



Director of Justice - Neil Rennick
Chief Social Work Adviser - Iona Colvin

E: Neil.rennick@gov.scot / Iona.colvin@gov.scot

Chief Social Work Officers – by email

Cc:

CJP co-ordinators	CJP chairs
Justice social work managers	COSLA
Community Justice Scotland	SCTS
Criminal Justice Voluntary Sector Care	
Inspectorate Forum	
Judicial Institute	Social Work Scotland

03 April 2020

Dear colleague,

CORONAVIRUS (SCOTLAND) BILL - UPDATE FOR JUSTICE SOCIAL WORK SERVICES ON THE PROVISIONS RELATING TO COMMUNITY ORDERS, PAROLE BOARD, AND RELEASE OF PRISONERS

**[Redacted – not in scope]
COMMUNITY ORDERS**

(ii) Ability to vary the requirements of community orders which have been imposed by the courts

The legislation also gives the Scottish Ministers the power to vary, in bulk, the requirements of community orders which have been imposed by the courts. The issue this seeks to resolve is slightly longer term; given the need to delay the carrying out of unpaid work and other activity requirements (and possibly other aspects of orders) there is likely to be an unmanageably large number of hours of unpaid work due to be carried out post-crisis. This aspect of the legislation will enable the Scottish Ministers, by a Scottish statutory instrument, to reduce or vary the requirements of orders, or to revoke certain orders entirely, in order to prevent the system being unable to deliver the outstanding orders in due course. As with the above, there would be a duty on local authorities to inform those subject to the relevant orders of any changes made by this provision.

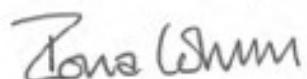
Please note, however, that no decision has yet been taken as to whether or not this power will be used, and at present all requirements of community orders remain in place.

The Scottish Government will work closely with Social Work Scotland and others to identify exactly if, when, and how these measures should be used.

[Redacted – not in scope]

In relation to the powers the Scottish Ministers have to postpone or vary community orders, it is vital that we are able to accurately assess any capacity issues across justice social work services in the coming weeks and months to inform a decision on whether or not these need to be used. We therefore ask that justice social work services provide regular feedback on capacity to Social Work Scotland's Justice Standing Committee, who will contact local areas separately about this.

[Redacted – not in scope]



Iona Colvin
Chief Social Work Adviser

Neil Rennick
Director, Justice Directorate

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Chief Social Work Officers – by email

Cc [TBC]

[JSW Managers, COSLA, SWS, CJS, CJVSF,
SCTS, Care Inspectorate, Judicial Institute, CJP
Co-ordinators and CJP Chairs]

June 2020

Dear colleague,

CORONAVIRUS IN SCOTLAND - UPDATE FOR JUSTICE SOCIAL WORK SERVICES ON PRIORITIES AND EXPECTATIONS

[Redacted – not in scope]

Additional powers in the Coronavirus (Scotland) Act 2020

Along with provisions to extend unpaid work by 12 months, the Coronavirus (Scotland) Act 2020 enables the Scottish Ministers to, where necessary, vary and revoke orders through secondary legislation. As you will be aware, to date these powers have not been used, and we would stress that any decision to do so will not be taken lightly – the alteration of orders put in place by the courts would not normally be contemplated, and there will rightly be a high bar to the use of such unprecedented measures. To inform our consideration of whether these powers require to be used - which would likely only be in a situation where the backlog of community orders was simply unmanageable and presenting a risk to the continued delivery of high priority services - we will continue to closely monitor capacity levels for justice social work, as well as the anticipated impact of court business, and continue our regular dialogue with Social Work Scotland.

In the event that any of the powers under the 2020 Act were to be used, we would engage closely with Social Work Scotland, COSLA, and other key stakeholders in advance of any regulations being laid in Parliament. Any regulations would, of course, be subject to Parliamentary scrutiny and approval.

[Redacted – not in scope]

**Iona Colvin, Chief Social Work Adviser
Neil Rennick, Director, Justice Directorate**



Director of Justice - Neil Rennick
Chief Social Work Adviser - Iona Colvin

E: Neil.rennick@gov.scot / Iona.colvin@gov.scot

Chief Social Work Officers – by email

Cc JSW Managers, COSLA, SWS, CJS, CJVSF,
SCTS, Care Inspectorate, Judicial Institute, CJP
Co-ordinators and CJP Chairs

18th June 2020

Dear Colleague,

CORONAVIRUS IN SCOTLAND - UPDATE FOR JUSTICE SOCIAL WORK SERVICES ON PRIORITIES AND EXPECTATIONS

[Redacted – not in scope]

Additional powers in the Coronavirus (Scotland) Act 2020

Along with provisions to extend unpaid work by 12 months, the Coronavirus (Scotland) Act 2020 enables the Scottish Ministers to, where necessary, vary and revoke orders through secondary legislation. As you will be aware, to date these powers have not been used, and we would stress that any decision to do so will not be taken lightly – the alteration of orders put in place by the courts would not normally be contemplated, and there will rightly be a high bar to the use of such unprecedented measures. To inform our consideration of whether these powers require to be used - which would likely only be in a situation where the backlog of community orders was simply unmanageable and presenting a risk to the continued delivery of high priority services - we will continue to closely monitor capacity levels for justice social work, as well as the anticipated impact of court business, and continue our regular dialogue with Social Work Scotland.

