

Sentencing Council meeting:
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Lead Council member:
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SC(23)MAY03 - Imposition
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1 ISSUE

1.1 This paper looks in detail at the levels table section within the ‘Imposition of Community Orders’ of the Imposition Guideline (‘the guideline’), as well as some outstanding questions pertaining to guidance on determining the length of community orders (COs) and operational and supervision periods of suspended sentence orders (SSOs).

2 RECOMMENDATION

2.1 It is recommended that the Council agrees to the various recommendations for the CO levels table section and considers and agrees different options posed.

3 CONSIDERATION

Community order levels table section

3.1 The suggested requirements and corresponding intensity/duration in each of the low, medium and high ranges of the CO levels table has not been updated since their inclusion in the Sentencing Guidelines Council guideline on New Sentences: CJA 2003.

3.2 While the narrative around the levels table states the suggested requirements and corresponding durations are simply ‘examples that might be appropriate’ and courts have the power to depart from these suggestions, the table alludes to a straight sliding scale of volume/duration of both punitive and rehabilitative requirements according to the level of the CO. Despite this, the SGC guideline included the line “*In all three ranges there must be sufficient flexibility to allow the sentence to be varied to take account of the suitability of particular requirements for the individual offender and whether a particular requirement or package of requirements might be more effective at reducing any identified risk of re-offending. It will fall to the sentencer to ensure that the sentence strikes the right balance between proportionality and suitability,*” alluding to the intention of these suggestions to be used flexibly.

3.3 Members previously expressed a desire to consider how the levels table can encourage greater flexibility and creativity in the imposition of requirements, a suggestion which was strongly echoed in conversations with MoJ Policy teams and Probation.

3.4 The working group recently discussed this and agreed that the levels table should maintain the three levels (low, medium, high) it currently has, particularly given any change to these would require significantly resource intensive work to remove reference to these across other guidelines, and there is no apparent evidence that points to these levels no longer being appropriate.

3.5 Instead, the working group discussed possible adjustments that could be made to the levels table that may encourage sentencers to use greater creativity and flexibility in the imposition of a package of requirements. For example, depending on the needs and risks of the offender, either an imposition of a CO short in length (i.e. 3 months) with a high intensity of requirements (similar to a quick sharp intervention, not dissimilar to the approach in problem solving courts), or a CO long in length (i.e. 3 years) with a low intensity of requirements, may be most appropriate. Encouraging sentencers to consider the breadth of packages of requirements that can be imposed encourages requirements to be imposed after an assessment of the most effective sentence for the particular offender, with the greatest likelihood of the order being completed.

3.6 In line with the approach of encouraging more flexible and creative sentences to align with offender need, I am proposing a number of revisions to the CO levels table section, outlined below.

Number of requirements removal

3.7 The second line in the low range of the current levels table specifies that “*in general, only one requirement will be appropriate, and the length may be curtailed if additional requirements are necessary*”; and the second line in the high range specifies that “*more intensive sentences which combine two or more requirements may be appropriate*”. This arguably unnecessarily limits sentencers in considering effective requirements or packages of requirements that may be effective for a particular offender, and may reduce the sentencers’ ability to address offender need. The seriousness of the offence and the needs of the offender are not necessarily aligned.

3.8 The removal of these lines would allow a court to impose on an offender who has committed a low level offence a low level punitive requirement (e.g. 40 hours UPW) as well as the authority to impose a rehabilitative requirement (e.g. up to 30 RAR days) alongside it so their needs can be addressed through, for example referral to commissioned rehabilitative services, to ensure the most effective sentence and limit the risk of reoffending.

Question 1: Does the Council agree to remove the lines suggesting the number of requirements that are appropriate according to the level of community order?

Seriousness of the offence / Rehabilitative requirements removal

3.9 The first bullet point in the current table under 'suitable requirements might include' reads "*any appropriate rehabilitative requirement(s)*". While it does not suggest any increasing number of days across the three levels, the requirements immediately following it do, which may indicate to some sentencers that rehabilitative requirements should increase in volume with the level of the order in line with the punitive requirements beneath it.

