventing access to victims has been breached. A significant occurrence should always be responded to by promptly returning the order to the court. In cases involving a serious concern for public safety, immediate direct contact with the court will be warranted in order that the court may give consideration to expediting a hearing. During this period, all reasonable additional measures should be taken in order to protect the safety of, and support for, a known victim. For example, the police should be immediately informed of the increased risk to the victim.

For further examples of measures that can be taken throughout the duration of the CPO to protect victims' safety, refer to Section 8 of this guidance.

Unacceptable failure to comply

In general, formal disciplinary action should always be taken where the failure to meet the requirement is regarded as serious (e.g. attempted victim access as above), or where there has been a sustained period of minor failures.

Where an order contains both an offender supervision requirement and an unpaid work or other activity requirement, it is expected that the responsible officer and the unpaid work case manager would work closely together, sharing information and agreeing the way forward should issues arise. Co-locating the justice social work team and the unpaid work team, where possible, can provide regular opportunities for discussion and support effective team communication.

Where the unpaid work case manager believes that an individual is not complying with the unpaid work or other activity requirement, they should discuss this with the responsible officer and request that they initiate breach proceedings. The decision to initiate breach proceedings and return the CPO to court is the responsibility of the responsible officer. The responsible officer should continue

to engage with the individual in relation to the other requirements. In submitting a breach report to the court, the responsible officer should provide the court with full information on the individual's performance in respect of other aspects of the order. A sample of a breach report is available at Annex 4.

When the failure to comply does not constitute a significant occurrence but the responsible officer decides that an explanation offered by the individual for failure to comply is unacceptable, the following action should normally be taken:

First unacceptable failure to comply – a formal warning in writing, recorded in the case file and issued by the responsible officer.

Second unacceptable failure – a final warning in writing and again recorded in the case file and issued by the responsible officer.

Third unacceptable failure to comply – letter to the individual indicating that breach proceedings are being instituted.

For the purposes of compliance, warnings issued on separate requirements count as a total when monitoring overall compliance. There does not require to be two warnings issued in relation to one specific requirement to trigger breach of the overall CPO. For example, where an individual receives a warning in relation to an offender supervision requirement and later also receives a warning in relation to an unpaid work or other activity requirement, this results in the person being subject to a final warning.

Cautions can be used to address minor infringements but a caution should not be used in dealing with an unacceptable absence, which should always result in formal disciplinary action. A caution can be given verbally and confirmed in writing. Where a caution is used in response to a failure to comply, it is not a formal warning and therefore is not part of the formal warning process. A caution, for example, may be used when an individual is complying overall, but has failed to comply with one of the conditions (e.g. fails to notify a change of employment, but continues to engage with the CPO).

All warnings should be issued through the use of recorded delivery letters to the last known address. Where the individual has failed to maintain contact and has recently notified a change of address, the responsible officer may wish to also send a copy of the letter, also recorded delivery, to the last two known addresses.

A decision to initiate breach proceedings should be discussed and endorsed by the responsible officer's line manager. If agreed, breach proceedings should be initiated within no more than 5 working days of the decision to breach.

Where a significant risk of harm has been identified, the breach report should be submitted to the court immediately. Action should also be taken to inform the court of the urgency of the application such as a telephone call made to the Sheriff Clerk/Court Liaison Officer and/or a covering letter submitted with the application. In domestic abuse cases, a telephone call should also be made to the Procurator Fiscal to ensure that the case is marked as a domestic abuse related breach. Multi-agency input should continue and a risk-management

meeting held with all professionals involved in the case including children's services if appropriate.

The forthcoming court appearance may be used by the responsible officer as an opportunity to motivate the individual to re-engage, if considered appropriate. Unless there is a good reason (incapacity, threat to staff or public) the individual should not automatically be suspended from participation in planned interventions once a decision has been taken to initiate breach proceedings. The responsible officer should exercise their professional judgement to determine whether the individual would be able to sustain the required level of engagement to continue with these interventions, pending the outcome of the court decision. This assessment should also consider the maintenance of credibility of the order/scheme with other participants.

It is the responsibility of the responsible officer to decide on the appropriate action to be taken where non-compliance is alleged except in the case where the alleged non-compliance relates to an unpaid work requirement, restricted movement requirement or EMO. In many instances the decision will be in response to information passed by a third party such as a programme manager/provider etc.

Agreed internal procedures should be in place for the reporting (and recording) of instances of non-compliance in such circumstances. The aim should be for the responsible officer to decide on the appropriate action within 2 working days of the report from the third party, and for the decision to be communicated immediately it has been made to other parties involved in the supervision and to the individual.

It may be helpful for an allocated member of staff to oversee all decisions to submit a breach application to court, in order to maintain consistency of decision-making.

15. Periodic (Progress) Reviews

In the Management of Offenders (Scotland) Act 2005 statutory provision was made for discretionary review hearings to take place as part of the management of probation orders. Review hearings have proved to be a useful tool in sentence management and have potential for a positive impact on levels of compliance and possible reduction in the numbers of individuals reported for breach.

The legislation for CPOs contains provision for courts to carry out discretionary periodic review hearings at any stage during the CPO, known as "progress reviews". This means that an individual may require to appear before the sentencer at a hearing to review progress in fulfilling the requirement(s) imposed. Whilst this may not be practical for those subject only to a level 1 unpaid work or other activity requirement, it could have real benefit for those subject to CPOs of longer duration. The sentencer has an important role in reinforcing the motivation of the individual, recognising good progress when it is made and issuing a warning where lapses in compliance and failures to progress occur.

In circumstances where the CJSWR author is proposing to the court a CPO as a viable sentencing option, the report should consider whether regular progress reviews would assist the successful compliance with/completion of order or achievement of desired outcomes. This should have regard to any low levels of motivation, the complexity of the case or past failures by the individual to comply or co-operate. Progress reviews held by the court could also help inform, or be informed by, internal departmental reviews i.e. 3 months, 6 months and 6 months thereafter.

If the court intends to carry out a progress review, the date of the first such hearing must be contained in the CPO. The responsible officer[16] should submit a report by noon on the day preceding the date of the review to assist the court in carrying out the hearing (see Annex 5). The report should be concise and restricted to a summary of the individual's progress (or lack of progress) since submission of any previous report/review. Where there has been a significant lack of progress in relation to an unpaid work or other activity requirement, as a result of employment, illness etc., a view as to whether the order should be continued, varied, revoked or discharged, and if appropriate a new disposal imposed, should be given. Progress reviews also provide the opportunity where there has been very satisfactory progress on the part of the individual for consideration by the court of early discharge of the CPO. Case managers should also request a new Criminal History Check to monitor whether any new charges or convictions have been incurred since the commencement of the order before submitting the progress review report to the court.

[16] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

15.1 Application to Court for Variation or Discharge

Responsible officers and/or individuals subject to a CPO can request one or more changes to the CPO's existing requirements (outwith any existing progress review hearings scheduled). In the event of a responsible officer initiating such a review with the agreement of the individual, it would be sufficient to prepare a short report to the court commenting on progress and the reason for the proposed variation. This must be signed by the individual indicating their agreement. Depending on the court's view, submission of such a document may exempt the responsible officer and individual from appearing in court. This process can apply to a request for an early discharge of a CPO, irrespective of whether the CPO includes an unpaid work or other activity requirement.

Where an individual requests a review independently of the responsible officer, this will require a court appearance from the individual and possibly the responsible officer if the court requires further information.

15.2 Departmental Reviews

Departmental reviews should be arranged, with their frequency being in accordance with the supervision intensity levels as defined previously in section 10 of this guidance. Departmental reviews should also be convened where there have been any significant changes (or new information comes to light) which could necessitate a change in the overall case management plan. All reviews should be informed by a risk assessment. Written information should be compiled in advance of a review outlining the individual's progress or otherwise and should be signed by the responsible officer, the senior member of social work staff, the individual and any other agencies present, on completion of the review or as soon as possible thereafter. A review template, for optional use, is attached in Annex 3 of this guidance.

The individual is expected to be present and take part in the departmental review but, if through unavoidable circumstances this is not possible, a written review can be completed between the responsible officer and the senior social work staff member and agreed with the individual at the next appointment. All records compiled for departmental reviews must be kept on file and referred to as appropriate.

External agencies and other social work departments who are involved with the individual and/or their family, should be invited to such reviews and if not able to attend, give feedback to justice social work staff to be considered as part of the review. If there are child protection issues or issues in relation to vulnerable adults, the responsible officer should endeavour to gain up to date relevant information for the purpose of the review. This must be recorded on the review form, unless it puts third parties at risk.

Further information on the role of the responsible officer and principles of best practice in relation to supervision will be provided in the Justice Social Work Outcomes and Principles.

16. Transfers

16.1 Change of address to new court and local authority area

The following procedure should be applied where the proposed (or actual) new address lies outwith the existing court jurisdiction and local authority area.

The receiving justice social work office should respond in writing to requests within 5 working days. Where responsibility for the CPO is agreed, the name of the appointed responsible officer should be identified and provided in writing. All requested paperwork (e.g. risk assessments, CJSWR etc.) should be forwarded to the new local authority at the earliest possible opportunity. On confirmation of details of the new responsible officer, a written application to the court for transfer should be made by the existing responsible officer within 5 working days. The application should contain the reason(s) for the transfer, details of the new justice social work office and responsible officer and confirmation of willingness to accept the transferred order. The application should always be accompanied by a brief progress report.

Where the receiving local authority is not able to deliver in full the requirements set out in the order (e.g. a specific programme requirement), the court should be advised of the position to allow it to consider what action, including variation of the order, should be taken.

It is the responsibility of the court social work staff to inform the existing and new responsible officer without delay of the outcome of the transfer application. Where case records have not been forwarded, the existing responsible officer should arrange for all relevant case records to be transferred at the earliest opportunity, to the proposed justice social work office or new responsible officer. Arrangements then require to be made to ensure that the transferred order be served on the individual at the earliest opportunity. In addition all the powers of the court responsible for the CPO to date transfer to the receiving court.

16.3 Change of address by an individual subject to a residence requirement or restricted movement requirement

Individuals who are the subject of a residence and/or restricted movement requirement, should seek the prior agreement of the court before changing address. The court in considering any such application may decide to:

- vary the requirement to reflect the proposed change of residence;
- discharge the requirement; or
- refuse the application.

To assist the court in arriving at a decision, a report from the responsible officer should set out the reason(s) for the proposed change of address, details of the proposed new address and the extent to which a new residence requirement would be appropriate and the individual's progress and ongoing risk during the order. Where the individual is subject to a restricted movement requirement

which is electronically monitored, the responsible officer should request a compliance report from the EM service provider and submit it to the court along with the variation report.

If the change of address is approved by the court in respect of a restricted movement requirement, the court will send this decision to the EM service provider and justice social work. The EM service provider will make arrangements for the removal and re-installation of the EM equipment during the first curfew period at the new address.

Breach proceedings should be initiated in respect of any individual subject to a residence requirement or a restricted movement requirement who has moved address without the prior approval of the court.

16.4 Transfer to other parts of the United Kingdom

Schedule 13 of the 1995 Act provides for the transfer of individuals who propose to move to an address outwith Scotland.

16.5 Within Scotland

The legislation provides for an individual on a CPO to change their residence, subject to the responsible officer[17] being informed at once of the changed address. However, where a residence requirement or restricted movement requirement is imposed as part of the order, different arrangements apply. Such changes require the agreement of the sentencing court prior to the address change.

The following general procedures apply where an order does not contain a residence and/or restricted movement requirement:

- Where the new address is in the same local authority area, the individual must inform the responsible officer of the change of address. The new address must be recorded and placed on the case file.

- Where the new address is in a different local authority area, the procedures to be followed are subject to section 227ZB of the 1995 Act and would normally include an application to transfer the order by varying it so that it specifies the new local authority area in which the individual resides or will reside. See further details in section 16.2 below.

- Where circumstances permit, responsible officers should plan transfers in advance in order to obtain a smooth transfer and maintain good standards of supervision.

- Responsible officers should not normally supervise an order from another local authority area, other than in exceptional circumstances such as the individual securing short term employment opportunities, and for no longer than 3 months without formal transfer of that order.

- Responsible officers should ensure there is evidence to show that any change of residence is sufficiently permanent before making an application to court for transfer.

- All relevant information should be transferred to the receiving local authority immediately and certainly no longer than 6 weeks of the transfer of the order.

- When an order is transferred to another sheriff or Justice of the Peace court, all of the powers of the court holding the order are transferred to the receiving court.

Where provision of a specified requirement, in the way that it was imposed, is not available in the area in which the individual intends to reside, this must be brought to the attention of the court.

[17] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

17. Completion

Where an individual has completed a CPO satisfactorily, a completion/exit questionnaire should be completed by the individual with the assistance of a member of justice social work staff who has not had supervisory responsibility for the individual's CPO (see Annex 6).

It would be considered good practice for a completion report (see Annex 7) to be submitted to the court by the responsible officer[18] to advise the court of the satisfactory completion of the order, the work undertaken and the progress made. The EM service provider will provide justice social work with a completion report in respect of a restricted movement requirement and EMO within a week of the order ending.

It is important to practice in a manner that recognises and rewards efforts to desist from offending in order to encourage and affirm positive change. The final appointment provides an opportunity to purposely recognise this by offering a summary of progress such as, evidence of learning, making a contribution in the community via unpaid work or the successful completion of the order in itself.

Where a CPO has been breached it would also be appropriate, where possible, to offer the individual the opportunity to make comments identifying the difficulties the individual had in successfully completing the order and whether other supports could have been put in place.

[18] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

18. Travel Expenses

Scottish Government Circular JD/2/2011 provides guidance on the payment of travelling and other expenses to individuals in connection with their compliance with the requirements imposed on them by a CPO.