In the event that any of the powers under the 2020 Act were to be used, we would engage closely with Social Work Scotland, COSLA, Community Justice Scotland and other key stakeholders in advance of any regulations being laid in Parliament. Any

regulations would, of course, be subject to Parliamentary scrutiny and approval.

[Redacted – not in scope]

Iona Colvin, Chief Social Work Adviser
Neil Rennick, Director, Justice Directorate

From: [Redacted s38(1)(b)]

Sent: 30 June 2020 11:59

To: [Redacted s38(1)(b)]; [Redacted s38(1)(b)]

Subject: UPW capacity - discussion about possible use of powers

When: 01 July 2020 16:00-16:30 (UTC+00:00) Dublin, Edinburgh, Lisbon, London.

Where: Skype Meeting

Hope this suits for an initial discussion about potential use of powers in the Coronavirus Act to vary UPW requirements to help address capacity issues in the justice system and in particular capacity of JSW and UPW teams, as well as issues impacting on individuals on orders.

It will be useful to discuss the key issues relating to potential policy and associated handling. Other engagement will also be needed over the summer and if policy is agreed, regulations may need to be laid after the summer recess. Clearly to achieve this, the bulk of the preparatory work is over the summer.

There are significant potential sensitivities about use of the powers in the Act which impact on decisions made by the judiciary and no decision has been made at this point, though we are taking forward the work required so a well informed decision can be made.

If this time doesn't suit please advise on availability so we can meet virtually over the next few days if possible.

Thanks

[Redacted s38(1)(b)]

Justice Board CoVID 19 Subgroup – 9 July 2020 - 11am -12.30pm

Attendees:

[Redacted s38(1)(b)]

Apologies:

[Redacted s38(1)(b)]

[Redacted – not in scope]

2. Update from Community justice – on Community Payback Orders

Chair - Welcome [Redacted s38(1)(b)], SG Community Justice on to today's call. We've previously welcomed Community Justice Policy onto this call to discuss early release, but today [Redacted s38(1)(b)] has kindly agreed to provide members with an update on community justice and CPOs.

[Redacted s38(1)(b)]:

- Keen to provide an update on CPOs now court business is returning to more normal levels.
- At the start of the pandemic, there were concerns around Justice Social Work being able to deliver community sentences, particularly unpaid work in CPOs, given restrictions around physical distancing etc.
- To mitigate this, Social Work Scotland and local authorities have done a massive amount of work including introducing more flexible working practices, remote contact with individuals on orders, and prioritising higher risk cases.
- In addition, the emergency legislation extended the time limits for completion of unpaid work by 12 months, allowing local authorities to suspend unpaid work programmes during lockdown. It also introduced regulation-making powers enabling Ministers to postpone or vary requirements in CPOs, though these haven't been used to date.
- These actions have been sufficient to ensure criminal justice social work can function in the short term.
- However, Social Work Scotland have highlighted that capacity to deliver unpaid work will be significantly reduced as long as physical distancing rules are in place.
- This reduction in capacity is a significant concern, as it risks both the delivery of outstanding orders within a reasonable timescale and the prompt start of new orders. It is not ideal if someone gets a community order for unpaid work and cannot start to carry it out for weeks or months.
- As a result, we are currently giving some thought as to whether further action needs to be taken to ensure that justice social work can continue to function effectively during the recovery period – and specifically, whether there may be a case for using the regulation-making powers mentioned to reduce the overall volume of unpaid work, in a limited and proportionate way, thus freeing up social work capacity.

- We are working rapidly to consider whether such action is necessary, to develop a workable approach if it is, and to talk to partners who may have an interest in this.
- Looking for initial thoughts from members to see whether this is a reasonable approach at this stage.
- Conscious that [Redacted s38(1)(b)] is on the call and he may wish to add to this.

[Redacted – not in scope]

From: Dalrymple C (Catriona)
Sent: 13 July 2020 12:18
To: McCluskey K (Karyn) <Karyn.McCluskey@communityjustice.scot>
Subject: Social Work Scotland - Positioning Paper

Karyn

Hi, hope you had a good weekend.

