



# GETTING THE ACT TOGETHER

## Implementing the Criminal Justice Act

The implementation of the main sentencing provisions of the Criminal Justice Act 1991 on 1st October 1992 will have important implications for all the agencies in the criminal justice system. Since the Act received Royal Assent in July 1991, a major programme of work has been undertaken to ensure that all those involved are well prepared.

### General Guidance

The following guides have been issued widely;

- **Home Office Circular 77/91** describing the provisions of the Act brought into force under Commencement Order No. 1 (SI 1991/2208) in October 1991.
- The general guide to the sentencing framework in the Act, issued last October with **Home office circular 88/91**
- Five detailed guides to the Act, issued last December, covering: custody, community sentences, unit fines, young offenders, early release
- An implementation guide outlining tasks to be undertaken by local services in advance of implementation of the main sentencing provisions, which was distributed under **Home Office circular 10/92 in February**
- **Home Office circular 6/92**, issued in March giving details of the provisions of the act to be brought into force in April and October 1992
- **Home Office circular 30/92** describing the new arrangements for young people and the youth court

In addition a regular newsheet **CJA 91 News**, setting out progress on implementation and where further information can be obtained. Issue 5 was published in July and an Implementation Edition is planned for October.

### Training

A variety of training materials have been produced to enable Magistrates, probation officers, and prison staff to undertake courses, with the Crown Prosecution Service arranging separate training for its staff. The Home Office, Department of Health and Welsh Office jointly sponsored six regional conferences for social services and voluntary sector staff working with young offenders and a training pack has been distributed to local authorities.

### National Standards

In order to give a clear and consistent framework for probation service practice, from October much of the work undertaken by the probation service and social services departments in the criminal justice system will be underpinned by national standards. National standards are not a novel concept; there has been a national standard for community service orders since 1989, and for police cautioning since 1990. Experience of both suggests that they have contributed to a clearer understanding of what is involved in these areas of practice and have proved a valuable way of increasing consistency across the country. It is intended that a similar positive effect will be obtained by the new crop of standards. National standards should also help enhance the confidence of sentencers and the general public in community penalties.

There will be seven national standards covering:-

*pre-sentence reports, supervision orders, probation orders, community service orders, combination orders, the management of approved hostels, and supervision before and after release from custody.*

*A summary of the content of the standards is provided overleaf.*

They build upon what is acknowledged to be good practice in probation and social services departments. But they also go further, by providing a common framework of expectations which will benefit all the participants in the criminal justice process. For example sentencers will be assured about the basis on which reports to the court are prepared, how supervision is to be undertaken and the circumstances under which offenders who behave unacceptably will be returned to Court under breach proceedings. Similarly other criminal justice agencies, the police, the Crown Prosecution Service, clerks to the courts and the prison service will be more closely aware of what can be expected of the probation service and social services departments. For probation officers and social workers, standards provide a clear overall statement of what is required of them. While the standards encourage the use of professional skills, judgement, and initiative in undertaking work with individual offenders, they also offer a com-

mon basis for demonstrating accountability and achievement; and for maintaining and increasing the confidence of the courts and the public in community based work.

The standards also provide important safeguards for offenders, defendants and other recipients of probation service work. They stress the need for all probation work to be free of improper discrimination and they give offenders the right to be informed of what is expected of them, and to have access to a complaints procedure if they are dissatisfied. Last but by no means least the standards set an important framework for the public, local authorities and central Government all of whom have a clear interest in cost effective supervision of offenders in the community.

### Pre Sentence reports

Arrangements for the preparation of pre sentence reports were piloted in four Crown courts; a report on the pilots was issued in May, together with a joint circular from the Home Office, Lord Chancellors Department and CPS. A national PSR coordinator has been taking forward work on PSRs with local probation services.

### Unit Fines

The Act introduces a new system of unit fines in magistrates courts. Rules made by the Lord Chancellor's Department on the assessment of weekly disposable income were sent out under cover of a Home Office letter to Justices' Clerks and Chairmen of Benches in July, together with '**Unit Fines Explained**', a briefing note designed to be of use or drawn on in explaining the effect of unit fines to the press, members of the public, local legal practitioners and offenders.

### Childrens' Evidence and Young Persons

Rules of court relating to child evidence and procedure have been prepared together with a code of practice. Rules for the youth court have also been prepared and a Home Office circular (78/1992) was issued in August describing changes made by the Act which affect the arrangements for the way in which juveniles are dealt with by the police.

### Evaluation and Monitoring

A considerable programme of research



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and monitoring is planned to evaluate how well the Act is working. A good deal of information will be available from the main systems which currently collect national criminal justice statistics. A special one off data collection exercise is planned because of the time lag in producing statistics and this will cover a sample of courts for the period before

and after the implementation of the Act. A variety of research studies are planned.