3.10 Rehabilitative requirements however generally address offender needs, which do not necessarily align with the seriousness of the offence. In advice written in 2004 from the Sentencing Advisory Panel to the Sentencing Guidelines Council on the new sentencing framework introduced by the Criminal Justice Act 2003 prior to the first guideline, they alluded to suggested ranges in the levels table focusing only on punitive requirements.

"The non-exhaustive list of examples of requirements that might be appropriate in the three sentencing ranges focus on punishment in the community, although it is recognised that not all packages will necessarily need to include a punitive requirement. There will clearly be other requirements, such as a residence requirement or a mental health treatment requirement that may or may not be appropriate according to the specific needs of the offender. In addition, when passing sentence in any one of the three ranges, the court should consider whether a rehabilitative intervention such as a programme requirement or a restorative justice intervention might be suitable as an additional or alternative part of the sentence."
(para 77, page 22)

3.11 It is clear that requirements being imposed for the purposes of punishment should generally increase in duration/intensity across the levels of CO depending on the seriousness of the offence, however this is not the case for rehabilitative requirements. Therefore, the relevant text is proposed to be amended as per the below (proposed additions highlighted):

"If imposing for the purposes of punishment, suitable requirement ranges might include:"

3.12 For the same reasons, the working group agreed that it would be more suitable for reference to rehabilitative requirements to be removed from the bulleted list of suggested duration/intensity and instead be referenced in narrative across all three levels, with guidance reminding sentencers that requirements imposed for the purpose of rehabilitation should align with offender need.

If imposing for the purposes of punishment, suitable requirement ranges might include:

- 40 – 80 hours of unpaid work, etc

- 80 – 150 hours of unpaid work, etc

- 150 – 300 hours of unpaid work, etc

Any requirement/s imposed for the purpose of rehabilitation should be determined by and aligned with the offender's needs. The court may benefit from Probation's assessment of the offender's needs and recommendation of appropriate rehabilitative interventions.

Question 2: Does the Council agree to specifying that the list under 'suitable requirements may include' is specific to requirements being imposed for the purpose of punishment?

Question 3: Does the Council agree, accordingly, that reference to 'any requirements imposed for the purpose of rehabilitation' should be removed from the bulleted list and instead be referenced below, across the three levels?

Introductory narrative

3.13 Currently the first line of the introductory narrative within the levels table section reads: "*The seriousness of the offence should be the initial factor in determining which requirements to include in a community order.*"

3.14 In line with the above considerations and reasons, I propose that while the seriousness of the offence should be the initial factor in determining the level of the CO and the corresponding ranges of requirements, it should not be the initial factor in determining which requirements, particularly rehabilitative requirements, to include.

3.15 Therefore, I propose that this line is amended to the below, and that it is brought down further into the section.

The seriousness of the offence should be the initial factor in determining the requirement (and/or fine) imposed for the purpose of punishment. Any requirement/s imposed for the purpose of rehabilitation should be determined by and align with the offender's needs.

3.16 I have also proposed additions to the rest of the introductory narrative in the levels table section above and below the line above to go further in encouraging sentencers to be flexible when considering the potential package of requirements on a community or SSOs. These additional lines are highlighted.

~~The seriousness of the offence should be the initial factor in determining which requirements to include in a community order.~~ Offence-specific guidelines refer to three sentencing levels within the community order band based on offence seriousness (low, medium and high).

The culpability and harm present in the offence(s) should be considered to identify which of the three sentencing levels within the community order band (low, medium and high) is appropriate.

Courts should impose community orders flexibly for each offender according to their specific circumstances, including consideration of their risks and needs.

The seriousness of the offence should be the initial factor in determining the requirement (and/or fine) imposed for the purpose of punishment. Any requirement/s imposed for the purpose of rehabilitation should be determined by and align with the offender's needs.

In determining the most effective requirement or combination of requirements for a particular offender, consideration should be given to the broad range of requirements available and appropriate length of the order. Guidance on determining the length of a community order is given below the table.