19. Monitoring / Data Collection

Separate notification has been provided to local authorities by the Scottish Government of the national data which must be collected in respect of CPOs to provide evidence of the order's effectiveness and to identify opportunities for improved practice. Notification has also provided on the form and content of the annual reports which local authorities are required to provide under section 227ZM of the 1995 Act.

Separately local authorities will wish to identify their own data needs for local management information purposes.

20. Consultation of communities

As mentioned in section 2 of this guidance, there is a requirement in section 227ZL of the 1995 Act for local authorities to consult prescribed persons annually on the nature of unpaid work and other activities to be undertaken by individuals on subject to CPOs residing in the local authority's area.

The Community Payback Orders (Prescribed Persons for Consultation) (Scotland) Regulations 2011, made under section 227ZL of the 1995 Act, prescribe the persons and classes of persons which local authorities must consult annually about the nature of unpaid work and other activities to be undertaken by individuals subject to CPOs in their area:

- the Chief Constable for the area of the local authority;
- the Sheriff Principal within whose jurisdiction the local authority area lies;
- organisations representative of victims of crime;
- voluntary organisations within the local authority's area;
- one or more community council within the local authority's area;
- one or more community planning partnership within the local authority's area; and
- one or more community safety partnership within the local authority's area.

21. Unpaid Work or Other Activity Requirement

21.1 Introduction

This section of the guidance, which focuses on the unpaid work or other activity requirement of a CPO should be read in conjunction with the rest of this practice guidance.

The 1995 Act refers to “unpaid work or other activity”. At the point of sentence the court may impose an unpaid work or other activity requirement as part of a CPO. It is the responsibility of justice social work staff following sentence to identify and arrange, after consultation with the individual, the nature of the other activity to be undertaken, if appropriate. In some cases it may be that no “other activity” is deemed suitable and in this case the unpaid work case manager may decide that the CPO will consist solely of unpaid work.

For the purposes of this section, the unpaid work or other activity will be referred to as “unpaid work”.

21.2 Integration with other Social Work services- Roles and Responsibilities

Every unpaid work scheme requires a staff team with a relevant mix of appropriate skills and experience.

Unpaid work schemes should be planned and organised as an integral part of local authority social work services in the justice system. In reaching a view about how such integration is to be achieved, account should be taken of the activities appropriate to unpaid work. When a CJSWR is being compiled it is the author’s responsibility to consult with the unpaid work staff as to the individual’s suitability to undertake unpaid work.

The roles and responsibilities of the staff groups are outlined in Section 4 of this guidance.

21.3 Objectives

Reparation provides people with a constructive means to repair harm caused by their involvement in offending. It involves ‘making good’ to the victim and/or the community via engagement in rehabilitative work aimed at preventing further harm being caused, or via unpaid work, or a combination of both. Reparation via unpaid work supports the strengthening of relationships with others in the community, improves employability where appropriate, and supports the development of a new pro-social identity. The nature of the unpaid work should therefore be purposeful, have clear tangible benefits to the community and be meaningful to the individual.

The main objectives of an unpaid work requirement as part of a CPO are:

- to provide courts with a community based penalty which has the potential to achieve a positive outcome in respect of the individual's likelihood of reoffending;

- to ensure that courts have access at all times to a community sentence for use as a first response which requires the individual to undertake unpaid work for a specified number of hours in the community;

- to provide a high quality community based intervention which balances pay back to the community with opportunities for individuals to address their offending behaviour whilst supporting them towards positive change; and

- to provide individuals with an opportunity to gain the skills and access the supports required to lead positive lives and desist from offending.

21.4 Key Features of Unpaid Work

Key aspects of the requirement include:

- Offering courts a disposal for use as a first response and for use with those who have defaulted on payment of a fine.

- Individuals must be aged 16 or above before this requirement can be made.

- Where a court imposes a CPO on an individual aged 16 or 17, the order must also contain an offender supervision requirement, in addition to any other requirements. An unpaid work requirement imposed on a 16 or 17 year old will therefore be accompanied by an offender supervision requirement.

- There are two categories of an unpaid work requirement:

    - a level 1 requirement specifies a period of between 20 and 100 hours of unpaid work
    - a level 2 requirement of between 101 and 300 hours of unpaid work

- The legislation provides for the responsible officer[19] and/or unpaid work case manager to exercise a degree of discretion in determining whether other activities should be undertaken and in determining the nature of the unpaid work or other activity.

- The total number of specified hours on multiple orders cannot exceed 300.

[19] Where the court imposes an unpaid work requirement alone, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

- Local authorities have a statutory responsibility, each year, to consult community organisations (which should include victims' organisations) about the nature of unpaid work to be undertaken by individuals subject to CPOs who are living in the local authority area. Local authorities should publicise good examples of completed work so that their communities know more about the reparative work being carried out by individuals locally.

Level 1 Unpaid Work or Other Activity Requirement (common elements)

- The individual does not require to have been convicted of an offence which is punishable by imprisonment (in contrast to level 2 and most other CPO requirements).

- Requires the consent of the individual (apart from where a CPO is imposed under section 227M(2) of the 1995 Act).

- Must not exceed 100 hours.

- Up to 30% of a level 1 unpaid work requirement (or 30 hours whichever is the lower) can consist of activity other than unpaid work. The unpaid work manager is responsible for deciding on the nature and extent (if any) of the 'other activity' element.

- The specified number of hours requires to be completed within 3 months unless a longer period is specified by the court when imposing sentence.

- A level 1 unpaid work requirement can be imposed by a Justice of the Peace court.

- A report is not required if the CPO will contain only a level 1 unpaid work or other activity requirement.

Level 1: when used with an individual who has defaulted on a fine or an instalment of a fine

- The consent of the individual is not required.

- Where a court (sheriff or Justice of the Peace) is dealing with those defaulting on fines (or instalments of fines) not exceeding level 2 on the standard scale of fines (see section 225 of the 1995 Act) (£500 as at December 2018), the court must, instead of imprisonment, impose a CPO with a level 1 unpaid work or other activity requirement.

- The individual has the opportunity to pay back all of the outstanding balance at any point - in which event the court will discharge the requirement and notify the relevant justice team.

- Local arrangements will require to be agreed between the courts and justice social work staff and adhered to, in order that when an outstanding amount is paid in full, the unpaid work team are notified without delay.
- Where the original fine or outstanding amount exceeds level 2 on the standard scale of fines (see section 225 of the 1995 Act) (£500 as at December 2018), the court may, instead of imprisonment, impose a CPO with a level 1 unpaid work or other activity requirement.

- No report will be required prior to a court imposing a level 1 unpaid work requirement on the individual.

- Where the individual is aged 16 or 17 years old a period of supervision not exceeding 3 months will be imposed. It is recognised this supervision will be for the purposes of supporting the young person to complete their order, but can also be used to offer any other advice and guidance as sought.

- Where an individual with a CPO for fine default breaches that CPO and the court revokes the CPO under section 227ZC(8) of the 1995 Act, imposing a custodial sentence instead, the original fine for which the CPO was imposed is discharged.

Level 2 Unpaid Work or other Activity Requirement

- Must not exceed 300 hours;

- The individual requires to have been convicted of an offence which is punishable by imprisonment;

- Requires the consent of the individual;

- Specified number of hours require to be completed within 6 months unless a longer period is specified by the court at the point of sentence;

- A level 2 unpaid work requirement cannot be imposed by a Justice of the Peace court;

- Up to 30% of a level 2 unpaid work requirement (or 30 hours, whichever is the lower) can consist of activity other than unpaid work.

Key Guiding Principles

Achievement of the objectives set out in section 21.3 above and against the legislative framework requires regard to be paid to the following key guiding principles:

- Purpose
- Immediacy
- Safety
- Speed

- Visibility
- Equal Opportunities
- Compliance

Purpose

A CPO with an unpaid work requirement is a punishment and ensures that the individual pays back to their community through their work. The work undertaken, as well as being reparative, should be of clear tangible benefit to the local community. Payback may involve requiring the individual to take responsibility for their own behaviour by spending time, through the "other activity" component of the requirement, on developing their interpersonal, educational, and vocational skills to support long-term desistance from offending. In the case of concurrent CPOs, decision making with regard to the specific focus, nature and duration of the other activity is the responsible officer[20].

CPO unpaid work placements should not be used in situations which are likely to deprive others of opportunities for paid employment. Nor should they displace opportunities for paid employment for the individual subject to the order.

Immediacy

Wherever possible, the individual should not leave the court premises without first being given a copy of the order by a member of the court social work team. Where in exceptional circumstances it is not possible for this to take place on the same day of sentence within the court, or at the office of the court social work team, the individual should be required to attend an initial appointment the next working day. This instruction should be attached to the CJSWR where one has been prepared. In addition to the individual signing the order, this initial appointment will provide an opportunity for the requirements of the order and the reporting arrangements for induction to be reinforced. Further information should be recorded indicating health and other relevant issues, availability for unpaid work etc. as detailed in post sentence interview (see Annex 1).

It is important that the work placement commences as quickly as possible after the CPO has been imposed, ideally on the same working day or within 24 hours. The placement should in any event begin within 7 working days of the imposition of the CPO to ensure that the individual's motivation is maintained and a strong link established between the decision of the court and the start of unpaid work.

Where the CPO consists of an unpaid work requirement on its own, the allocated responsible officer (the unpaid work case manager in these circumstances) should arrange to meet with the individual within 10 working days of the order being imposed by the court, if this does not occur at the post sentence interview stage. The allocation of the responsible officer and the arranging of the meeting should not delay the commencement of the order. The purpose of the interview

[20] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

with the responsible officer is to discuss initial progress on the placement including any issues which have arisen during the first 10 days, and to discuss and agree the “other activity” component of the requirement.

Examples of good practice which can support immediacy are:

- Making an arrangement with the Sheriff Courts and the Justice of the Peace Courts that where a CPO is imposed, the sentencer informs the individual that they should report to the social work offices immediately for interview (or within 24 hours depending on the time of day that the CPO is imposed). This is supported by a letter with reporting instructions attached to the CJSWR where one has been prepared.

- Arranging for a social worker or social work assistant to be in court to engage with the individual immediately following sentencing. Where an unpaid work requirement has been imposed, the individual is directed to attend the unpaid work service the same day, or the following day for induction.

- Where a Level 1 CPO has been imposed without a CJSWR having been prepared, the individual may not be aware of the need to engage with court based social work staff or attend the social work office. Therefore a system should be in place to quickly identify the social work office for the individual, and enable the individual to make contact within 24 hours. Another induction day can then be offered within the 7 day timeframe.

Safety

To ensure that an individual has the optimum chance of completing their unpaid work safely, an induction programme should be undertaken within 5 working days of the imposition of the CPO. This highlights and reinforces the individual’s and the local authority’s responsibilities for Health and Safety procedures (see Annex 8).

Any work teams or individual placements must meet the requirements of health and safety regulations and have regard to the additional social, personal and health needs of individuals. The principal considerations in determining the suitability of an individual to undertake a specific placement must however be their physical safety and that of any person residing at, or working in the location of the placement, including the unpaid work supervisor in group placements.

The CJSWR will always include an assessment of risk of reoffending and harm but further assessment requires to be carried out once an order has been made, taking into account the capabilities of the individual and any barriers to successful completion of unpaid work. This process must commence at the post sentence interview and should be ongoing throughout the order.

If an individual is assessed as presenting a risk of serious harm, appropriate departmental protocols and policies must be adhered to. For example, the unpaid work case manager must contribute any relevant information pertaining to risk to the multi-agency public protection arrangements (MAPPA) where the

individual meets the criteria for such arrangements. Special consideration with regard to appropriate placements is required for those who present a risk to others and for those who may attract high profile media attention. The MAPPA process exists to ensure consistent risk management practice across organisations and improved case management where individuals present a risk of serious harm and local authorities have a key role in this process.

Justice social work staff should not assume that activities requiring health and safety training (such as use of graffiti cleaning equipment) are unsuitable for unpaid work placements. Such training can provide an opportunity rather than an obstacle. It can demonstrate the benefit of a placement both to the community and to the individual.

Speed

It is important that an unpaid work requirement is completed within the shortest possible timescale without prejudicing an individual's employment or entitlement to benefits. A focused period of activity for the individual will ensure that the link between the conviction and the penalty is maintained.

Completion should normally be achieved within:

- **3 months** (or such longer period as the court determines) for **level 1** requirements;

- **6 months** (or such longer period as the court determines) for **level 2** requirements.

This may present particular challenges where there are multiple requirements and/or a high number of specified hours, or in the event that the individual is in employment or has other important commitments (e.g. carer responsibilities). It is important in such circumstances that CJSWR authors make the court aware of individual circumstances in their report to allow the sentencer to decide whether a longer period for completion should be set. CJSWR authors should offer a view on how many hours per week appear achievable, taking into account any complex needs or responsivity considerations and regular commitments that the individual may have, particularly those likely to promote desistance from offending. Any regular or ongoing difficulties in relation to completion targets regularly being set which would appear to be unachievable should be addressed by justice social work during their regular engagement with the Judiciary (see Section 14 of this guidance).

Visibility

Please refer to Section 20 of this guidance.

21.5 Operational Arrangements

21.5.1 Pre-sentence

Where a CJSWR has been requested, there must be consultation between the CJSWR author and colleagues in the unpaid work team to assess suitability and to ensure appropriate targeting.

Where an individual is entitled to certain benefits which reflect that their health is such that they cannot undertake any paid employment, the individual would normally be deemed unsuitable for unpaid work and this would require to be reflected in the CJSWR.