**Conclusion**  
**Implementation will be a considerable task and the Home Office is keen to give support to those at a local level responsible for making it work well. The Home Office has set up a Help**

**Desk which has been able to deal with a variety of enquiries on the Act. The telephone number is 071 273 4104; the desk will be available after implementation to assist with further enquiries which may arise.**

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## National Standards: a summary

△ **Pre-sentence reports** - A pre-sentence report (PSR) is a report in writing by a probation officer or a social worker (section 3(5) of the Criminal Justice Act 1991). The standard highlights the **impartial role** of the need to balance effectively, in each case, the **speed** of report preparation with the **depth of enquiries**. In assisting the sentencer, the PSR should focus on the **current offence** (given its central importance in the sentencing framework of the Criminal Justice Act 1991); **relevant information about the offender**; and a **conclusion** including whenever relevant, a **proposal for a community sentence**.

The standard also gives guidance on assessing offenders and selecting the most suitable community sentence, and on establishing good co-operation with courts and others over local arrangements for PSR preparation;

△ **Probation Orders** - A probation order requires an offender aged 16 or over to be under the supervision of a probation officer for a period of 6 months to 3 years, with the objective of securing the offender's rehabilitation, protecting the public from harm from the offender and/or preventing the offender from committing further offences. The standard requires:

- **prompt commencement** of supervision after the order is made - normally within 5 working days;
- the drawing up and regular review of a **supervision plan**, shared with the offender;
- **frequent appointments** with the offender: where practicable and appropriate, 12 (and a minimum of 6) in the first 3 months and at least one a month to the end of the order;
- accurate and timely **record keeping**, including the reason for any departure from expected standards of supervision;
- **prompt and effective action to enforce** the order, including **breach action** where there are serious or frequent instances of unacceptable behaviour;

△ **Supervision Orders** - A supervision order requires a social services department or a probation officer to advise, assist and befriend an offender aged 10 to 17 for up to 3 years. This standard corresponds closely to the standard on probation order supervision, though with a stronger emphasis on assisting the personal development of the child or young person;

△ **Community Service Orders** - A CSO requires an offender aged 16 or over to perform from 40 to 240 hours of unpaid work and is intended as a means of restricting the offender's liberty while repaying something worthwhile to the community against which the person has offended. The standard gives guidance on arranging suitable work placements and requires:

- **prompt commencement** of work after the CSO is made - normally within 10 working days;
- a **work rate** normally of between 5 and 21 hours per week;
- acceptable standards of **performance and behaviour**;
- accurate and timely **record keeping** (and gives guidance on reckoning of hours worked); and

- **prompt and effective enforcement**;

△ **Combination Orders** - A combination order requires an offender aged 16 or over to be under probation supervision for 1 to 3 years and to perform 40 to 100 hours of community service. These two elements should largely be supervised according to the probation and CS standards, respectively; the combination order standard itself concentrates on requirements for the effective co-ordination of this work, including the appointment of a single supervising officer in overall charge of the order;

△ **Approved Hostels** - Approved hostels can provide supervised accommodation for offenders under probation order supervision or on parole and for defendants on bail. They can be operated by probation services themselves or by the voluntary sector. The standard sets requirements for the **management** of such hostels, including the establishment of a clear **admissions policy**; local **hostel rules and regimes**; **induction** of residents; **record keeping**; and **enforcement**.

The **objectives** of hostel supervision include **promoting a law abiding life** by residents and **reducing the risk of offending**; seeking a **constructive relationship** between hostel staff and residents, **facilitating the work of the probation service** and others with offenders; and **encouraging residents' re-integration into the community** and successful move on to other appropriate accommodation at the end of their stay.

△ **Supervision before and after release from custody** - This standard applies to all offenders sentenced to twelve months or more (excluding life sentence prisoners) and young offenders serving less than twelve months who are also being supervised. The two main groups to be supervised are:

- those sentenced to 12 months or more but under 4 years, who are released automatically at the halfway point of the sentence on a licence issued by the Prison Governor. Breaches will be dealt with by the magistrates' courts;
- those sentenced to 4 years or more (but not life), who are eligible for discretionary release from the halfway point of sentence and released automatically at the two thirds point. This release is handled by the Parole Board which will also deal with breaches of licence and decisions on recall to prison.

The standard defines the **objectives** of post-release supervision on licence in the community as being the **protection of the public**, **prevention of re-offending** and **successful reintegration of the offender into the community**. The standard requires **effective liaison** from the outset of the sentence between the supervising probation officer, the probation officer seconded to the prison and the prison staff; **preparation for release**, and **early contact** on release, with weekly contact for the first 4 weeks and at least monthly contact thereafter. The standard also sets out requirements for the **enforcement of licence conditions**, breach and recall to prison (including emergency recall).