The levels table below offers non-exhaustive examples of the intensity of requirements that may be appropriate in each level of community order.

See below for ~~non-exhaustive~~ examples of requirements that might be appropriate in each.

~~At least one requirement **MUST** be imposed for the purpose of punishment and/or a fine imposed in addition to the community order unless there are exceptional circumstances which relate to the offence or the offender that would make it unjust in all the circumstances to do so.⁶~~

~~A full list of requirements, including those aimed at offender rehabilitation, is given below.~~

3.17 To remind members, some of the information with strikethrough above has previously been agreed to be moved to the previous section on 'Requirements' prior to the 'Community Order Levels' section so are not necessarily being removed from the guideline; in particular the lines "*At least one requirement must be imposed for the purpose of punishment and/or a fine imposed must be imposed, unless there are exceptional circumstances which relate to the offence or the offender that would make it unjust in all the circumstances to do so.*" A full version of the whole CO section, without the list of individual requirements, is included in **Annex A** to provide context to this decision.

Question 4: Does the Council wish to make any amendments to the proposed new drafting of the Community Order Levels Section?

Amendments to punitive requirements in line with data

3.18 As mentioned above, the requirements and their suggested duration/intensity (i.e. number of unpaid work hours, curfew ranges and length of exclusion requirement) in the current guideline are exactly the same as they were in the Sentencing Advisory Panel's third Advice to the Sentencing Guidelines Council in 2004 and subsequent 'New Sentences: Criminal Justice Act 2003' guideline published in December 2004.

3.19 While there is no evidence that suggests that these suggested hours/durations need to be reviewed, as it has been nearly 20 years since their inclusion, it would be remiss to not attempt to understand whether these levels are still appropriate. For example, while sentencing is not the primary cause of this, there is currently a large unpaid work backlog. As an illustration, data published via a PQ in July 2022 shows that 386,845 unpaid work hours 'expired' on SSOs in 2021, and even prior to the pandemic (which would have been the reason that a lot of these hours could not be worked) 167,071 hours in 2017, 143,262 hours in 2018 and 91,588 hours in 2019 expired without being worked. [The current 'backlog' of unpaid work hours on COs is not publicly available]. It would be useful for Council to consider whether amending the suggested hours of unpaid work in the table would be of value. I am waiting for access to data that will show the proportion of durations/hours of these requirements and if any amendments are proposed as a consequence of these, I will bring this back to Council at a later date.

Curfew requirements

3.20 The PCSC Act brought in changes to the maxima for intensity and duration of curfew requirements. Amendments were made to the current version of the guideline to reflect these statutory changes. However, in the October meeting, members discussed 4 different options for amendments to the suggested intensity/duration for curfew requirements in the CO levels, but Council did not feel it was appropriate to make any amendments outside of the review.

3.21 In this discussion in October about the options presented, members had a number of concerns. First, there was a concern that a proposal for an ability for magistrates' courts to be able to impose a 2 year curfew on a CO (for example) risked the sentence being more onerous than a custodial sentence, which would not be intended. There was another concern that the guideline should not be bringing the curfew duration in line with the exclusion requirement automatically, and a concern that there were only very few circumstances where a 20 hour curfew would be appropriate.

3.22 In this discussion, members considered but rejected the possibility of a 'very high' range, and considered but rejected keeping the table the same but providing in narrative that in exceptional circumstances courts could go over the proposed levels in the table, as some felt there was a risk that this would affect the robustness of the table and allow the possibility for courts to disregard its contents.

3.23 Out of the 4 options presented in that meeting, a majority of members expressed a preference for the fourth option, which was keeping the ranges mostly the same other than extending the top of the highest range, so that the increased number of hours and intensity

of the curfew requirement would only apply to cases that warranted the highest range of CO. However, it was proposed that suggesting up to 20 hours for low and medium ranges, even though the law allows for it, may be too intense, and that there may be further considerations that would warrant making small adjustments to that option.