Where a CPO with a requirement of unpaid work is imposed despite the individual being subject to a benefit which indicates that they are unfit for work (e.g. where a CJSWR was not requested prior to imposition of a Level 1 requirement), it is the responsibility of the responsible officer (the unpaid work case manager in these circumstances) to evaluate whether there is any unpaid work the individual can carry out which would fulfil the purposes set out in section 21.4 above. If the responsible officer concludes that there is not, they should apply to the court for variation, revocation or discharge of the order, as appropriate, on the basis that the order as it stands is unworkable.

During interview, CJSWR authors will require to be mindful of circumstances in which individuals have stated that they are unfit for work, but they are not in receipt of benefits which would evidence this. For example, benefits may have been withdrawn and the individual has appealed against the decision. In such circumstances, evidence of appellant status may be produced pending the decision.

Where agreed with the individual and where practicable, contact should be made (prior to the court appearance) with the individual's GP to ascertain the individual's suitability for unpaid work. This will require a medical mandate (see Annex 2) to be explained to, and signed by, the individual. In such circumstances, the medical mandate must be explained fully to the individual and only information pertinent to the individual being able to undertake unpaid work should be sought. The individual's suitability should also be discussed with an unpaid work case manager to ensure that appropriate "light work" can be provided where appropriate. It is entirely reasonable to request a deferment to ensure that such information is available at the point of sentence.

The CJSWR author has responsibility for consulting with unpaid work colleagues as to the suitability of an individual to undertake unpaid work. The CJSWR author will, where such a report has been requested, be responsible for explaining to the individual what an unpaid work requirement will entail so that the individual can give informed consent to the making of an unpaid work requirement, should this be the decision of the court. To assist this process, unpaid work schemes should

provide CJSWR authors on an ongoing basis with information which explains the nature of the requirement and what is expected of individuals.

Where an individual is in employment (or has other commitments which the court may consider it to be important to support), a view should also be provided by the CJSWR author in the CJSWR for consideration by the court as to the length of time anticipated being required for completion of an order. Individuals must provide proof of their employment (e.g. a current payslip, a letter from the employer), or agree to contact by the CJSWR author with their employer for confirmation of their employment status. Where an individual is self-employed, a self-employed self-assessment tax number should be provided.

Where, as part of a CJSWR, a CPO is considered a possible sentencing option, details of reporting instructions should be attached and/or form part of the report to support immediacy. This will assist with fulfilling the need for the individual to be seen within one working day of imposition of the order. An example of good practice may be for the individual to sign an agreement at the CJSWR stage to attend for interview at an agreed time within the set timescales. Consideration can then be given if the individual fails to attend, as to the appropriate action in respect of disciplinary matters.

21.5.2 Post sentence interview

Reference should also be made to Section 9 of this guidance.

An initial post sentence interview should take place on the same day as sentence or, if this is not possible, the next working day. At this meeting justice social work staff must explain to the individual in detail, the nature of the various requirements of the CPO and check that the individual understands their obligations, rights and responsibilities. In line with good practice, the individual must sign and date two copies of the order to signify that they understand and accept the order. A copy must be retained in the department's records.

During this interview:

- The individual should be made aware of the powers of the court in the event of it having been proved that the individual has not complied with any of the requirements of the CPO without reasonable cause.

- The individual should be advised that should they commit an offence at a placement attended during the course of their order or against a member of justice social work staff, a court will take into account that it was committed by the individual as part of a CPO when sentencing the individual for that offence.

- Where the individual agrees that they would benefit from individual learning (for example, in relation to literacy or numeracy), this should be offered to support community reintegration. However, should the individual not wish to pursue such work, this should not be deemed an occurrence leading to disciplinary measures.

In addition, the post sentence interview, and the form completed at post sentence interview (see Annex 1) provides opportunity for an assessment to be carried out of work placement suitability, and the risk the individual poses in such a placement against the backdrop of the risk assessment completed at CJSWR stage. The other activities referred to may include literacy assessment, developing employment skills, support for parenting skills, attending college or addressing other needs which would promote desistance from offending as relevant to the individual.

Where there is any doubt about the court's intention in relation to whether the hours specified in an unpaid work requirement are deemed by the court to run consecutively or concurrently with any existing unpaid work requirements, clarification should be sought from the Sheriff Clerk's office.

As noted above, the work placement should commence **as quickly as possible** after the CPO has been imposed – **ideally on the same working day or within 24 hours**. The placement should in any event begin within 7 working days of the imposition of the order.

To achieve this, when a CPO has been imposed containing an unpaid work requirement, arrangements should be made for the individual to begin the induction process, which will include a Health and Safety Induction, **as quickly as possible**, and in any event within 5 working days of the order being made. Health and Safety must be covered by the minimum standards of the local authority's Health and Safety policy. A model of good practice in Health and Safety is set out in Annex 8. When the Health and Safety Induction has been completed, this should be signed by the individual and recorded as per the local authority's policy. Health and Safety Induction may be part of the post sentence meeting but even if it is not, both must be completed within 5 working days or the order being made.

The work placement should commence **later on the induction day** or within 2 working days of induction having taken place i.e. within seven working days of imposition of the order. To achieve these timescales it may be necessary for an individual to be placed temporarily within a group placement until a more suitable placement can be identified which may utilise and/or increase the skills identified at post sentence interview. For example, consideration may be given to temporarily reducing the number of days per week one individual has been allocated to a placement in order to allow another individual to start unpaid work promptly. However, this action should only be taken where it will not jeopardise the original placement in terms of that individual's ability to complete their unpaid work requirement within timescale.

21.6 Health and Safety Induction

All placements require to operate within the local authority's Health and Safety policy. This requires the maintenance of close operational links between schemes and local Health and Safety officers. Both employees and individuals need to be covered by this policy. A hard copy and/or DVD should be available covering all risk and Control of Substances Hazardous to Health (COSHH) assessments and should be considered when work tasks are being assessed.

This must be updated annually and signed and dated by the unpaid work team manager.

It is the responsibility of local authorities to ensure that all unpaid work supervisors have their training needs in relation to all aspects of Health and Safety identified and met.

21.7 Organising Work Placements

Unpaid work placements fall into two main categories: those offered and supervised internally within unpaid work schemes and those offered and supervised by external organisations and agencies. In general, group placements fall into the first category and individual placements the second. Irrespective of the type of placement, delivery agencies require to ensure that minimum agreed standards are achieved or exceeded.

Unpaid work schemes should make placements available across a wide range of work settings and types of activity, for example, work which is available throughout the week including evenings and weekends, and work which so far as is possible is available throughout the geographical area covered by the scheme. Where possible, placements should be made within those communities which have been impacted by the individual's offending behaviour. Where the risk assessment allows, the individual should be given the opportunity to have some direct or indirect contact with the beneficiaries of their work.

A risk assessment must inform the choice of placement. Great care must be taken to avoid placement in an area which would provide opportunities for access to the victim, a notable example being cases in which domestic abuse is a feature. For example, if it is known that a victim of an individual on a work team frequents a particular day centre and unpaid work is carried out there, that particular individual should be reassigned to another work team. Unpaid work supervisors have a responsibility to remove a work team from the vicinity if it becomes known that a victim is in the immediate area.

All placement providers should be made aware that if there are any concerns about children (under the age of 18 years) or adults who are more vulnerable to harm than others, they need to be highlighted to the responsible officer in first instance. Weekly contact is advised as a minimum and placement providers should be assured that any issues can be raised immediately.

The responsible officer and any external organisation involved in providing the placement must ensure that a thorough, individualised risk assessment is undertaken at the outset of any placement and reference is made to the risk assessment contained in the justice social work report where available. The responsible officer completes the risk assessment and it should be held on local authority systems. Placement providers have a responsibility to keep communication open so risk assessment can be updated by the responsible officer on an ongoing basis in response to, for example, any changing personal circumstances and relationships developing on the placement.

When considering an unpaid work placement it is important to take into account the nature of the person's conviction, with particular attention given to placements which are likely to include contact with children (under the age of 18 years) and/or adults who are more vulnerable to harm than others. An up-to-date criminal record check should be carried out immediately prior to a placement as this will show up any new pending convictions in addition to previous convictions. A full social work records check should also be carried out in advance to build awareness of an appropriate placement for the person and for any potential issues to be discussed with the provider on an ongoing basis.

A good practice example of a Placement Checklist, which can be used to reach agreements with placement providers, can be found at Annex 9 Form 3.

21.7.1 Issuing Work Instructions

The individual must be issued with written work instructions to cover all required work or other activity sessions. A copy must be retained on file. (NB this does not mean that separate work instructions require to be issued for each session). The following features should be observed:

- Instructions must detail the date, place and time at which attendance is required.

- All changes in date, place and time must be notified in writing to the individual in amended or new instructions.

- The instructions must also highlight the good standard of presentation and conduct that is expected (e.g. attendance in a fit condition to safely complete the work and not be in possession of, or under the influence of alcohol and/or drugs).

- The individual must sign and date the original instructions and each set of new or amended instructions. The top copy of these instructions and documents confirming receipt of same must be retained where possible, duly signed and dated.

- The signing and dating of instructions by the individual must normally be witnessed by a member of the unpaid work team, who should countersign and date the individual's confirmation of receipt.

- Instructions should provide for completion of the required number of hours within the time set out by the court – normally 6 months (3 months if a level 1 requirement) of the date of the order.

21.7.2 Placing the Individual in Work

Responsibility for the allocation of individuals to placements rests with the unpaid work case manager and if the order includes an offender supervision

requirement, should reflect also the views of the responsible officer[21]. In determining the most suitable placement, justice social work staff should have regard to the circumstances of the individual, their assessed needs and skills, the assessed nature and level of their risk, and the type and location of available work placements. The induction programme should assess the individual's capabilities, allow them to express their views on the type of unpaid work to be undertaken, and provide clarification with regard to roles, purposes, responsibilities and expectations. It should also allow for child care commitments, health conditions and any other factors that may limit participation to be taken into consideration.

Consideration should also be given to any adverse publicity or whether the individual is known in their community due to the nature of the offence. Careful consideration must also be given to any increased risk to a placement by the number of individuals present at one time or by the total number of individuals involved in completing the task. Every reasonable step must be taken to ensure that that the level of supervision provided is sufficient to minimise risk to anyone at the placement.

The individual must be involved at an early stage in discussion about the most appropriate placement. The responsible officer or unpaid work case manager should inform the individual of decisions on placements following assessment.

21.7.3 Alcohol/Drugs

All individuals reporting for work are expected to present as fit to undertake it safely. Any individual subsequently regarded by the unpaid work supervisor as intoxicated and unfit for work during the placement must be dismissed from work that day as unable to perform unpaid work duties satisfactorily. Only medically prescribed and confirmed drugs should be in the possession of those undertaking work placement. Where concerns arise regarding the fitness to work of an individual on personal placement, the agency should contact the unpaid work case manager to have the individual dismissed from site.

It is for the unpaid work case manager to investigate the circumstances of an individual being dismissed from work and to assess the culpability of the individual and decide on what disciplinary action, if any, to take. Where the unpaid work is imposed as a requirement alongside an offender supervision requirement of a CPO, the unpaid work case manager must notify the responsible officer within one working day of the absence, and a decision as to the acceptability or otherwise must be made within 2 days and recorded accordingly.

21.8 Equality and Diversity Issues

A sufficient range of placements must be made available to individuals to ensure due regard is paid to their gender, sexual orientation, ethnicity, disability, age and/or religion. Unpaid work schemes also require to ensure that placements can

[21] Where the court imposes a CPO with an offender supervision requirement, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

accommodate individuals with inescapable commitments relating to paid employment, education and domestic circumstances. Care arrangements for single carers therefore will require to be considered and measures put in place so that they are not disadvantaged or discriminated against in undertaking an unpaid work or other activity requirement. Refer to Scottish Government Circular JD/2/2011 on expenses payable to individuals on CPOs.

21.8.1 16 and 17 Year olds

Young people aged 16 and 17 years old require to be carefully assessed as to the most appropriate placement. It is envisaged that the majority of this age group will be placed in work teams, supervised by local authority supervisors as young people in this age group may encounter difficulties with individual work placements. Additionally, individual placements may not be able to cope with the extra support such an age group can require.

Unpaid work schemes may wish to give consideration to flexibility in recognition of the needs of young people in this age group and the difficulties which can be experienced by them. Particular attention must be given to the mix of such groups where individuals with a sustained history of offending, or where those of an older age group, are present. Any local territorial issues must be considered to avoid confrontations.

It is especially important that young people in this age group are encouraged, in conjunction with their responsible officer/unpaid work case manager, to identify their “other activity” if any, by the 10 day stage at the latest. The other activity should be commenced as soon as possible to ensure that they begin to benefit from the input the “other activity” can offer.

If a young person is at risk of breaching their unpaid work requirement, unpaid work case managers should review the situation as soon as possible to discuss any issues preventing the young person completing their order. This review should involve the young person and further support should be offered, or a change of placement suggested, if required, to support completion of the order. As outlined above, where necessary the responsible officer can consider making an application to the court to vary the order if it seems such a variation might assist in ensuring compliance.

21.8.2 Women

Gender issues must be considered when arranging unpaid work or other activity so that women in particular are enabled to complete their CPO without harassment, based on their gender or circumstances. For example, consideration should be given to the provision of female only work teams. Placements which do not offer the opportunity of women only groups may expose women to intimidation and bullying. This is an important consideration and particularly so, for example, where a woman may have been the victim of domestic abuse and/or other forms of abuse.

As for those provided to men, placements should focus on allowing women to develop and gain skills which may increase opportunities for personal learning and employment.

Many women may also be carers and schemes are responsible for ensuring that women are supported in accessing support which will enable them to complete their CPO. This may include help in securing nursery placements or the provision of registered child care lists. Additionally, this may also include the opportunity for flexible contracts which allow women who are carers for children, to drop children off to school and to collect them at the end of the school day, or to meet other caring responsibilities. Consideration should also be given to allowing appropriate networks to be established which can provide support once the CPO is completed to facilitate women building on skills learned/achieved during their period on unpaid work.