As you are aware SWS are likely to publish their positioning paper today or tomorrow and we were planning on putting a letter to JC highlighting the potential to reduce unpaid work orders. There has been a handling meeting this morning with the Cab Sec and he has asked that we garner some support for the decision around the potential reduction.

Could we have a quick chat on the phone to discuss your views on what CJS could do to support? There are a few ideas kicking around but would be good to get your take on what you think would be most effective.

Given the imminent timing of the paper – need to do this quite quickly so if you are around this afternoon for a five minute call that would be really helpful indeed.

Cheers as ever- best number is [Redacted s38(1)(b)]

Cat

From: [Redacted s38(1)(b)]
Sent: 15 July 2020 14:46
To: [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@cosla.gov.uk>; [Redacted s38(1)(b)]@cosla.gov.uk; [Redacted s38(1)(b)]@highland.gov.uk>; [Redacted s38(1)(b)]@socialworkscotland.org>; [Redacted s38(1)(b)]@communityjustice.scot>
Cc: [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)] @gov.scot>
Subject: Community orders and unpaid work - update

Hi all

We agreed during our phone call on 1 July to provide an update on progress with the proposal to reduce the overall volume of unpaid work hours in CPOs, particularly once we'd scoped out a possible approach to developing regulations – apologies for the delay in doing this.

I've set out a brief update below. As before, worth emphasising that no decisions have been made as yet, and that I'd be grateful if you could treat this in confidence for the moment. Also please just give me a shout if any of this doesn't make sense.

[Redacted S29(1)(a)]

Stakeholder engagement / communications

Over the last week or so, we've provided updates (noting the background to this and our intention to consider whether action to reduce unpaid work is necessary) to the COVID-19 subgroup of the Justice Board (which contains representatives from most justice orgs); the victims' organisations group chaired by the SG V&W team; the Victims Organisation Collaboration Forum Scotland; the Judicial Institute, and the Scottish Sentencing Council. [Redacted S29(1)(a)]

Once SWS has finalised its position paper, it's likely that we will highlight that to the Justice Committee with confirmation that we intend to consider carefully whether any action is required (and we'll update you if / when that happens). On that, the letters received from CJS and COSLA providing support for such consideration are very much appreciated.

Timing

As I think I outlined previously, our assumption is that if a decision is made to proceed with regulations, these would likely be laid during w/c 10 August. We'll be re-visiting this on a regular basis over the next couple of weeks to assess whether that's still achievable.

Further discussion

Any comments you have on the above would be very much appreciated – this is obviously moving fairly rapidly, and so any and all questions / views are welcome, to ensure that identify any potential issues asap.

In addition, I think it may be worth us re-convening for a discussion about this at some point next week – we should have a slightly firmer idea by then of the approach likely to be taken, and it would be really useful to talk through any outstanding issues, including in relation to the size of any potential reduction. If you're amenable to that, we could try to set something up for Wednesday, perhaps?

I hope this is helpful – happy to have a chat if anything isn't clear.

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@gov.scot
Sent: 16 July 2020 09:06
To: Lindsay Montgomery[Redacted s38(1)(b)]
Subject: RE: [Redacted s38(1)(b)] Appointment

Good morning Lindsay

[Redacted – not in scope]

Also, thanks for taking the time to write to the Cabinet Secretary earlier in the week about community orders and unpaid work – it's really helpful to have your views on this, particularly given the handling challenges, and we're in touch with CJS colleagues to discuss the proposals further.

Kind regards,

[Redacted s38(1)(b)]

[Redacted – not in scope]

From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 20 July 2020 14:46
To: Dalrymple C (Catriona) <Catriona.Dalrymple@gov.scot>
Cc: [Redacted s38(1)(b)]@communityjustice.scot>
Subject: Letter to from CJS

Afternoon Cat,

I understand you have been in touch with Lindsay Montgomery re the letter sent to the Cabinet Secretary last week. He has indicated that he is happy for this to be published and asked that the in-confidence marking be removed, to that end, please see attached version of the letter for publication.

Many thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

14 July 2020

Dear Cabinet Secretary,

As you will be aware most, if not all, local authority justice social work services (JSW) suspended Community Payback Order unpaid work following the lockdown implemented in Scotland on 23 March 2020. They did so for essential public health reasons and to allow relevant local authority staff to be re-assigned to prioritised COVID19 related work.

The Coronavirus Scotland Act 2020 (the Act) subsequently introduced measures to “allow justice social work to suspend all programmes relating to unpaid work or other activity requirements for the duration of the pandemic without affecting the ability of individuals to complete their hours within court-directed timescales”.