3.24 The policy background within the published Explanatory Notes to the Police, Crime, Sentencing and Courts Act sets out that:

- the purpose of the amendment from 16 to 20 hours curfew was “*to allow for a curfew to have a greater impact on specified days*”;
- the purpose of specifying the maximum of 112 hours in any period of 7 days was to “*allow for the total hours falling in a seven-day period to be used more creatively and flexibly by decision makers, enabling them to target what could be considered ‘leisure days’ for more punitive hours than is currently available to them*”; and that
- in regard to the increase of the maximum duration of a curfew requirement to two years, it would “*increase the punitive weight of a curfew requirement, but also has the potential to support rehabilitation by providing a longer period during which some of the positive effects of curfew could be established, such as deterring criminal associates*”;
- and that it is “*envisaged that courts will be able to use longer curfews in particularly serious cases, where a sentence served in the community may be more effective in preventing future re-offending, alongside appropriate consideration of a custodial sentence.*”

3.25 With all this in mind, the recommendation is an amended version of Option 4 presented at the October Council meeting, with the following adjustments:

- Changing duration from specifying a range (e.g. currently “for a few weeks...for 2-3 months...for 4-12 months”) to using the words “up to” to give more flexibility and broader range to sentencers to define a length of curfew that is most suitable for the offender and their circumstances;
- Slightly increasing the specified duration with the proposal of ‘up to’, and the increased maximums; in mind; and
- Maintaining 16 hours as the intensity of hours in the low and medium ranges and only changing this to 20 hours in the high range.

3.26 The recommendation for the curfew requirement in the updated levels table is therefore below in highlight; as **option 1**:

Low	Medium	High
<i>Curfew requirement within the lowest range (for example up to 16 hours per day for a few weeks)</i>	<i>Curfew requirement within the middle range (for example up to 16 hours for 2 – 3 months)</i>	<i>Curfew requirement for example up to 16 hours per day for 4 – 12 months</i>
Curfew requirement up to <u>16 hours</u> per day for <u>up to 4 weeks</u> *	Curfew requirement up to <u>16 hours</u> per day for <u>up to 6 months</u> *	Curfew up to <u>20 hours</u> per day for <u>up to 24 months</u> *
*Maximum of 112 hours in any period of 7 days.		

3.27 It is relevant to note that the PSCS Act also brought into force the power for a responsible officer to vary a curfew requirement as to the start/end times of the curfew period or to the change in residence of the offender (to such an extent they do not undermine the weight or purpose of the requirement imposed by the court). The primary purpose of this was to reduce the burden on courts in the case of a change in circumstances of the offender that mean that the imposition of the original curfew requirement was no longer suitable (e.g. new employment or moving house). Courts may have this in mind when considering the personal circumstances of the offender in determining the correct duration and intensity of a curfew requirement.

3.28 While the Council may be concerned that a high range CO with the option of up to 24 months curfew may be taken up in more than just the most serious cases, the proposed new narrative on encouraging the courts to be flexible in the imposition of requirements and sentence seeks to balance this out.

3.29 If the Council felt that the risk that a curfew requirement of e.g. 24 months would be imposed too regularly if it was included in the high range in the levels table, an alternative option could be specifying that a curfew between 12-24 months will only be suitable in particularly serious cases; this amendment to the above recommendation highlighted below, as **option 2**:

Low	Medium	High
<i>Curfew requirement within the lowest range (for example up to 16 hours per day for a few weeks)</i>	<i>Curfew requirement within the middle range (for example up to 16 hours for 2 – 3 months)</i>	<i>Curfew requirement for example up to 16 hours per day for 4 – 12 months</i>
Curfew requirement up to <u>16 hours</u> per day for <u>up to 4 weeks</u> *	Curfew requirement up to <u>16 hours</u> per day for <u>up to 6 months</u> *	Curfew up to <u>20 hours</u> per day for <u>up to 12 months, or 12-24 months in particularly serious cases</u> *
*Maximum of 112 hours in any period of 7 days.		