21.9 Minimum and Maximum Hours

The period of any work session must be sufficient to ensure the completion of worthwhile work and should not normally be less than 2 hours. There is no limit to the maximum number of hours an individual can undertake in a week if there is capacity. If the individual is not in employment, the responsible officer[22] must ensure that unpaid work does not endanger the individual's entitlement to benefit and that the individual must remain available for work. The individual should still be able to actively seek employment during this period and should be able to take up an offer of employment or attend an interview on being given 24 hours' notice.

The individual must inform their responsible officer/unpaid work case manager or another member of the unpaid work team as soon as they have a job interview if it conflicts with their work instruction. Work instructions must not be given for the day on which the individual “signs on”.

Where an individual is in receipt of benefits and is required to attend courses as instructed by the Department of Work and Pensions (DWP) to ensure they receive certain benefits, justice social work staff should take this into account when arranging unpaid work placements. Where a work or training placement is arranged through DWP, some consideration may be given to a small percentage of the individual’s attendance contributing towards their hours if the work/training is beneficial to the community and does not attract additional payment other than to cover expenses.

Those undertaking unpaid work must be made aware that engaging in this work does not provide an exemption from job search activity. Responsible officers/unpaid work case managers should raise awareness of this among those in receipt of benefits in order to assist in maintaining receipt of such benefits.

Those in receipt of benefits taking part in unpaid work may not, however, have as much time available as others to look for work and this should be taken into

[22] Where the court imposes an unpaid work requirement alone, with no offender supervision requirement, the role of the “responsible officer” is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the “responsible officer” is exercised by the justice social worker who is supervising the individual subject to the order.

account by Jobcentre Plus staff when considering an individual's job search activity. Justice social work staff may, with the individual's agreement, wish to liaise with Jobcentre Plus staff to confirm that the individual is subject to a CPO with unpaid work requirement.

For those individuals in employment, the working pattern for the unpaid work requirement will require to accommodate the hours of work or shift pattern of the individual. This will often result in a requirement for provision of evening and/or weekend placements to accommodate those in employment. For individuals who work a shift pattern, consideration should be given to providing a "flexible contract" stipulating that a minimum number of hours must be completed each week thereby not jeopardising employment. In addition, sessional unpaid work supervisors can provide a greater degree of unpaid work flexibility and support the unpaid work scheme to provide weekend placements. Consideration should also be given to curfew times in relation to any restricted movement requirement imposed.

21.9.1 Recording Hours Worked

Section 227O of the 1995 Act permits Scottish Ministers to make rules about how the time spent undertaking unpaid work activity should be managed and reckoned. No such rules have been made at the date of publication of this guidance. Individuals should however be credited for work undertaken as part of the unpaid work requirement, subject to the following qualifications:

- Placement agencies must only ask individuals to undertake work as part of their unpaid work requirement, which has previously been agreed with the unpaid work case manager, other than in exceptional circumstances.

- Time to assemble equipment such as scaffolding, and to clean and put away tools, must be included in the record of hours worked.

- Meal or coffee/tea breaks will be included in the record of hours worked but must not exceed one hour in total for each full working day. Individuals must not be allowed to leave site during such breaks and must be supervised at all times. This also applies to personal placements.

- The expected standards of behaviour during meal breaks will be the same as those expected during the hours of work and must be supervised.

- When travel to and from a placement. or reporting point exceeds one hour per day in total. any additional required travelling time, over one hour, must be credited in full.

- When the individual reports for work as instructed and the work/task cannot commence or a suitable alternative cannot be found, the individual may, subject to the discretion of the unpaid work case manager, be credited 2 hours of work.

- If the individual reports as instructed, the work commences but cannot continue, and alternative work cannot be found, the individual should be

credited with the number of hours worked or, subject to the discretion of the unpaid work case manager, 2 hours, whichever is greater.

- Where a work task finishes early due to inclement weather or where it is impractical to commence a new task before the work team is to be dismissed, the actual finishing time must be clearly recorded. Hours should only be credited when the individual is physically present at placement, with the exception of the aforementioned circumstances.

Where an individual is subject to an offender supervision requirement and an unpaid work requirement, the responsible officer[23] should avoid making supervision appointments with the individual during the times that the individual is at placement.

Unpaid work case managers must ensure that a record of the hours worked by each individual is maintained in his or her case file. The case file must contain a record of:

- the hours worked for each work session;
- a record of all acceptable and non-acceptable absences;
- the accumulated total of hours worked by each individual; and
- comments on attendance, punctuality, behaviour and work performance on each attendance.

This case file constitutes the official organisational record about the individual and must be made available to the individual on request as per local authority procedures. It will record information contained in the proposed attendance sheet to be completed by placement agencies (see Annex 9 Form 6).

21.10 Group Placements

A group placement is one to which two or more individuals may be assigned and which is supervised by a member of the unpaid work team and/or an approved agency provider. Group placements should not normally contain more than 5 individuals at any one time.

In order to allow individuals to start their CPO as quickly as possible, schemes should arrange for one or more group placements to be available to allow new individuals to be slotted in, if necessary on a temporary basis, until a permanent placement becomes available. Where in exceptional circumstances there is no placement available, consideration may be given to temporarily reducing the number of days per week one individual has been allocated to a placement in order to allow another individual to start unpaid work promptly. However, this action should only be taken where it will not jeopardise the original placement in terms of that individual's ability to complete their unpaid work requirement within timescale.

[23] Where the court imposes a CPO with an offender supervision requirement, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order

Responsible officers/unpaid work case managers should take into account the range of differing needs of individuals. For example, consideration should be given, where numbers allow, to providing women only work parties, "light work" parties for individuals whose health or other circumstances make that necessary, or providing individual work placements.

Unpaid work supervisors should ensure that there is no harassment or intimidation of vulnerable people or members of the public by other individuals in the work party. Unpaid work supervisors also have a responsibility to promote pro-social modelling, where the quality of the relationship between the supervisor and the individual can impact on changes in the individual's behaviour in addition to challenging unacceptable behaviour. Unpaid work supervisors should use their authority to deal with such incidents at the time, and notify the responsible officer[24] and/or unpaid work case manager, where practical, by the end of the working day.

21.11 Individual placements

In large part, individual placements will be provided by external organisations and agencies. The responsible officer has the following responsibilities to organisations providing placements:

- to maintain weekly contact so as to monitor the progress of the placement and to ensure that weekly time sheets are submitted promptly;

- to ensure safeguarding is considered as part of any risk assessment of the agency and the placement, for example, ensuring that particular consideration is undertaken where children (under the age of 18 years) and/or adults who are more vulnerable to harm than others may also be present/volunteering/working in the organisation.

- to carry out a risk assessment of the agency and the placement and to ensure that all health and safety requirements will be explained during induction to the placement (induction must take place on or before the first day at the placement);

- to explain to staff within the agency the nature of unpaid work and the obligations it places on individuals;

- to consider the views of organisations about those individuals who are best suited to work in the organisation, and, after full discussion, to respect any restrictions or special requirements (other than those which would be in breach of equal opportunities);

[24] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

- subject to data protection legislation, to offer relevant information to nominated staff within the organisation about the individual's background and history of offending, including the nature of the offence for which the CPO has been imposed, and to satisfy themselves that this information will be used appropriately and stored securely by the organisation;

- to ensure that arrangements are in place to record and conform to agreed standards regarding regular attendance, prompt timekeeping and satisfactory work performance;

- to outline the nature and extent of the assistance which the organisation may expect from unpaid work staff;

- to provide rapid follow-up when problems emerge during the work placement, both at the request of the agency or where concern is expressed by another party;

- to be responsible for all disciplinary measures, including initiation of court proceedings;

- to avoid where possible the involvement in court proceedings of outside organisations offering placements, especially where breach procedures are initiated; and

- to ensure that only those organisations which meet the obligations outlined below are used for unpaid work placements (see model of good practice for Individual Service Agreement in Annex 9 Form 4).

All organisations offering unpaid work placements should fulfil the following basic duties:

- Inform the responsible officer how the organisation proposes to deal with relevant and confidential information about the individual's background, offending history and current offence, provided by the unpaid work case manager. Such information should only be shared with previously nominated staff or volunteers when it is considered necessary in the interests of managing the placement safely.

- Assess any potential risk to the organisation or others within it, which may result from the placement of an individual.

- To ensure that safeguarding is considered as part of the assessment of any potential risks.

- Assist the process of "matching" the individual with a particular work placement.

- Comply with the local authority's practice and procedures regarding the sharing of personal information.

- Apply the same standards to their working relationships with individuals subject to an unpaid work requirement as they apply to their relationships with other members of staff or volunteers.

- Ensure the availability of sufficient work to occupy the individual during agreed working hours.

- Ensure adoption of the following procedures:

  - All absences and instances of significant misconduct should be reported to the unpaid work case manager without delay and normally within one working day.

  - Complete and return an attendance sheet detailing hours of work undertaken for each session on a weekly basis to the unpaid work section of the justice social work office. This sheet must include details of times of arrival and departure, the hours credited, details of tasks undertaken and a comment on work performance. All absences and instances of significant misconduct must be noted and reported immediately to the unpaid work case manager, or a member of the unpaid work team and at the latest within one working day. Each attendance sheet must be signed by the individual and countersigned by the agency supervisor on the site.

  - Comply with all health and safety regulations.

  - Refuse any requests for loans from the individual.

It is the unpaid work case manager's responsibility to ensure that agencies offering personal placements are made aware of these procedures.

A model of good health and safety practice is attached at Annex 9 Form 5.

21.12 Other Activity

An unpaid work requirement provides the opportunity, within certain prescribed limits, for an individual to undertake other rehabilitative activities which promote desistance (e.g. alcohol or drug education, interpersonal skills training, personal development or confidence building, literacy and numeracy tutoring, victim awareness, careers advice and employability training (CVs, interviews)). Other activity must not exceed 30% of the specified number of hours in the requirement, or 30 hours, whichever is the lower. The legislation does not stipulate a minimum period of other activity and it is feasible for the requirement to consist solely of unpaid work. This is a decision for the responsible officer or unpaid work case manager.

Where an offender supervision requirement is made in addition to an unpaid work requirement, responsible officers[25] have overall responsibility for decisions on the extent and nature of the other activity component of the requirement in respect of an individual. This should follow consultation and agreement with the individual and the unpaid work case manager and form part of the case management plan which requires to be finalised within 20 working days of imposition of the order.

Unpaid work team managers have responsibility for identifying and developing appropriate local resources, both internal and external, in conjunction with other agencies, which will assist delivery of other activities.

Unpaid work team managers may wish to give consideration to the following possibilities for "other activity", although they are not designed to represent an exhaustive list:

- Specific work on improving literacy, numeracy and/or problem solving. This may require liaison with local colleges or other similar resources to develop and facilitate appropriate support. The aim should be to provide opportunities for individuals to improve their education, if any difficulties are identified by the individual at the pre/post sentence review following tactful enquiry. However, should the individual not wish to pursue this work, this should not be deemed an occurrence which would attract disciplinary measures (See also section 10.1 in this guidance).

- There may be a need to work on managing anger should this be an area from which the person would derive benefit, regardless of whether this was a factor in the current offence.

- Gaining assistance through the “other activity” component with a pattern of alcohol consumption identified as causing difficulty, where neither an offender supervision requirement nor an alcohol treatment requirement is imposed, but where it appears likely that the individual would benefit from such assistance.

- Development of certain modules (traditionally delivered as part of Supervised Attendance Orders), to improve interview techniques and presentation during interview, and assistance in understanding the implications of the Rehabilitation of the Offenders Act 1974 for job applications and interviews.

- Exploration of the potential of the work carried out counting towards a Scottish Vocational Qualification (SVQ). Unpaid work supervisors may have a role in helping individuals to identify and achieve learning goals which thereafter can be assessed by a suitably qualified SVQ assessor. A full record of competencies achieved should be retained to ensure that these can be attributed to a SVQ.

[25] Where the court imposes a CPO with an offender supervision requirement, the role of the “responsible officer” is exercised by the justice social worker who is supervising the individual subject to the order

- Where a placement involves construction activity this may contribute to the individual securing a Construction Skills Certificate, which is a mandatory requirement for working on construction sites. The Construction Skills Certification scheme is principally education based but may be augmented by experience gained as part of unpaid work. Where there are existing local providers, these or other agencies may be able to offer a partnership approach tailored to individual circumstances.

It should be made clear to the individual that "other activity" is an intrinsic part of the unpaid work requirement which must be complied with in similar manner to the unpaid work component with similar consequences for non-compliance. Once the "other activity" component has been agreed as part of the case management plan, the responsible officer or unpaid work case manager must ensure that arrangements for monitoring are in place and that appropriate sanctions are applied in the event of non-compliance. Hours spent at "other activity" must be recorded in case files in a similar manner to that of unpaid work.

21.13 Compliance

(Please read this in conjunction with Section 14 of this guidance)

When the unpaid work case manager concludes that an explanation offered by an individual for non-compliance with the requirements of the order is unacceptable, the actions as detailed in section 14 of this guidance should be invoked. Nevertheless, all efforts should be made to identify the reasons for the lack of engagement (e.g. ill health, major life event, relationship problems, childcare issues) and support and guidance provided to prevent further unacceptable absences. A home visit may prove helpful in these circumstances.

Where disciplinary actions are invoked during the course of a CPO, this should be done where possible in a manner which allows the individual to continue to focus on progress towards successful completion of the order rather than regarding the disciplinary action as inevitably leading to breach. At the start of a CPO in particular, the individual may test boundaries. This must be dealt with firmly and swiftly to demonstrate the importance of compliance and reinforce the benefits of positive engagement.