As a result;

- the time limits for the completion of all existing unpaid work or other activity requirements in community payback order (CPO) were extended by 12 months; and
- restrictions were placed on courts to ensure that any new unpaid work or other activity requirements had a time limit of at least 12 months from the point of imposition.

Colleagues at Community Justice Scotland (CJS) have in recent weeks been engaged in exploratory discussions with your officials and colleagues from COSLA and SWS on the impact that this cessation of unpaid work activity (UPW) is likely to have. The current analysis is that a backlog of 700,000 UPW hours has accrued. This backlog has been modelled by colleagues at SWS who have assessed that unmitigated, it could have a catastrophic impact on the effective operation of the justice system.

Local authorities are actively planning their restart activity in line with the easing of pandemic restrictions with social distancing and other COVID requirements becoming part of the ‘new normal’. SWS has already outlined the immense challenges presented by COVID-19 for unpaid work in the foreseeable future. My purpose in writing is to support the conclusions and recommendations in the SWS position paper which has been submitted to you. The need for urgent action to tackle the huge backlog of outstanding unpaid work orders is extremely pressing.

Dealing with the backlog of around 700,000 hours of outstanding unpaid work orders in these circumstances will be complicated further by the resumption of court business which is now in train, where it can be reasonably anticipated that new community sentences, including unpaid work, will be given. This will exacerbate an already unsustainable situation for JSW colleagues.

In our view not tackling this substantial and growing problem could be extremely damaging to the Justice System and, in particular, Community Justice and damage

the credibility of the drive to greater use of alternatives to prison and the implementation of PASS.

We would encourage consideration of alternative approaches to dealing with this problem and see merit in engagement between the Scottish Government and community justice partners to develop lasting solutions. However, in these wholly exceptional circumstances, we believe that, as an initial measure, the Scottish Government should use the powers in the Act to vary existing CPOs including unpaid work or other activity. This step would bring significant alleviation of the building pressure and enhance the prospect of JSW and other partners being in a better position to retain the efficacy, trust and credibility of the system.

It is clear from the SWS analysis, based on the resources currently available, it will not be possible to complete all current outstanding hours within the next 12 months. **Extending timelines with the hope of ‘catching up’ sometime in the future is not reasonable and raises the prospect of individuals not being able to move beyond punishment and on to rehabilitation in a reasonable timeframe. Extending the timelines also increases the likelihood of breaches of orders thus risking a loss of credibility and support for their effectiveness.**

The inability of Justice Social Work to provide opportunities to complete the unpaid work during COVID 19, does not change the fact that people are still serving a sentence during this time. To extend the period where they could be subjected to serving their sentence any further would, one could argue, add to the punishment. The life of many of those affected by a further extension will in effect be in suspension; with them being unable to move on and obtain employment and achieve rehabilitation. Many of those individuals will have families and most will be in poverty. As we approach a significant global recession, we must guard against contributing to existing inequalities. It is also important to recognise that the inability to complete unpaid work orders is not through any fault of the individuals sentenced to these activities.

Clearly it is essential that the views and concerns of victims are heard in consideration of such proposal. I understand that the victims groups have been consulted. An important element in all of this is that colleagues in Justice Social Work are still undertaking supervision of those who present risk to the public, and changes to unpaid work will not affect this supervision.

I would therefore urge you to agree with the conclusions and recommendation of the SWS paper and to bring forward regulations, which if approved by the Scottish Parliament, would enable CPOs to be varied to reduce the backlog of unpaid work hours. This will help alleviate the pressure on JSW services across all local authority areas. This, in turn, will enable colleagues in JSW to carry out their crucial role as the large backlog of untried cases begins to go through the courts without further exacerbating an already very challenging situation for the Justice System, those involved in it, including victims and communities.

I recognise that this is a difficult decision and one which carries with it a number of challenges. We are happy to support the work connected with taking it forward.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Lindsay Montgomery". The signature is fluid and cursive, with some loops and crosses.

Lindsay Montgomery CBE, FRSE
Chair Community Justice Scotland

From: McCluskey K (Karyn) <Karyn.McCluskey@communityjustice.scot>
Sent: 20 July 2020 14:48
To: [Redacted s38(1)(b)]@communityjustice.scot>; Dalrymple C (Catriona) <Catriona.Dalrymple@gov.scot>
Subject: RE: Letter to from CJS

I think we should wait until HY content to go ahead before letting the cat out the bag as such – then we can publish?

[Redacted s38(1)(b)]

From: Dalrymple C (Catriona)
Sent: 20 July 2020 14:49
To: McCluskey K (Karyn); [Redacted s38(1)(b)]

Subject: RE: Letter to from CJS

Hi

Sorry – I am not clear enough- Cab Sec has asked that this letter is sent with his to the Justice Committee so it is all in tandem.