3.30 A possible disadvantage of this second option is that the court may feel less inclined to take advantage of the ability to be very flexible with their sentence. For example, option 2 may restrict courts from being able to impose a curfew requirement of just 2 hours a day for 2 years (in the case of the offender having a risk of offending at a specific time of day), but Council may believe that on balance this option has less risk of increasing curfews in cases that would not otherwise warrant such a long duration.

3.31 If the Council felt it necessary, the corresponding impact on sentencing between these two options could be considered in road testing.

Question 5: Does the Council agree with the recommended amendments to the curfew requirement duration and intensity in the levels table (option 1)?

Operational and supervision period & remand (SSO section)

3.32 The working group has discussed a suggested new section which provides guidance on determining the operational and supervision periods for SSOs, and how to consider time remanded in custody or on qualifying curfew before imposing an SSO. In the last working group, members agreed with most of this new section with the exception of a few lines, for which it was felt it would be better to have a Council decision.

3.33 These lines, highlighted below, have been slightly updated since the working group discussion. Regarding the line in **green**, some members had concerns that the value of the inclusion of this line is outweighed by the risk that this sentence alludes to activation of the custodial term not being the default response to breach, which Council may not want to encourage given the existing line “*sentencers should be clear they would have imposed an immediate custodial sentence were the power to suspend not available*”.

3.34 Concerns about the inclusion of the **yellow** line were around the line alluding to a SSO needing to have requirements by default, and that an SSO may not be punitive enough without requirements, despite it being a custodial sentence, which may be in conflict with the earlier agreed sentence in the SSO

3.35 section: “*Requirements imposed as part of a suspended sentence order are more likely to be predominantly rehabilitative in purpose, as the imposition of a custodial sentence, even if suspended, is itself both a punishment and a deterrent.*”

3.36 In the last Council paper, I presented data that showed that SSOs already have more requirements on average than COs, which was agreed not to be the intention of the guideline. This line may risk continuing this trend, and lead to SSOs with more onerous requirements. On the other hand, the Council may want to restrict SSOs being imposed

without requirements and ensure that in these cases they have a longer operational period to ensure they are punitive enough.

Determining operational and supervision periods of a Suspended Sentence Order

The court making a suspended sentence order must specify the operational period and supervision period of the order.

Operational period	<p>The length of time for which a sentence is suspended, during which the offender will be liable to go to custody to serve the suspended custodial term if they commit another offence.</p> <p>This period begins on the day on which the order is made and must be at least 6 months and not more than two years.</p> <p>The length of the operational period should be tailored to the particular circumstances of the case. Non exhaustive factors which may be relevant when determining length of the operational period are:</p> <ul style="list-style-type: none"> • the length of the custodial term to be suspended • the nature and duration of any requirements of the order and resulting supervision period • the risks of reoffending or harm <p>If the offender breaches the suspended sentence order, the court has the power to extend the operational period should new or exceptional circumstances make it unjust to activate the custodial term in all the circumstances. Please see the breach of suspended sentence orders (link) guideline for further information.</p> <p>Where the court imposes a suspended sentence order with no requirements, the sentence may be made more punitive by a longer operational period.</p>
Supervision period	<p>The length of time for an offender to complete any requirements of the suspended sentence order, during which the offender will be liable to go to custody to serve the suspended custodial term if they fail to comply with any of the requirements.</p> <p>This period begins with the day on which the order is made and must be at least 6 months and not more than two years, or the operational period if this is less than two years.</p> <p>Non exhaustive factors which may be relevant when determining the supervision period include:</p> <ul style="list-style-type: none"> • the length of time required to complete any requirements • the length of time required for rehabilitative requirements to be most effective (please consult Probation if necessary) <p>If the suspended sentence includes an unpaid work requirement, the supervision period for this requirement continues until the offender has completed the number of hours in the requirement but does not continue beyond the operational period.</p>

Time remanded in custody or on qualifying curfew before imposing a suspended sentence order

The court imposing a suspended sentence order should determine the length of the suspended custodial term without reference to any time spent in custody on remand or on a qualifying curfew. When explaining the effect of the sentence, the court should indicate that the time remanded in custody or on a qualifying curfew would be deducted in the event of breach and activation of that sentence.