However, in the interests of justice and to maintain the credibility of the unpaid work requirement, disciplinary procedures must reflect the requirements of the legislation and be reasonable, clear, consistent and enforceable. They should be proportionate, capable of being upheld in a court of law and able to be swiftly implemented.

Where an offender supervision requirement is imposed in addition to an unpaid work requirement, or where only an unpaid work requirement is imposed, the responsibility for issuing warnings in relation to the unpaid work requirement is that of the unpaid work case manager. However, where an offender supervision requirement has also been imposed, it is expected that the responsible officer and the unpaid work case manager will work closely together, sharing information and agreeing the way forward should issues arise. When a warning letter is

being considered by either party, this should, where possible, be signed by both the responsible officer and the unpaid work case manager.

A review of the individual's case by the unpaid work team manager, with the individual present, may prove useful in securing compliance.

Where there has been a significant occurrence, for example, where the responsible officer/unpaid work case manager doubts whether the objectives of the CPO remain appropriate or can be achieved, it may be appropriate to return the CPO to court regardless of the stage the individual is at in the warning process.

Where the significant occurrence is deemed to compromise the safety of another person (including justice social work or unpaid work members of staff), or where a condition which was imposed for the purpose of preventing access to victims has been breached, the order should be promptly returned to the court. In cases involving a serious concern for public safety, immediate direct contact with the court will be warranted in order that the court may give consideration to expediting a hearing. During this period all reasonable additional measures should be taken in order to ensure the safety of, and support for, a known victim. For example, the police should be immediately informed of any escalation in risk to the victim.

For further examples of measures that can be taken throughout the duration of the CPO to protect victims' safety, refer to Section 8 of this guidance.

However, unpaid work case managers should take reasonable steps:

- to support and enable the individual to complete their order; and
- to enforce the requirements of the order firmly and timeously, should the individual not comply with that order without reasonable cause.

The unpaid work case manager must therefore be fair, reasonable and consistent in the application of the unpaid work requirement.

When the individual does not comply with any aspect of the unpaid work requirement, the unpaid work case manager must take the action outlined earlier.

It is clear that a single unacceptable failure to attend as instructed constitutes an absence and each absence requires a decision as to acceptability or otherwise to be made within 1 week, and certainly before the next instructed attendance, and recorded as per the local authority's policy and procedures.

The unpaid work case manager must decide, after full consideration, which should include full discussion with the individual, whether the explanation which is offered is acceptable or not as indicated in the preceding guidance relating to other requirements. Non-attendance should be followed up with a telephone call. It is important that the unpaid work case manager finds out the reasons why the individual is not engaging (e.g. ill health, major life event, relationship problems, childcare issues), and supports them to address the problem, if appropriate. In

this context the following reasons for failure to comply will generally be acceptable. Where discretion is being considered, this should be discussed with the unpaid work case manager's line manager, and decisions regarding acceptability or otherwise must be clearly recorded and detailed in the case file:

- ill health:
- where the individual is in custody;
- where unforeseen requirements are placed on the individual by their employer **and these are confirmed in writing**; and
- where the individual is faced with a serious and unforeseen crisis arising from other responsibilities. Confirmation of such circumstances should be sought.

In general, formal disciplinary action should always be taken where the failure to meet the requirement is serious, or where there are repeated minor failures. Where an unacceptable failure to meet a requirement occurs which does not interfere with the performance by the individual of unpaid work, the responsible officer[26] may decide to issue a caution. Where a caution is given, the failure and the caution should be recorded in the case file and the individual notified.

When the individual has not complied with other requirements of a CPO, unpaid work case managers should exercise their judgement as to the appropriate action to be taken in relation to the unpaid work requirement.

Where an individual has accrued one unacceptable absence, and incurs a second one, the unpaid work case manager, following discussion with the unpaid work supervisor, may decide to temporarily suspend the unpaid work pending a review with the individual. (It would be expected that this action would not be considered where the second absence occurs shortly after induction or shortly after a first warning has been issued). A review allows the individual to explain the reasons for their absence and discuss any issues which may be impacting on their ability to attend. The letter to the individual requesting that they attend for a review should advise that the letter constitutes a final warning. The unpaid work case manager may choose to withdraw the final warning following the review, depending on the circumstances.

Where an individual has accrued 2 unacceptable absences, is subject to a Final Warning, and incurs a further unacceptable absence, the unpaid work case manager should notify the responsible officer if an offender supervision requirement is also imposed. Where unpaid work is the sole requirement, the unpaid work case manager (the responsible officer in these circumstances) will then be required to notify the responsible court that the individual is deemed to be in breach of their CPO by virtue of failing to undertake and comply with the unpaid

[26] Where the court imposes a standalone unpaid work requirement, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

work requirement. Once a decision has been taken to return a CPO to court, the appropriate report must be lodged at court within five working days of the decision to invoke the breach procedures.

Where the unpaid work has been imposed in addition to an offender supervision requirement, the unpaid work case manager should copy all relevant correspondence to the responsible officer to allow for discussion and consideration of a breach report being submitted to the court. It is expected that the responsible officer and the unpaid work case manager would work closely together, sharing information and agreeing the way forward should issues arise. However, the decision to initiate breach proceedings and return the CPO to court is the responsibility of the responsible officer. Where the decision is to invoke breach proceedings it is for the responsible officer to prepare the breach report and submit it to the court.

Where an unpaid work requirement is returned to court under breach proceedings, the unpaid work may, after full consideration of the individual's overall response to the CPO, be suspended pending the outcome of the court's decision. However the supervision of any other requirement should continue pending the outcome of the court's decision. In assessing whether the other requirements of the CPO can continue, this assessment should consider the maintenance of credibility of the order/scheme with other participants.

The forthcoming court appearance may be used by the responsible officer/unpaid work case manager as an opportunity to motivate the individual to re-engage, if considered appropriate. Where there is an improvement in the level of compliance, or further failures to comply pending the outcome of a breach application, these should be addressed in a subsequent report to the court when dealing with the breach. This would give clearer information to the court as to the individual's likely ability to comply further with the CPO.

It may be helpful for an allocated member of staff to oversee all decisions to submit a breach application to court, in order to maintain consistency of decision-making.

21.14 Breach Proceedings

Where an offender supervision requirement is imposed alongside an unpaid work requirement, the unpaid work case manager has responsibility for informing the responsible officer if the individual continues to not comply, and they should discuss whether breach proceedings should be initiated. The decision to initiate breach proceedings is the responsibility of the responsible officer.

Where an unpaid work requirement has been imposed on its own, the unpaid work case manager, (the responsible officer in these circumstances), will submit the breach report using a standardised form, within 5 working days (see Annex 10). This standardised form will effectively be the complaint or indictment and refer to the relevant legislation and the specific date of the conduct that is alleged to constitute a breach of the order.

21.14.1 Reports to accompany Breach of Unpaid Work or Other Activity

Any breach which is presented to the court may be challenged and must therefore be supported by sufficient evidence. The evidence of one witness can provide sufficient evidence to establish a breach (section 227ZD(1) of the 1995 Act). In all cases it is essential that it can be established that the CPO was issued to, and signed by, the individual and that a clear work instruction was given.

Once it is established that the CPO was received and signed by the individual, there are 2 further elements which require to be proved for every case of breach for failure to attend, both of which must be recorded in the case file:

- that the individual was given and received relevant work instructions, detailing the date, place and time of work (see Section 21.7.1); and
- that the individual did not attend work as instructed with no reasonable excuse.

Every application to the court must be accompanied by a report which provides information and expresses a view about:

- the setting and nature of the work and the time when it had to be done;
- the tasks undertaken and the individual's response to the demands made;
- the extent of the individual's overall compliance with the order;
- any external (e.g. domestic) factors affecting the individual's compliance with the requirement; and
- a reasoned opinion as to whether the order might usefully continue, be varied, or be revoked in the event of the breach being accepted or proved.

For CPOs where an unpaid work requirement has been imposed on its own, this report will be written by the unpaid work case manager (the responsible officer in these circumstances). For CPOs where an offender supervision requirement has been imposed alongside an unpaid work requirement, this report will be written by the justice social worker who is supervising the individual (the responsible officer in these circumstances).

Where a failure to comply with the unpaid work requirement is the grounds for the breach but an offender supervision requirement has also been imposed, all relevant information must be collated in a suitable form and passed by the unpaid work case manager to the responsible officer for them both to discuss submission of a breach to the court. In such instances, where the decision is to submit a breach report, it will be the responsibility of the responsible officer to submit this within the aforementioned timescales.

A suggested template for this task is provided at Annex 4.

The standardised front sheet should be accompanied by a breach report placing the current alleged breach in the context of the individual's attitude to, and previous efforts to comply with, court orders. The circumstances of each breach will obviously be varied and the breach report should reflect this. The breach report should contain contextual information in relation to the breach and must, in addition to the information noted at Section 14 of this guidance, include:

- information on the individual's progress throughout the unpaid work requirement and the circumstances which led to the breach;
- relevant information on changes in individual's circumstances where these are known to the report author; and
- a reasoned opinion as to whether the requirement might usefully continue, be varied or be revoked in the event of the breach being accepted or proved.

Where the order consists solely of an unpaid work requirement, however, the unpaid work case manager, (the responsible officer in these circumstances), should restrict advice to variation of the requirement (e.g. an increase in the number of hours).

21.14.2 Failure to Attend

The standards of evidence in relation to failure to attend unpaid work or other activity are the same as those identified at Section 14 of this guidance.

21.14.3 Unsatisfactory Performance at Work

Where procedures for breach are being considered on the above grounds, it is necessary to ensure that the conduct complained of is witnessed and recorded by the unpaid work supervisor or placement agency. Depending on local policies and procedures, an incident reporting form may require to be completed.

21.14.4 Failure to Comply

The standards of evidence required to prove lack of punctuality are the same as those for failure to attend.

21.14.5 Failure to Notify Change of Address

The standards of evidence are the same as those referred to in Section 14 of this guidance.

21.14.6 Failure to Notify Change in Employment

Although technically possible, it is most unlikely that the responsible officer/unpaid work case manager will need to use these grounds alone for instituting breach proceedings because, if the individual continues to comply with

all other aspects of their CPO, failure to notify a change in employment, in itself, would not be viewed as grounds to return an order to court under breach proceedings.

21.14.7 Timescales for Breach

Rigorous and robust breach procedures are essential if the unpaid work requirement of CPOs is to be regarded as a credible community penalty. Responsible officers and unpaid work case managers have a critical role to play in supporting and encouraging individuals to remain compliant throughout the period of the order. As a general principle, the appointed responsible officer/unpaid work case manager, in situations where an individual has not complied with the requirement through a third unacceptable absence, should submit a breach report to the court within five working days of the decision to breach.

Where the court has imposed an offender supervision requirement in addition to the unpaid work requirement and where an individual is absent:

- The unpaid work case manager must notify the responsible officer **within one working day** and the absence noted on the individual's record of attendance.

- Following consultation with the member of staff reporting the absence and the individual to establish the acceptability or otherwise of the absence, the unpaid work case manager should, in discussion with the responsible office, agree on the action to be taken **within two working days** of the reported absence, and no later than the next instructed day to attend unpaid work. All parties should be informed of the decision taken.

- If the decision is to invoke breach procedures, a report (see Annex 10) by the responsible officer requires to be submitted to the court within **five working days**.

An unpaid work flow chart is attached at Annex 12.

21.14.8 Breach Established

If the court holds that an unpaid work activity has been breached it may:

- impose a fine on the individual not exceeding level 3 on the standard scale;

- where the CPO was imposed as an alternative to imprisonment, revoke the order and deal with the individual in respect of the offence in relation to which the CPO was imposed as it could have dealt with the individual had the order not been imposed;

- where the CPO was imposed as an alternative to a fine, impose a custodial sentence of up to 3 months (60 days in a Justice of the Peace court);

- vary the CPO so as to impose a new requirement, vary any requirement imposed by the CPO (e.g. increase the number of hours) or discharge any requirement; or

- both impose a fine and vary the order.

In dealing with an accepted/proven breach of a CPO originally imposed instead of a fine, or imposed following fine default under section 227M of the 1995 Act, and where the court decides to revoke the CPO and instead impose a custodial sentence, the maximum term when dealt with by a Justice of the Peace court is 60 days and 3 months by a higher court. If imprisoned, the original fine will be discharged.

21.14.9 Concurrent/Consecutive Orders

For breach purposes, it is court practice that concurrent CPOs should be treated as one order and consecutive orders should be treated as individual orders. In the case of consecutive orders, whilst the focus should be on the specific order which gave rise to the breach, the court should also be asked to consider the position in respect of any subsequent CPOs in the light of the breach.

21.15 Other Provisions

21.15.1 Variation/revocation/discharge

There are no specified circumstances contained in the 1995 Act which constitute grounds for revocation, variation or discharge. However, an application may be made by the individual or by the responsible officer to request a revocation, variation or an early discharge. As a broad principle, such applications are appropriate where circumstances have arisen since the CPO was imposed, which suggest that it would be in the interests of justice for the court to consider amendment or revocation. However, the following illustrate the most common grounds for such an application:

- medically certified illness over a lengthy period of time which prevents the individual from performing the CPO in a satisfactory manner including where an individual is subject to a Compulsory Treatment Order under the Mental Health (Care & Treatment) (Scotland) Act 2003;

- insufficient progress towards completion of the CPO even where absences have been for acceptable reasons;

- the individual's conviction for further offences resulting in a significant period of custody; and

- the individual's employment circumstances over a significant period of time are such that there are no available and reliable times to fulfil the requirement.