Cheers
Cat

From: McCluskey K (Karyn) <Karyn.McCluskey@communityjustice.scot>
Sent: 20 July 2020 14:50
To: Dalrymple C (Catriona) <Catriona.Dalrymple@gov.scot>
Subject: RE: Letter to from CJS

Cheers...its just me – I thought he wanted it published on his own □

Karyn

Karyn McCluskey
Chief Executive

[Redacted s38(1)(b)]
Community Justice Scotland
R1 Spur | Saughton House | Broomhouse Drive | Edinburgh | EH11 3XD

From: [Redacted s38(1)(b)]@gov.scot>
Sent: 22 July 2020 13:43
To: [Redacted s38(1)(b)]@communityjustice.scot; [Redacted s38(1)(b)]@communityjustice.scot; [Redacted s38(1)(b)]; [Redacted s38(1)(b)]
Cc: [Redacted s38(1)(b)]@gov.scot; [Redacted s38(1)(b)]@gov.scot; [Redacted s38(1)(b)]@gov.scot; [Redacted s38(1)(b)]@gov.scot; [Redacted s38(1)(b)]; [Redacted s38(1)(b)]; [Redacted s38(1)(b)]
Subject: RE: Community orders and unpaid work - update

[Redacted s38(1)(b)] [Redacted s38(1)(b)] [Redacted s38(1)(b)] [Redacted s38(1)(b)]
I was speaking to [Redacted s38(1)(b)] and [Redacted s38(1)(b)] this morning, and we agreed that it would be useful to have an SG / SWS / COSLA / CJS catch up as I suggested in my email below – both to make sure everyone is in the loop with regard to progress in developing regulations, and to explore whether there's any additional data or issues we need to take into account in making a final decision about this.

I appreciate it's short notice, but would anyone be available **tomorrow (Thursday 23 July) at 1100?**

Also, I've attached a copy of the letter the Cabinet Secretary sent to the Justice Committee on this topic on Monday.

Kind regards,

[Redacted s38(1)(b)]



F/T: 0300 244 4000
E: scottish.ministers@gov.scot

Margaret Mitchell MSP
Convener
Justice Committee

20 July 2020

Dear Margaret

Correspondence from Social Work Scotland and publication of position paper

I am writing to share with the Committee correspondence that I have received from James Maybee, Chair of Social Work Scotland's (SWS) Justice Standing Committee. In the context of the COVID-19 pandemic, this raises significant concerns about the capacity of justice social work (JSW) services to deliver unpaid work (UPW) requirements in community payback orders, and requests that action be taken to proactively address the pressures faced in managing these requirements. Alongside this correspondence, SWS has included a position paper, which has now been published, outlining these concerns in more detail. I attach both a copy of the letter and the position paper for reference.

I am aware that SWS wrote separately to the Committee last month, which you asked for my views on, and a response addressing the specific issues in that letter will be provided shortly.

In its position paper, SWS explains that there are currently around 700,000 hours of UPW outstanding across all local authorities in Scotland. SWS expresses serious concerns about the deliverability of these hours, particularly as a result of physical distancing measures which reduce capacity to deliver UPW safely. Group work activity is the most common form of UPW delivery across Scotland, and physical distancing measures place significant constraints on this, with staffing ratios needing to change, and other logistical restrictions in relation to travel and use of workshop spaces.

SWS also expresses concern that as courts begin to process the significant backlog of outstanding business, this will inevitably generate new CPOs with

unpaid work or other activity requirements, which will further impact on the capacity of JSW services.

SWS has called on the Scottish Government to take action to reduce the volume of UPW hours outstanding in order to enable JSW to progress both new and outstanding orders in a timely manner. In its view, taking no action presents a significant risk to the continued effective operation of the community justice system.

I would note that I have also received correspondence from COSLA and Community Justice Scotland, both of which express concerns, similar to those raised by SWS, regarding JSW capacity to deliver outstanding UPW hours safely and in a timely manner. COSLA has called on the Scottish Government to consider seriously the proposals put forward by SWS, and Community Justice Scotland has indicated its support for action to be taken. I attach with this letter a copy of the correspondence received from COSLA and Community Justice Scotland, for reference.

The immediate issues faced by JSW as a result of the pandemic, particularly around the delivery of UPW, were apparent some months ago. As the Committee will be aware, Parliament acknowledged these issues through the Coronavirus (Scotland) Act 2020, which extended the timescales for all UPW and other activity requirements (and required any new orders to comply with the same timescales), enabling local authorities to safely suspend UPW during lockdown without this resulting in any orders being inadvertently breached as a result. In conjunction with the enormous amount of work carried out by local authorities and Social Work Scotland in adopting a flexible, risk based approach, this was successful in ensuring that JSW could continue to function effectively in the short to medium term. However, SWS has made clear that as we move through the pandemic recovery phase, the challenges for delivering UPW are immense.