If an offender has spent a significant proportion of the custodial term to be suspended on remand or on a qualifying curfew, the court must consider whether it would be appropriate to impose a suspended sentence order at all, as there would be limited effect of the custodial term in the case of activation. Depending upon the circumstances of the case, immediate custody (which may result in immediate release due to time served) or a community order or discharge may be more appropriate, particularly where there is a good prospect of rehabilitation.

Question 6: Does the Council have any concerns that the inclusion of the green line will make courts think that the sentence will not be activated on breach, and as such should be amended, or removed?

Question 7: Does the Council have any concerns that the yellow line may increase the number of requirements on SSOs, and as such should be amended, or removed?

Question 8: Does the Council approve this new section within the SSO section?

Determining the length of a community order & remand

3.37 Members of the working group agreed that it would be beneficial to have a similar section as the above in the CO section. As such, I have drafted the below with Jo's support.

Determining the length of a Community Order

In general, courts should impose the shortest term commensurate with the seriousness of the offence. The court imposing a community order must specify the length of that order by specifying the end date by which all requirements in it must have been complied with. This end date must not be more than 3 years after the date of the order.

The court should specify a length of an order which reflects both the seriousness of the offence and the length of time the requirements being imposed necessitate (within which a consideration of the offender's individual circumstances will be necessary).

Time remanded in custody or on qualifying curfew before imposing a community order

The court imposing a community order may take any time spent in custody on remand or on a qualifying curfew into account when determining any restrictions on liberty as part of the community order.

Question 9: Does the Council approve this new section in the CO order section?

3.38 Stephen has suggested an addition to this section in line with the judgments in the following cases: R. v. Rakib [2011] EWCA Crim 870; R. v. Pereira-Lee [2016] EWCA Crim 1705; R. v Coates [2022] EWCA Crim 1603; R. v Coates [2022] EWCA Crim 1603, which I have provided a slightly reduced version of below. This would follow directly on from the above final line in the 'Time remanded in custody' section.

However, the court is not precluded from making a community order even if the period of time to be taken into account is equal to, or exceeds, the shortest term of custody commensurate with the seriousness of the offence(s). The court must consider all the purposes of sentencing in its determination. Accordingly, any period spent in custody on remand or a qualifying curfew has to be balanced with the various elements of the potential community order, including both the punitive and rehabilitative elements. A community order might be particularly appropriate where there are great potential benefits for the offender, and for the public. Time spent in custody on remand or on a qualifying curfew may, depending on the length of time and the seriousness of the offence, be an exceptional circumstance relating to the offender which would make it unjust for the court to impose a requirement for the purposes of punishment on a community order. This will be the case where the period of time is equal to or exceeds the shortest term of custody commensurate with the seriousness of the offence(s).

3.39 While this is a helpful addition which supports courts in taking a wider range of specific circumstances into account, the Council may feel that it is a long paragraph that may not apply to very many cases, given it's less likely for offenders who have served periods of time in custody on remand or on qualifying curfew to be considered for a CO. The current updated version of the guideline is approximately 15 pages long as written in Microsoft word, without counting the requirements table at the end. While there will indeed be formatting that will reduce this length when it is eventually put in HTML on the website, the Council may feel that this information is too limited in relevance to warrant inclusion.

Question 10: Does the Council wish to include the suggested lines on remand?

4 EQUALITIES

4.1 There are no apparent equalities issues for the specific decisions set out in this paper. Equalities will be considered fully when bringing back the first full draft.

5 IMPACT AND RISKS

5.1 There are no discernible impacts or risks of the decisions set out in this paper. More general impacts and risks for the updated version of the guideline as a whole will be considered when bringing back the first full draft to Council.

Annex A: Imposition of Community Orders Section

1. Imposition of community orders

A community order can only be imposed if the offence committed is punishable by imprisonment. The maximum term that a community order can be imposed is 3 years.

Community orders can fulfil all the purposes of sentencing. They can have the effect of restricting the offender's liberty while providing punishment in the community, rehabilitation for the offender, and/or ensuring that the offender engages in reparative activities.