In addition, there is an ability within the legislation for an application to be made to the court for early discharge of the CPO regardless of the nature of the requirements. This would be on the basis of the individual's highly positive progress. Where such an application is to be made, it would normally be the responsible officer[27] who would make the application.

21.15.2 Progress Reviews

The court may decide as part of an unpaid work requirement that the individual should attend for a review hearing to assess their progress in fulfilling the requirement. It would not normally be expected that review hearings would be held for those individuals subject to a level 1 unpaid work requirement because of the short time period for completion but there is nothing to preclude the court requesting a review hearing in such circumstances.

Reference should be made to Section 15 of this guidance for further information on progress reviews.

21.15.3 Transfers

There are no issues specific to the transfer of those orders which contain unpaid work requirements beyond those set out in Section 16 of the broader guidance for CPOs to which reference should be made when an individual moves residence.

21.15.4 Completion

On completion of an unpaid work requirement, an exit questionnaire (see Annex 6) should be completed by each individual, with assistance from a member of the justice social work staff assessing the quality of the individual's experience. This will allow the individual the opportunity to express their views independently and offer suggestions for improvements thereby giving the individual an opportunity to be involved in contributing to the service. A formal review should be held addressing the quality of the service provided in managing the order, changes in the individual's motivation to offend, learning, changes in behaviour, offending during the period of supervision, future prospects etc. This review should be recorded and collated so as to contribute to an overall evaluation of effectiveness.

It would be considered good practice for the unpaid work case manager to submit a completion report (see Annex 7) to the court and include a copy on the case file. Its content should include an outline of the setting and nature of the work undertaken, the standard of work achieved, the content of other activity and the impact, if any, the requirement had on the behaviour/attitudes of the individual and any change in employment status. Comments made by the individual in terms of their experience of being subject to a CPO should be included in the completion report.

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[27] Where the court imposes an unpaid work requirement alone, with no offender supervision requirement, the role of the "responsible officer" is exercised by the unpaid work case manager. Where an offender supervision requirement is imposed, the role of the "responsible officer" is exercised by the justice social worker who is supervising the individual subject to the order.

The opportunity should also be taken to remind the individual of the effects of Part 2 of the Management of Offenders (Scotland) Act 2019 as it relates to the order.

21.15.5 Liaison

Local authority managers, including the unpaid work team manager, must ensure that there is an appropriate emphasis on unpaid work in the course of regular liaison with the judiciary. In addition, courts should be provided with annual reports about the operation of the local unpaid work scheme, with regular updates and feedback. This is the responsibility of the local authority. (See Section 14 of this guidance).

21.15.6 Training

A wide variety of skills across a range of staff groups are required to ensure that unpaid work or other activity is delivered effectively. It is essential that sufficient specialist training is consistently available to all staff involved in schemes to ensure that the highest standards are maintained.

Distinctive staff groups, with specific and differing training needs, are employed in unpaid work schemes. For this reason the training strategy for unpaid work should form a separate, but integral, part of a training strategy developed for all justice social work staff and should be reviewed annually.

Local training strategies should include:

- induction programmes for all staff covering the philosophy of unpaid work and its place in the justice social work system; and

- relevant information from the Justice Social Work Outcomes, Objectives and Principles.

Additional components in relation to health and safety, and an introduction to issues of offending behaviour and pro-social modelling and anti-discriminatory practice should be included for supervisory staff and staff involved in placement finding e.g.:

- diversity training for all staff;

- ongoing health and safety training for unpaid work supervisors and other staff as relevant;

- first aid training for unpaid work supervisors and subsequent updating as required;

- ongoing technical training and refresher courses for task supervisors as required; and

- training opportunities which may lead to relevant vocational qualifications (SVQs) should also be made available.

All social work qualified staff must be enabled to fulfil their Scottish Social Services Council responsibilities to complete 15 days' training within 3 years.

21.15.7 Health, Safety and Other Statutory Regulations

Each scheme must comply with its internal local authority accident reporting procedures. A copy of this must be available to any party requiring access. Where an injury occurs which requires reporting under Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 (RIDDOR) guidelines, this will be the responsibility of the unpaid work team manager.

Any individual who refuses to comply with health and safety instructions given by the unpaid work case manager or unpaid work supervisor will be judged to be failing to perform the work satisfactorily and dismissed from work that day. Disciplinary action may be considered in the event of such behaviour.

Individuals must be offered protective clothing and footwear to enable them to carry out the tasks safely. Where an individual refuses to wear such items, they may be subject to disciplinary action.

21.15.8 Working Time Directive

The Working Time Regulations 1998/1833 (which transpose the Working Time Directive) do not apply to individuals subject to CPOs. This is because the working time regulations apply only to paid work.

It is important to recall however that the court has a degree of discretion when making a CPO requiring unpaid work to specify the number of hours and the period of time within which those hours are to be carried out. In so doing the court may have regard to any CJSWR which sets out the individual's circumstances. The individual will have the opportunity to bring existing work commitments to the court's attention. This may influence the number of hours and length of time over which the unpaid work that any order imposes is to be completed.

There is also provision under the 1995 Act for the responsible officer or the individual to apply to the court to vary, revoke or discharge an order. Here the court could consider any new paid employment obligations on the individual since the order was made.

21.15.9 Insurance

The following minimum standards of insurance provision must be agreed between the local authority and their insurers:

- All unpaid work schemes should be covered by the local authority for Public and Employers Liability Insurance exposures. This may be accomplished by the extension of existing local authority Public and Employers Liability Insurance policies to cover CPO schemes.

- These policies cover the local authority's legal liability arising out of any injury, loss, illness or damage occasioned by negligence.

- the level of insurance cover provided for individuals undertaking unpaid work or other activity requirement should be no less than the cover provided to the local authorities' own employees.

Example

……..Council
Justice Social Work

Community Payback Order
Post Sentence Assessment Interview

Nature of Requirement(s)

Court:

Date:

Unpaid Work or Other Activity

Indictment:

Y/N:

Summary:

Hours:

Personal Details

Other Occupants at address and any risks posed for home visits:

Surname:

Forename:

Gender:

Ethnic Category:
(To be identified by service user)
Address:

Date of Birth:

Phone Number:

NOK Details:

Name and Contact Details of any other agencies involved:

Type of Accommodation:

Suitable for home contact: Yes/No

Employment/Education
Employed / Unemployed / Training / College

Benefit Details: Day and time for signing on:

Do they need to see someone to optimise their benefits?
Yes/No

Is Employer/College aware of the requirement of Community Payback Order?
Yes/No

Name of Employer/College:

Type of Work/Course:

Availability/Shifts etc:

Qualifications/Skills
Does the service user have:

Literacy Problems that require further input, assessment or education	Yes/No Detail:
Numeracy problems that require further input, assessment or education	Yes/No Details:

Existing Skills / Qualifications / Special Interests / Aspirations / Ambitions

Health
Does the service user suffer from any health problems:

Allergies / Asthma / Blackouts / Diabetes / Epilepsy / Angina / Back Problems

Hearing Problems / Eye Problems / Phobias / Skin Conditions

Any other health issues:

Has the service user self-harmed/attempted suicide?
If so, please detail nature of self-harm and last date:

History or treatment for depression/anxiety Yes/No

Any activities that should be avoided for specific health reasons? Yes/No

Is the service user pregnant Yes/No

Is the service user on prescribed medication Yes/No

Is the service user prescribed methadone Yes/No

Dosage: Collection Time:
Details of GP:

Alcohol &/or Drugs

Does the service user use:
Alcohol to excess where it may impede their ability to comply with the Community Payback Order Yes/No

Illegal/Non prescribed Drugs Yes/No

Is the service user in/seeking treatment? Yes/No

Offence Details

Is service user appealing against conviction/sentence? Yes/No

Outstanding Offence(s):
Yes/No Court Date:

Risk to self or others?
Yes/No

Other Social Work service involvement e.g. Children and Families; Community Care etc.

Placement Considerations

Risk to children/vulnerable adults	Yes/No	Specify:
Racial implications	Yes/No	Specify:
Cultural/religious needs	Yes/No	Specify:
Risk to staff/service users/known problems	Yes/No	Specify:
Needs close supervision or restrictions	Yes/No	Specify:
Cannot be placed with male/female staff	Yes/No	Specify:

Other

Staff Safety Form Completed Y/N Any risks to staff identified: Y/N
If so, please specify nature of risk and control measures to be used?

Is service user alerted as per agencies policies and procedures as a risk to staff?
Y/N

Travel

Cost of travel to placement / Access to transport / Evidence of driving licence

Detail:

Availability for appointments:

Availability for appointments/Unpaid work or other activity

Day	M	T	W	T	F	S	S
AM							
PM							
Eve							

Other Restrictions/Relevant information:

If service user is subject to unpaid work or other activity, please give date the service user was instructed to attend Health & Safety Induction:

Declaration

I believe that the information on this form is correct;
I agree to attend the requirements as instructed;
Where applicable, the unpaid work or other activity contract remains in force unless a new contract is issued;
Where applicable, I have been offered an unpaid work or other activity information booklet and have had this explained to me;
I have been informed of local arrangements and the requirements and instructions which relate to me carrying out my Community Payback Order;
I have been asked to sign a mandate giving permission for contact with my GP solely in relation to information which may be relevant to my carrying out my Community Payback Order

Service User Signature: _____
Date: _____

Social Worker/Unpaid Work Case
Manager Signature: _____
Date: _____

Annex 2 - Medical Mandate

Example

……..Council
Justice Social Work

Community Payback Order
Medical Mandate

Service User's name:

Insert date:

Dr

MANDATE TO RELEASE MEDICAL INFORMATION

NAME …….

DATE OF BIRTH ……

ADDRESS
……

……..

……

The above person is subject to a Community Payback Order imposed by the Court and supervised by the Justice Service. Please note covering letter as to reason for this request.

Thank you for your assistance in this matter.

Social Worker/Unpaid work case manager
JUSTICE SERVICE

SUBJECT OF REPORT:

I agree to my Doctor/Psychiatrist giving medical information relevant to my progress on the above Statutory Order.

SIGNED ……DATE…….

Annex 3 – CPO Review

Example

……..Council
Justice Social Work

Community Payback Order Review

Community Payback Order Review **Date:…… Time:…… Local system reference: (e.g. SCRO, etc)……**						
1. Personal Details						
Name						
D.O.B		**Age**		**Gender**		
Address				**Post Code**		
Telephone No				**Email address**		
2. Nature of Order- CPO						
Offence:				**Court:**		
Date of Order:				**Expiry Date:**		
Length of Order:				**Requirements of Order:** (Specific requirements of Order and timeframes to be Completed)		
Current Level of Contact Intensity:				**Current Risk Assessments and date Completed & Level** (LSCMI, SA07, RM2K, SARA etc.)		
Date Risk/Case Management Plan Complete: **Risk/ Case Management plan progress Updated for review: Y/N**				**MAPPA Managed: Y/N** (If yes- what is the level risk level)		
Summary of Warnings: (First/Final/Breach proceedings)						
Actions from previous review: (Brief description of actions from previous reviews and if completed)						
In attendance and apologies:						

Summary of current engagement with Supervision:
Summary of progress with further requirements - (Unpaid work progress, programme work, compensation requirements, drug/alcohol/mental health counselling):
Current identified Risks/Needs to be addressed?
Agreed Actions for next review period (Be specific - who is going to do what and what is the timeframe?):
Exit Planning:
Service Users Comments:
Chair's Comments:
Agreed contact level:
Next Review Date:
<u>Signatures</u> **Case Manager:……. Date:…….** **Service User:…… Date:……..** **Chair:…….. Date:……..**

Annex 4 - CPO Breach Report

Example

……..Council
Justice Social Work

Community Payback Order Breach Report

Community Payback Breach Report					
1. Personal Details					
Name					
D.O.B		**Age**		**Gender**	
Address				**Post Code**	
Telephone No				**Email address**	

2. Nature of Order-			
Order Reference number(s)		**Type of Order:**	
Offence:		**Court:**	
Date of Order:		**Expiry Date:**	
Length of Order:		**Requirements of Order:** (Specific requirements of Order and timeframes to be completed)	
Date Breach submitted:			
Grounds for Breach: (Information surrounding dates of non-compliance and warnings issued.)			
Attitude towards Order: (Assessment of attitude towards Order including views of others working with the service user.)			

Case manager's assessment of future compliance:	
Conclusion:	
Case manager's signature:	

Annex 4a - Witness Schedule

Example

……..Council **Justice Social Work** Community Payback Order Witness Schedule

Complaint number:		Court:	
Name:		Date of Birth:	
Residing at:			

Witness one

Name:		Position held:	
C/O Social Work Office:			

Can Testify To:
(Dates and ways in which where service user failed to comply with Order)

Signature:……

Date: ……

Witness Two

Name:		Position Held:	
C/O Social Work Office:			

Can Testify To:
(Dates where service user failed to comply with Order)

Signature:……

Date: ……

Annex 5 - Court Progress Review

Example

……..Council **Justice Social Work** Community Payback Order Progress Review Report for Court
Tel: Fax:

Original complaint no:		Court:	
Name:		Date of birth:	
Residing at:			

Released on a Community Payback Order imposed by ……..
Court on …….with requirements of:

Compensation;	Y/N
Supervision;	Y/N
Unpaid Work or other activity;	Y/N
Programme;	Y/N
Residence;	Y/N
Mental Health treatment;	Y/N
Drug treatment;	Y/N
Alcohol treatment;	Y/N
Conduct;	Y/N
Restricted movement	Y/N

For Offences of:

PROGRESS TO DATE:

Social worker Unpaid work case manager Justice service	(insert date)
Team manager Justice service	(insert date)

Annex 6 - CPO Exit Questionnaire

Example

……..Council

Justice Social Work

Community Payback Order
Completion Questionnaire

This information is for internal use and may be included in any completion report to the court where appropriate. Otherwise, no information, unless it puts another person at risk, will be passed on to other agencies.