SWS reflects the views and experience of social work professionals across Scotland, who play an absolutely vital role in delivering community sentences, keeping our communities safe, and addressing offending and its causes. Given that, the issues raised in its letter and position paper are extremely concerning, not least the potential risk to the operation of the community justice system.

As a result, I am now considering whether further action may be required, as suggested by SWS, to alleviate the pressure on JSW services across all local authorities. This includes consideration as to whether the regulation-making powers in the Coronavirus (Scotland) Act 2020 (which enable the postponement or variation of community orders in certain circumstances) may need to be used, on a proportionate and limited basis, to reduce the volume of outstanding UPW hours in order to ensure that the justice system can continue to operate efficiently and effectively.

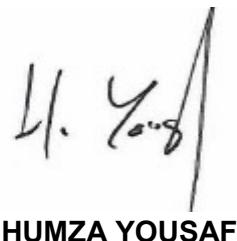
Should this be necessary, a careful balance will need to be struck so that victims of crime, the wider public, and the judiciary continue to be confident that community orders are an effective way for individuals to payback to their communities, while taking into account the challenges faced by JSW and the wider justice system.

It is therefore imperative that options to address this situation are considered rapidly but also in discussion with key stakeholders, including victim support organisations, to inform our deliberations. No decision has been made yet, and any action to vary court orders will not be taken lightly.

However, if it appears that changes are needed to ensure the system is not overwhelmed and that orders can be started and completed without significant delays, it is likely the necessary regulations would be laid in Parliament after the summer recess under the affirmative procedure and subject, of course, to parliamentary scrutiny.

While work on this is ongoing, I can assure the Committee that our focus is on unpaid work and other activity requirements only; there is no intention to consider altering any other aspects of community orders, including those involved in managing potential risk to individuals or the wider community such as supervision, programme, or conduct requirements. I will keep the Committee informed should a decision be made to introduce regulations in due course.

I hope this information is helpful.

A handwritten signature in black ink, appearing to read "H. Yousaf".

H. Yousaf

HUMZA YOUSAF

From: [Redacted s38(1)(b)]@gov.scot>
Sent: 23 July 2020 10:13
To: [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]
Cc: [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>
Subject: RE: Community orders and unpaid work - update

Hi all

Here's a short agenda for the discussion this morning:

1. SG update on current position
2. Likely approach to regulations
3. Supporting evidence
4. Handling and stakeholder concerns
5. AOB

From: [Redacted s38(1)(b)]
Sent: 23 July 2020 11:22
To: [Redacted s38(1)(b)]
Cc: [Redacted s38(1)(b)]
Subject: RE: Community orders and unpaid work - update

Hi [Redacted s38(1)(b)],

[Redacted – not in scope]

I'll get the other submission from Karyn but it contains the following table:

	UPW Hours Outstanding		
	Current	Year 1	Year 2
Projections based on current figures	700000	843841	1154736
Projections based on current figures minus 450000	250000	393841	704736

The table only looks at two years as we hypothesised that court activity might return to normal levels by then.

Cheers

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]| [Redacted s38(1)(b)]| <https://communityjustice.scot/>



Community Justice Scotland
R1 Spur | Saughton House | Edinburgh | EH11 3DX



From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 23 July 2020 15:54
To: [Redacted s38(1)(b)]@gov.scot>
Cc: [Redacted s38(1)(b)]@communityjustice.scot>
Subject: UPW

Hi [Redacted s38(1)(b)]

Thanks for this morning's meeting.

Re seeking comments on the draft regs etc, I will be off on leave from today until 3 August so please can you ensure that [Redacted s38(1)(b)] (cc'd above) is copied into anything in the meantime. [Redacted s38(1)(b)] is on leave this week and will be back on Monday.

Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]
[Redacted s38(1)(b)]@communityjustice.scot

[Redacted s38(1)(b)]
[Redacted s38(1)(b)]



Community Justice Scotland
R1 Spur | Saughton House | Edinburgh | EH11 3DX



From: [Redacted s38(1)(b)]@gov.scot>
Sent: 30 July 2020 14:35
To: [Redacted s38(1)(b)] >; [Redacted s38(1)(b)]@communityjustice.scot>;
[Redacted s38(1)(b)]@communityjustice.scot>; [Redacted
s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)] >; [Redacted s38(1)(b)] >
Cc: [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted
s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot
Subject: In confidence - draft Community Orders (Coronavirus) (Scotland)
Regulations 2020

[Redacted s38(1)(b)], [Redacted s38(1)(b)], [Redacted s38(1)(b)], [Redacted
s38(1)(b)], [Redacted s38(1)(b)]

Please find attached, in confidence, a draft set of regulations (*not attached, redacted under S29(1)(a)*) to vary UPW requirements, including draft explanatory notes. There are some significant caveats at this point. Firstly, these are very much draft and are work in progress so the draft remains subject to change and the policy itself is not yet finalised or approved.