The court must ensure that the restriction on the offender's liberty is commensurate with the seriousness of the offence and that the requirements imposed are the most suitable for the offender.

Determining the length of a Community Order

In general, courts should impose the shortest term commensurate with the seriousness of the offence. The court imposing a community order must specify the length of that order by specifying the end date by which all requirements in it must have been complied with. This end date must not be more than 3 years after the date of the order.

The court should specify a length of an order which reflects both the seriousness of the offence and the length of time the requirements being imposed necessitate (within which a consideration of the offender's individual circumstances will be necessary).

Time remanded in custody or on qualifying curfew before imposing a community order

The court imposing a community order should determine the end date without reference to any time spent in custody on remand or on a qualifying curfew.

Additional text TBC

Requirements

Community orders must consist of one or more requirements.

The court must ensure that requirements imposed are the most suitable for the offender. This means that requirements should be suitable according to:

- the purpose(s) of the sentence;
- the risk of re-offending;
- the needs and rehabilitation of the offender, including any mental health or addiction issues,
- the ability of the offender to comply taking into account the offender's accommodation, employment and family situation including any dependants;
- the availability of the requirements in the local area.

At least one requirement must be imposed for the purpose of punishment and/or a fine imposed must be imposed, unless there are exceptional circumstances which relate to the offence or the offender that would make it unjust in all the circumstances to do so.

It is a matter for the court to decide which requirements amount to a punishment in each case.

The court must ensure that where two or more requirements are included, they are compatible with one another and are not excessive when taken together. So far as practicable, any requirements imposed should not conflict or interfere with:

- an offender's religious beliefs;
- the requirements of any other court order to which they may be subject;
- an offender's attendance at work or educational establishment.

List of requirements

...

Community order levels

Offence-specific guidelines refer to three sentencing levels within the community order band based on offence seriousness (low, medium and high).

The culpability and harm present in the offence(s) should be considered to identify which of the three sentencing levels within the community order band (low, medium and high) is appropriate.

Courts have the power to flexibly impose a custom community order for each offender according to their specific circumstances, including consideration of their risks and needs.

The seriousness of the offence should be the initial factor in determining the requirement (and/or fine) imposed for the purpose of punishment. Any requirement/s imposed for the purpose of rehabilitation should be determined by and align with the offender's needs.

In determining the requirement or combination of requirements, consideration should be given to the broad variety of sentences a community order can offer to be most effective for a particular offender, including the different lengths of the order. Guidance on determining the length of a community order is given below the table.

The levels table below offers non-exhaustive examples of the intensity of requirements that might be appropriate in each level of community order.

Low	Medium	High
Offences only just cross the community order threshold, where the seriousness of the offence or the nature of the	Offences that obviously fall within the community order band	Offences only just below the custody threshold, or where the custody threshold is crossed but a community order is more

offender's record means that a discharge or fine is inappropriate.

appropriate in the circumstances

If imposing for the purposes of punishment, suitable requirement ranges might include:

- | | | |
|--|---|--|
| <ul style="list-style-type: none">• 40 – 80 hours of unpaid work• Curfew up to 16 hours per day for up to 4 weeks*• Exclusion requirement for a few months• Prohibited activity requirement | <ul style="list-style-type: none">• 80 – 150 hours of unpaid work• Curfew up to 16 hours per day for up to 6 months*• Exclusion requirement lasting in the region of 6 months• Prohibited activity requirement | <ul style="list-style-type: none">• 150 – 300 hours of unpaid work• Curfew up to 20 hours per day for up to 24 months*• Exclusion requirement lasting in the region of 12 months |
|--|---|--|

*Maximum of 112 hours curfew in any period of 7 days

Any requirement/s imposed for the purpose of rehabilitation should be determined by and aligned with the offender's needs. The court may benefit from Probation's assessment of the offender's needs and recommendation of appropriate rehabilitative interventions.

If order does not contain a punitive requirement, suggested fine levels are indicated below:

BAND A FINE

BAND B FINE

BAND C FINE

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