Social worker:			
Unpaid work case manager			
Individual's name			
Date of commencement of CPO			
Date of completion			
Requirements imposed	Compensation; Supervision; Unpaid work or other activity; Programme; Residence; Mental Health; Drug treatment; Alcohol treatment; Conduct; Restricted movement	Y/N Y/N Y/N Y/N Y/N Y/N Y/N Y/N Y/N Y/N	
Quality characteristics		Yes	No
In your contact with criminal justice service, do you feel that you have been treated with respect and courtesy?			
Comments:			
Do you think all your circumstances were taken into account?			

Comments:		
If you attended on time were you seen on time?		
Comments:		

Have you received enough information about your order and did you understand the information?		
Comments:		
Do you think being on a CPO has helped you? If so, how?		
Comments:		
During your CPO have you looked at why you offended?		
Comments:		
During your CPO, have you considered the impact your offending has had on your victims?		
Comments:		
Have you had any contact with other agencies during your CPO?		
Was it a requirement of your CPO?		
Did you find this contact helpful?		
Comments:		

Has your attitude to offending changed during the course of your CPO?		
Comments:		
Have there been any changes in your personal/social circumstances as a result of being subject to a CPO e.g. housing/ drugs/ children?		
Comments:		
During your CPO, have you been charged?		
Comments		

Do you think that this CPO has helped you to stop or reduce offending?		
Comments:		
If being subject to a CPO helped reduce your offending in amount or severity, what has been helpful and what has been less helpful?		
Comments:		
Are there any issues which you feel have not been addressed?		
Comments:		
Did you undertake a learning/skills assessment?		
Comments:		
Did you carry out any unpaid work or other activity? If so, did you learn any skills?		
Comments		

Service User's Signature: ……..
Date: ……

Annex 7 - Completion Report

Example

……..Council **Justice Social Work** Community Payback Order Completion Report

Tel: Fax:			
Original complaint/ indictment no:		Court:	
Name:		Date of birth:	
Residing at:			

Released On A Community Payback Order Imposed By……
Court On…… For a period of Months:

With Requirements Of:

Supervision	Y/N
Compensation	Y/N
Unpaid Work or other activity requirement	Y/N
Programme Requirement	Y/N
Residence Requirement	Y/N
Mental Health Requirement	Y/N
Drug Treatment Requirement	Y/N
Alcohol Treatment Requirement	Y/N
Conduct	Y/N
Restricted movement	Y/N

For Offences Of:

Risk:

At Commencement of Order: At Completion of Order:

Risk of offending:	Risk of offending:
Risk of Harm:	Risk of Harm:
Overall Risk Identified at Commencement of Order:	Overall Risk Identified at Completion of Order

Date of Post Sentence of Interview:

Details of Case management plan contained within the Criminal Justice Social Work Report and issues arising as identified at that interview:

How were these to be addressed and by whom:

Literacy/Numeracy Issues identified: Y/N

If present, how were they addressed:

Name of agency involved:

No. of Failures to Comply	No. Acceptable	No. U/A	No. of Warnings	Date Order Completed

Was Order Breached?	Y/N	Date Breach Heard:	Outcome:

Grounds of Breach

What Requirements were imposed and response to these:

Comment on the level of compliance with these and the progress made?

Service User's overall attitude to Community Payback Order:

Skill identified as having been gained/learned during course of Community Payback Order:

Any Other Relevant Information:

Social worker/unpaid work case manager:

Justice service:

Example

……Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Placement Information Booklet - Health and Safety at Work

…….Council

Summary of corporate health and safety policy statement

What Is Health And Safety?

Health and Safety, as it is commonly referred to, is actually The Health and Safety at Work Act. This is an 'umbrella act' enabling many other areas of legislation to be brought under a common title. It is in effect, sets of legislation that governs everyone at work. There are two main objectives.

1. To raise the standards of health and safety for all people at work.
2. To protect the public whose health and safety are put at risk by the activities of people at work.

How Does It Affect Me?

The following information is for **your** benefit and should be read carefully so that you understand your obligations with regards to your general behaviour which affects every one's health and safety whilst employed in **any work area.**
The current health and safety legislation places the responsibility on you to :

1. Take reasonable care of your own health and safety and that of others who may be affected by your behaviour;
2. Co-operate with instructions and comply with under the act.
3. It is an offence for anyone to intentionally interfere with or misuse anything provided in the interests of health and safety.

Work Placement

There are many areas of health and safety, which affect people at work. It would be impossible for the placement supervisor to attempt to cover every single requirement of the health and safety legislation. During your induction, the areas of health and safety that you require to be familiar with, will be explained. This may be by means of written instruction and/or practical exercises or other ways, all of which will be recorded. If you have any difficulty understanding anything in this booklet or anything your placement supervisor is telling you, please do not be afraid or too embarrassed to ask questions. Your safety and the Safety of others may depend upon it!

First Aid

Within your placement building / area there may be an identified First Aid station. This is intended as an initial resource to be used until qualified medical assistance is available to provide further treatment. Eye wash stations may be sited where required.

If you have an accident, or you witness an accident or come across a person who requires assistance you should seek help immediately unless you are a trained first aider. In any case, if you are on your own you should always seek help first.

All accidents and injuries must be reported to a Placement Supervisor who will record it on the appropriate accident report form. You should also report the accident / incident to your Community Service Officer as soon as possible

Fire Regulations

Within your placement there are **Fire Action** notices posted on the wall, your placement supervisor will point them out. Ensure that you read them and familiarise yourself with the information, paying particular attention for **action on discovering a fire.**

In each area there may also be a number of **Fire Points** where a choice of different fire extinguishers **may** be available for your use in tackling a small fire, read the notice alongside them or ask for it to be explained; this will tell you the correct extinguisher for the type of fire.

You must inform your placement supervisor if you are required to leave or be at a different location. This will ensure your whereabouts are known in the event of a fire/headcount.

Safe Systems Of Work

Do not attempt to carry out any work of a dangerous nature, nor operate machines unless you have been shown safe system of work and allowed to do so. Also, do not carry out any tasks or duties that you may see other people doing unless you have been trained and authorised to do so.

All of the tasks and duties that will be expected of you during the time within the placement will be shown to you by your placement supervisor. Watch and listen carefully to the training and instructions given to you. If you are unsure of anything ask questions until you fully understand what is required of you.

During the course of training and / or daily work there may be tasks that require you to wear **Personal Protective Equipment**, for example: safety glasses, gloves, overalls, etc. It is **your** responsibility to use this equipment. You will be shown how to use this equipment as required and if you fail to, you may be dismissed from placement and this may be considered a failure to follow instructions, which could have may result in you not being allowed to continue with your Community Payback Order.

Prior to using any work appliance you must carry out **Safety Checks**; you will be shown the correct procedures by your placement supervisor. Always carry out these checks as they are designed to protect you and other users.

Control Of Substances Hazardous To Health (C.O.S.H.H)

All chemicals used in the workplace are strictly controlled by the above regulation. All of the chemicals that are used have their own **Safety Data Sheet** which contains information about its make up, the dangers and risks that may be involved when using it and action to be taken if first aid is required.

Each container is labelled; always follow the manufacturers' instructions on use. If in any doubt on how to use a particular chemical always consult your placement supervisor. Most of the chemicals used will be diluted with water and you must ensure that you use the correct amount as stated on the container.

Always add the chemical to water when diluting as this will avoid a ‘neat’ splash which may cause you harm. Never put a chemical or a diluted mix into any unidentifiable container and likewise never use anything that is not clearly labelled. When you have finished with the chemical you are using always return it to the store where it is kept. This area must be kept clean and tidy at all times.

Remember! Never mix chemicals together, it may cause a ‘reaction’ that could seriously damage your health or those working around you.

Unacceptable Behaviours

Everything you have read so far in this booklet is about protecting the Health and Safety of yourself and those who work around you. Taking part in, or encouraging any form of unacceptable behaviours can have serious consequences for your, and others, health. Should you be found to be behaving in such a manner you may be held responsible for the consequences of any accidents or damage that may occur.

Personal Administration

The facilities at your placement are for your benefit. They may include a kitchen/dining area, a waiting area and toilet facilities. You will be shown the safe use of any appliances that you may use. Please keep these areas clean and tidy and place any rubbish in the bins provided. Smoking is not permitted in any of the buildings you work in. You are reminded that all cigarette ends should be disposed of in the bins provided. Smoking breaks will be agreed between you and your placement supervisor.

Finally

Your period of time completing your hours within your placement is designed to be challenging, productive and of benefit to the local community. Your unpaid work case manager and placement supervisor are there to give instruction, guidance, support, advice and also to help you deal with any problems that may arise, whether they are work related or personal. If you are in any doubt please bring this to the attention of unpaid work staff or your social worker who will endeavour to help. There is also an official complaints procedure which staff will make available to you.

Example

……..Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity Personal Placement

Contents:

1. Placement Details
2. Placement Checklist
3. Health & Safety Checklist
4. Placement Attendance Record
5. Placement Completion Report
6. Placement Information Booklet

Annex 9 (Form 2) - Placement Details

Example

……..Council
Justice Social Work

Community Payback Order
Unpaid Work or Other Activity

Please ensure that all placement/contact details, placement checklist and Health & Safety checklist are completed

Placement / Project Name

Full Postal Address

Postcode Telephone Number

Contact Name Position

Main opportunities for individuals
(Please give a brief description on types of duties and work that will be undertaken and any opportunities to learn new skills)

Annex 9 (Form 3) - Placement Checklist

Example

……..Council

Justice Social Work
Community Payback Order
Unpaid Work or Other Activity

Placement Checklist

Please complete the following:

Are you aware of Social Work Child and Adult Support and Protection procedures and who to contact should they have any concerns or questions? (Please detail)

Will you ensure the service user's hours are recorded?
Yes
No
Detail:

What periods of attendance can you provide?
Evenings
Weekends
Days

Are there any limitations on who your organisation can accommodate? Placements may be, for example, women-only.

Do you have any certificated training?
Yes
No
Detail:

(If yes) Will the service user be able to undertake the certificated training in the course of the placement?
Yes
No
Detail:

Can you provide future employment opportunities?
Yes
No
Detail:

How many individuals can you provide work for?
1-2
3-4
4-5
5+

Annex 9 (Form 4) - Health & Safety Pre-placement Checklist

Example

……Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Health and Safety Pre-Placement Checklist
(For Unpaid Work Case Manager to complete with Placement Provider**)**

Name of
Agency……...

Address:……
…….……
……..……
…….……..…

Telephone:……...
Fax:……..

Email:……..

Who is your nominated contact for compliance with health & safety legislation?

Name &
position……

Telephone:……
Email:……..

	Health & Safety Issues	Y	N	Comments
1	Do you have a written Health & Safety Policy? If so please attach a copy to this form	☐	☐	
2	Is your organisation registered (if necessary) with a local or national health & safety regulatory body?	☐	☐	
3	Does your company hold Employer & Public Liability Insurance? If so will you provide a copy? Will your insurance cover any liability incurred by a service user as a result of the duties to be undertaken?	☐ ☐	☐ ☐	

4	Will you provide Health & Safety induction training for the placement individuals? For example :Will it cover issues such as: Emergency procedures First aid arrangements Fire procedures Accident and incident reporting Display screen equipment Manual handling Personal Protective Equipment Welfare facilities (washrooms, toilets etc.) Disability awareness Will you provide any specialised Health & Safety training for the service user?	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐ ☐	
5	Have you carried out risk assessments of your work practices to identify possible risks, whether to your own employees or to others, including those subject to a CPO? How regularly are risk assessments reviewed? Are risk assessment recommendations implemented and documented? Will you: i) Explain risk assessment findings to those subject to a CPO? ii) Provide them with a copy of the risk assessments?	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐	
6	Is there a formal procedure in place for reporting and recording accidents and incidents (e.g. RIDDOR)? Do you agree to report to _____ Council all recorded accidents and incidents involving those subject to a CPO? Do you agree to report to _____ Council any sickness/absences involving those subject to a CPO, which may or may not be attributed to the work?	☐ ☐ ☐	☐ ☐ ☐	
7	Is the person subject to a CPO likely to be working in any areas, which may restrict or limit their physical access?	☐	☐	

8	Is the person subject to a CPO likely to use any specialised equipment or machinery? If so, will they receive adequate training and supervision? What type of training will they receive?	☐ ☐	☐ ☐	
9	Are there any other health & safety issues, which may have a bearing on those subject to a CPO? If so, please give a full details……	☐	☐	

Signed:……..……

Name in Block Capitals:……...

Position:……..
Date:……

Thank you for completing the questionnaire. Please could you return it as soon as possible to:

Unpaid Work Or Other Activity Scheme
Justice Social Work Service

Unpaid Work Case Manager's Comments:

Annex 9 (Form 5) - Placement Information

Example

……Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Placement Information Booklet - Health and Safety At Work

_____ Council

Summary of corporate health and safety policy statement

_____ Council will take all reasonable steps to ensure the health, safety and welfare of all employees at work. The Council will also take all reasonable steps to ensure the health and safety of all persons, other than employees, on Council premises i.e. service users, pupils or members of the public who are either directly or indirectly affected by the Council's activities.

_____ Council will endeavour to comply with all Health and Safety Legislation at all times and deliver a high standard of Health and Safety performance.

What Is Health and Safety?

Health and Safety, as it is commonly referred to, is actually The Health and Safety at Work Act. This is an 'umbrella act' enabling many other areas of legislation to be brought under a common title. It is in effect, sets of legislation and acts that govern everyone at work. There are two main objectives.

1. To raise the standards of health and safety for all people at work.
2. To protect the public whose health and safety are put at risk by the activities of people at work.