[Redacted S29(1)(a)]

If you have any comments, including in relation to any unintended practical issues, please feedback as soon as you can and by lunchtime on Tuesday at the latest.

Please do not pass this on to other colleagues.

Thanks and best wishes.

[Redacted s38(1)(b)]

[Redacted s38(1)(b)] | Community Justice Interventions Unit | Community Justice Division | Scottish Government | GWR, St Andrew's House, Edinburgh, EH3 1 DG | [Redacted s38(1)(b)] Blackberry: [Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]

Sent: 30 July 2020 14:59

To: [Redacted s38(1)(b)]

Cc: [Redacted s38(1)(b)]

Subject: RE: In confidence - draft Community Orders (Coronavirus) (Scotland) Regulations 2020

Hi [Redacted s38(1)(b)], thanks for this.

I know it's very much not for sharing further, but as [Redacted s38(1)(b)] was involved in some of the work that happened last week feeding in to this – would it be possible to share it with him? I'm just back from leave so playing catch up slightly, I suspect [Redacted s38(1)(b)] would be very helpful in considering it for any practical issues, particularly given the tight timescales.

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]
Sent: 30 July 2020 15:05
To: [Redacted s38(1)(b)]@communityjustice.scot>
Cc: [Redacted s38(1)(b)]@communityjustice.scot>
Subject: RE: In confidence - draft Community Orders (Coronavirus) (Scotland) Regulations 2020

Hi [Redacted s38(1)(b)]

Yes, [Redacted s38(1)(b)] was part of an earlier call so you can share with [Redacted s38(1)(b)]

Thanks

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 04 August 2020 11:26
To: [Redacted s38(1)(b)]@gov.scot
Cc: [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]>; [Redacted s38(1)(b)]>
Subject: RE: In confidence - draft Community Orders (Coronavirus) (Scotland) Regulations 2020

confidential

Dear [Redacted s38(1)(b)]

Firstly, many thanks for the opportunity to comment on the draft Regulations.

Our position overall remains as in the letter from our Chair to the Cab Sec (attached) and also Karyn's recent Scotsman article.

We support the position of SWS as set out previously, that in order for the system to address the backlog and continue to function, a significant and unprecedented action is required.

We found it hard to interpret fully some aspects of the regulations as set out, and in turn to anticipate their impact (including but not limited to Section 2 Para 5). This could perhaps be addressed by simplifying or condensing some of the language, though we appreciate that it is not always straightforward to do so with legislation. The policy memorandum may help with this too.

[Redacted S30(b)(ii)]

The Regulations will have an operational impact for SW and for Courts in relation to completion reports and breach reporting. We would suggest liaising with SWS and the Courts to bottom out these issues in advance of implementation.

There may be further operational impact for training requirements for SW and UPW staff, and we would ask that engagement continues to allow us to anticipate and respond to these challenges where they arise.

It is perhaps worth noting that as far as we are aware, no other European country has extended the overall duration of sentences as a result of Covid. We all know it is not the fault of people with convictions that they have been unable to complete their orders within the timeframes as originally set out and it will not be their fault if they are unable to in the future even with this proposed reduction in hours. It is worth reflecting on the rights of the person experiencing the punishment, and the potential impact of setting expectations for completing their sentence that they will be unable

to meet through no fault of their own. It would be valuable to hear from people with lived experience on this.

As always happy to discuss further,

Many thanks,

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]
Sent: 17 August 2020 16:00
To: [Redacted s38(1)(b)] ; [Redacted s38(1)(b)]
Subject: Draft UPW Order

Hi [Redacted s38(1)(b)], [Redacted s38(1)(b)]

I wondered what was happening re the draft Order you confidentially shared with us on UPW backlog? Has this been delayed? I was expecting to see it last week when Parliament resumed.

Grateful for any update,
Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]
Sent: 17 August 2020 16:16
To: [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]@gov.scot>
Subject: RE: Draft UPW Order

Hi [Redacted s38(1)(b)]

A final decision hasn't been made and some legal issues are being looked at in a bit more detail which is impacting on timing.

[Redacted s38(1)(b)] isn't working today but we'll speak in the morning and arrange a call with CJS, COSLA and SWS to update in a bit more detail.

Hope this helps.