How Does It Affect Me?

The following information is for your benefit and should be read carefully so that you understand your obligations with regards to your general behaviour which affects every ones health and safety whilst employed in any work area. If you wish, a member of the unpaid work staff will explain this to you verbally.

It is important that you understand this as the current health and safety legislation places upon you, as an individual, an obligation to undertake that you will:

- Take reasonable care of your own health and safety and that of others who may be affected by your acts or omissions.
- Co-operate with your employer to enable your employer to comply with their duties under the act.

It is an offence for anyone to intentionally interfere with or misuse anything provided in the interests of health and safety.

Work Placement

There are many areas of health and safety, which affect people at work. It would be impractical for the unpaid work supervisor to attempt to cover every single requirement of the health and safety legislation. During your induction, the areas of health and safety that you require to be familiar with, will be explained. This may be by means of written instruction and/or practical exercises or other methods, all of which will be recorded. If you have any difficulty understanding anything in this booklet or anything your unpaid work supervisor is telling you, please do not be afraid or too embarrassed to ask questions. **Your safety and the Safety of others may depend upon it !**

First Aid

Within your placement building / area there may be an identified First Aid station. This is intended as an initial resource to be used until qualified medical assistance is available to provide further treatment. Eye wash stations may be sited where required.

If you have an accident, or you witness an accident or come across a casualty or person who requires assistance you should seek help immediately unless you are a trained first aider. In any case, if you are on your own you should always seek help first.

All accidents and injuries must be reported to an unpaid work supervisor and recorded by the unpaid work supervisor on the appropriate accident report form. This will be kept on file. You should also report the accident / incident to your unpaid work case manager as soon as possible

Fire Regulations

Within your placement there are Fire Action notices posted on the wall, and your unpaid work supervisor will point them out. Ensure that you read them and familiarise yourself with the information; pay particular attention for action on discovering a fire.

In each area there may also be a number of Fire Points where a choice of different fire extinguishers may be available for your use in tackling a small fire, read the notice alongside them as this will indicate the correct extinguisher for the type of fire.

You must inform your unpaid work supervisor if you are required to leave or be at a different location. This will ensure you are 'accounted' for in the event of a fire/headcount.

Safe Systems Of Work

Do not attempt to carry out any work of a dangerous nature, nor operate machines unless you have been shown safe systems of work and authorised to do so. Also, do not carry out any tasks or duties that you may see other people doing unless you have been trained and authorised to do so.

All of the tasks and duties that will be expected of you during the time within the placement will be shown to you by your unpaid work supervisor. Observe and listen carefully to the training and instructions given to you; if you are unsure of anything ask questions until you fully understand what is required of you.

During the course of training and / or daily work there may be processes or tasks that require you to wear Personal Protective Equipment, for example: safety glasses, gloves, overalls, etc. It is Your responsibility to utilise this equipment. You will be shown how to use this equipment as required and failure to use it when instructed to do so, or to use it inappropriately will impact on your ability to carry out unpaid work or your other activity. This may result in your Community Payback Order being returned to court.

Prior to using any work appliance you must carry out Safety Checks, you will be shown the correct procedures by your unpaid work supervisor. Always carry out these checks as they are designed to protect you and other users.

Control Of Substances Hazardous To Health (COSHH)

All chemicals used in the workplace are strictly controlled by the above regulation. All of the chemicals that are used have their own Safety Data Sheet which it contains information about its make up, the dangers and risks that may be involved when using it and the action to be taken if first aid is required.

Each container is labelled; always follow the manufacturers' instructions on use. If in any doubt on how to use a particular chemical always consult your unpaid work supervisor. Most of the chemicals used will be diluted with water and you must ensure that you use the correct ratio as stated on the container.

Always add the chemical to water when diluting as this will avoid a ‘neat’ splash which may cause you harm. Never put a chemical or a diluted mix into any unidentifiable container and likewise never use anything that is not clearly labelled. When you have finished with the chemical you are using always return it to the store where it is kept. This area must be kept clean and tidy at all times.

Remember! Never mix chemicals together, it may cause a ‘reaction’ that could seriously damage your health or those working around you.

Unacceptable Behaviours

Everything you have read so far in this booklet is about protecting the Health and Safety of yourself and those who work around you. Taking part, or encouraging any form of unacceptable behaviours is a serious matter and the consequences of any accidents or damage that may occur may result in your CPO being returned to court.

Personal Administration

The facilities at your placement are for your benefit. They may include a kitchen/dining area, a waiting area and toilet facilities. You will be shown the safe use of any appliances that you may use. Please keep these areas clean and tidy and place any rubbish in the bins provided. Smoking is not permitted in any of the buildings you work in. Clients are reminded that all cigarette ends should be disposed of in the bins provided. Smoking breaks will be agreed with your unpaid work supervisor and will be taken at a time which does not impact on the work and in a location which does not affect others.

Finally

Your period of time completing your hours within your placement is designed to be challenging, productive and of benefit to the local community. Your unpaid work case manager and unpaid work supervisor are available to give instruction, guidance, support, advice and also to help you deal with any problems that may arise, whether they are work related or personal. If you are in any doubt please bring this to the attention of unpaid work staff or your social worker who will endeavour to help. There is also an official complaints procedure which staff will make available to you.

Annex 9 (Form 6) - Placement Attendance Record

Example

……..Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Placement Attendance Record

Service User's Name:_____

Placement:_____

Unpaid Work Case Manager:_____

Contracted Day(s) of Attendance:_____
Total Hours:_____

Date of Attendance	Arrival Time	Service User and Staff Sign on Arrival	Departure Time	Service User and Staff Sign on Departure	Hours Worked	Failed to Attend (tick)

Signed:_____ (Placement)
Print Name:_____

Signed:_____ (Unpaid Work Case Manager)
Print Name:_____

Annex 9 (Form 7) - Placement Completion Report

Example

…….. Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Placement Completion Report

Placement Start Date:

Placement Completion Date:

Please provide a brief report on the service user's time at placement commenting on attendance, behaviour, attitude and work effort.

Would you be willing to take further people subject to CPO, if NO please provide your reasons (this will help us with future assessment/allocation)

Do you have any further comments that would benefit our placement scheme?

Any other relevant comments.

Signed: _____ (Agency)
Print Name: _____

Signed: _____ (Unpaid work manager)
Print Name: _____

Annex 10 - Unpaid Work/Other Activity Requirement Breach Report

Example

……..Council **Justice Social Work** **Community Payback Order Unpaid Work or Other Activity** **Breach of Community Payback Order with Unpaid Work or Other Activity - Report**
Tel: Fax:

Original complaint/ indictment no:		Court:	
Name:		Dob:	
Residing at:			
Employment status as last known:			
Original offence(s)			

Date of Order		Hours Imposed	
Hours Remaining		Number of appointments missed	Total Acc U/A
Length of Other Activity		Nature of Other Activity	

Date of Post Sentence Interview:	Date of H&S Induction:	Date Work Started:	Date Other Activity Started:
Literacy/Numeracy Assessment Completed	Y/N	Outcome and provider	

Date of Absences Reason Decision Taken

Health issues identified which have contributed to the service user failing to comply with the Community Payback Order:

Confirmed by GP:

Date CPO Suspended:

Date Decision Taken to Breach CPO:

Date CPO Submitted to Court under Breach Proceedings:

Grounds of Breach:

Service User's Overall Attitude to Unpaid Work or Other Activity:

Unpaid Work Case Manager's View on the individual's ability to complete a further period of unpaid work or other activity:

Conclusion:

Should a finding of guilt be established and the Court wishes further information to aid sentencing, the Court may wish to consider a stand down report, when considering disposal, to expedite proceedings and allow for matters to be concluded at an early opportunity.

Unpaid Work Case Manager: (ref)
(insert date)

Team Manager:

Annex 10a - Witness Schedule

Example

……..Council
Justice Social Work

Community Payback Order Unpaid Work or Other Activity
Witness Schedule

Complaint no:		Court:	
Name:		Date of birth:	
Residing at:			

Released On Unpaid Work Or Other Activity Requirement

Imposed By Court On:

Witness One

Name:		Position held:	
C/o social work office:			

Can Testify To:

(Signature):……

Date:……

Witness Two

Name:		Position held:	
C/o social work office:			

Can testify to:

Signature:……
Date: ……

Annex 11 - Unpaid Work/Other Activity Requirement Completion Report

Example

……..Council **Justice Social Work** Community Payback Order Unpaid Work or Other Activity Completion Report				
Tel: Fax:				
Original complaint/ indictment no:		Court:		
Name:		Date of birth:		
Residing at:				
Employment status:	At start:	At completion:		

Released On A Community Payback Order with Unpaid Work or Other Requirement

Imposed By

Court On For Hours:

For Offences Of:

Date of Post Sentence Interview	Date H&S Induction	Date Work Started	Date Other Activity Started

Unpaid Work Case Manager:

Literacy/Numeracy Assessment Completed	Y/N	Outcome

No. of Absences	No. Acceptable	No. U/A	No. of Warnings	Date Order Completed

Was Order Breached?	Y/N	Date Breach Heard?	Outcome

Type of Work Undertaken

Beneficiaries of Work Undertaken:

Setting of Work Undertaken e.g. personal placement; work team; workshop: and summary of skills learned:

Type of Work Activity:

Type and Setting of Other Activity:
(If no “other activity” identified state reason)

No of Hours/Percentage of Requirement spent on other activity and the benefits gained:

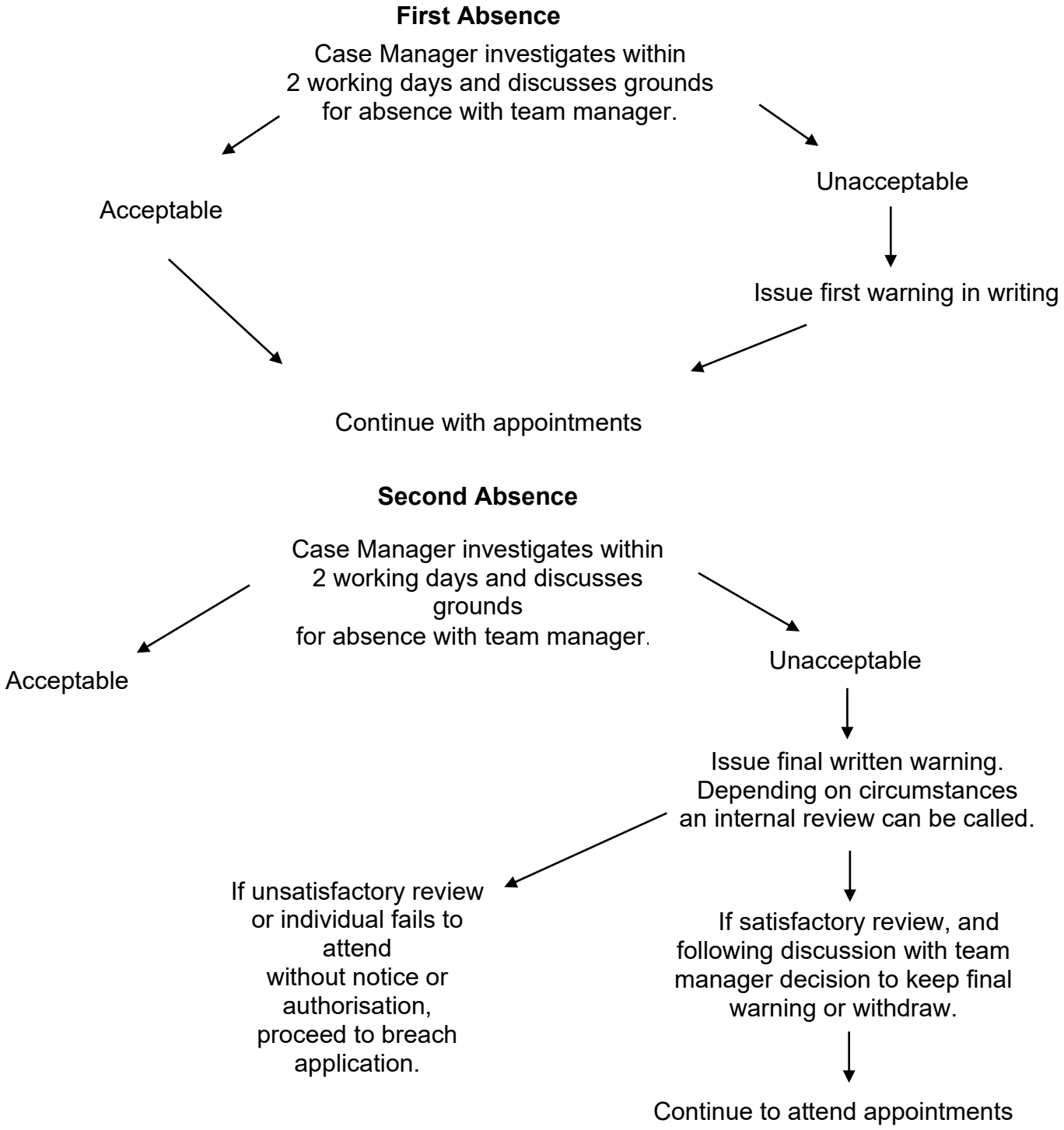
Individual’s attitude to Community Payback Order with Unpaid Work or Other Activity:

Any Other Relevant Information:

Unpaid work case manager:
Justice service:

……..Council
Justice Social Work

Breach of Community Payback Order Process



Third Absence

Case manager investigates within 2 working days. Discussion with team manager

Acceptable

Continues to attend appointments.

Successful completion of Order.

Unacceptable

Decision required on suspension of any requirements eg,UPW.

Letter advising of breach application and contact arrangements whilst this is pending.

Breach application sent to Court.

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