[Redacted s38(1)(b)]

-----Original Message-----

> From: Lindsay Montgomery [REDACTED]
> Sent: 11 September 2020 08:10
> To: Dalrymple C (Catriona) <Catriona.Dalrymple@gov.scot>
> Cc: Rennick NS (Neil) <Neil.Rennick@gov.scot>
> Subject: Unpaid Work- outstanding orders
>
> Good morning Cat
> I meant to ask yesterday about the likelihood (or otherwise) of early decisions on
the huge backlog of unpaid work orders.
> I am attending the SWS Justice Standing Committee this morning and
> this subject will come up ,particularly the letters they and I sent to
> the Cab Sec. It would be useful to know the position (even if not for
> discussion) Regards Lindsay
>

On 11 Sep 2020, at 08:31, "Catriona.Dalrymple@gov.scot"

<Catriona.Dalrymple@gov.scot> wrote:

>

> Morning Lindsay

> This issue is still being considered by the Cabinet Secretary. We have updated SWS and COSLA as there are some legal issues that require to be resolved before the final approach is decided upon. I think there is a response on its way to you as I am sure I saw drafts last week as far as I can recall!

> Hope that helps meantime

>

> Cheers

> Cat

-----Original Message-----

From: Lindsay Montgomery <[Redacted s38(1)(b)]>
Sent: 11 September 2020 08:46
To: Dalrymple C (Catriona) <Catriona.Dalrymple@gov.scot>
Cc: Rennick NS (Neil) <Neil.Rennick@gov.scot>
Subject: Re: Unpaid Work- outstanding orders

Thanks Cat

I got a reply but it didn't say much.

Lindsay

Sent from my iPad

>

>

From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 25 September 2020 16:39
To: [Redacted s38(1)(b)]@gov.scot>
Subject: UPW

Hi [Redacted s38(1)(b)]

Hope things are ok with you and you are looking forward to the weekend?
I wondered where things were with the UPW order (I have been on leave so trying to
catch up)?
Thanks

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]@communityjustice.scot

[Redacted s38(1)(b)]
[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@gov.scot>
Sent: 29 September 2020 15:56
To: [Redacted s38(1)(b)] @communityjustice.scot>
Subject: RE: UPW

Hi [Redacted s38(1)(b)]

Sorry for the delay, didn't get to this on Friday and wasn't working yesterday.

There hasn't been much progress, I'm afraid.

[Redacted S29(1)(a)]

I'm moderately hopeful that we might be able to resolve this (or at least move things on a little) over the next week or so, and our intention would be to update you (and COSLA / SWS as before) as soon as there are any developments.

Hope that helps for now, happy to have a chat if anything doesn't make sense.

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 29 September 2020 15:59
To: [Redacted s38(1)(b)]@gov.scot>
Subject: RE: UPW

Thanks [Redacted s38(1)(b)], appreciate you are busy so no need for any other update – let us know when you want us to meet up (and if there is anything we should be doing to get traction on this).

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@communityjustice.scot>
Sent: 07 October 2020 16:57
To: [Redacted s38(1)(b)]@gov.scot>
Subject: Local Area Connection

Hi [Redacted s38(1)(b)]

[Redacted – not in scope]

Thanks and hope all is well! Any progress on UPW Order?

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]

[Redacted s38(1)(b)]@communityjustice.scot

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@gov.scot>
Sent: 07 October 2020 17:03
To: [Redacted s38(1)(b)]@communityjustice.scot>
Cc: [Redacted s38(1)(b)]@gov.scot>
Subject: RE: Local Area Connection

Hi [Redacted s38(1)(b)]

[Redacted – not in scope]

No further progress yet, I'm afraid – but will keep you posted.

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@communityjustice.scot
Sent: 07 October 2020 17:05
To: [Redacted s38(1)(b)] @gov.scot>
Subject: RE: Local Area Connection

Thanks and let us know if there is anything we can do to help progress things.
[Redacted – not in scope]

[Redacted s38(1)(b)]

From: [Redacted s38(1)(b)]@gov.scot>
Sent: 21 October 2020 09:01
To: [Redacted s38(1)(b)]@communityjustice.scot>;[Redacted s38(1)(b)]; [Redacted s38(1)(b)]@communityjustice.scot>; [Redacted s38(1)(b)]>
Cc: [Redacted s38(1)(b)]@gov.scot>; [Redacted s38(1)(b)]>;[Redacted s38(1)(b)]@gov.scot>
Subject: Regular catch up?

[Redacted s38(1)(b)], [Redacted s38(1)(b)], [Redacted s38(1)(b)], [Redacted s38(1)(b)]

[Redacted – not in scope]

In any case, let me know if you think that would be worthwhile, or if you'd prefer to just continue with a more ad hoc approach (in which case we'll probably arrange something relatively soon in relation to the proposals around UPW regulations).

[Redacted s38(1)(b)]