

Community Sentences Digest

Enver Solomon and Max Rutherford

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Introduction

Given that there are nearly double the number of people serving community sentences than there are in custody at any one time, it is surprising how little information there is about these sentences and the offenders who serve them. As a result, the level of political and public debate is often ill informed. This digest intends to address the gap in information and to improve the quality of debate.

It forms part of the Centre for Crime and Justice Studies' Community Sentences project, which was originally set up to investigate and monitor the new Community Order.¹ However, as the report demonstrates, soon after the implementation of the Community Order on 4 April 2005, it became clear that the new Suspended Sentence Order (SSO), sometimes referred to as 'custody minus', was playing a significant role in sentencing and was impacting directly on the work of the Probation Service. The project's remit was therefore expanded to examine the Suspended Sentence Order. Although the Suspended Sentence Order is technically a custodial sentence, it is served in the community and has the same range of requirements as the Community Order delivered by probation staff. It was therefore felt that it was important to include information about the Suspended Sentence Order in this report.

Although much of the focus is on the two new orders, the report also provides a wide range of key facts and figures about trends in the use of community sentences over the last decade and, critically, the multiple needs of the offenders who are given them. In effect, it is a detailed assessment of what is known about community sentences in England and Wales today.

Prison overcrowding is a well-known fact. What is less well known is that community sentence caseloads are also overcrowded. In the decade between 1995 and 2005 the number of people starting community sentences increased by nearly 24,000, a rise of 21 per cent.² The former Chief Inspector of Probation, Professor Rod Morgan, famously described this increase as the 'silting up' of the Probation Service. As 70 per cent of offenders supervised by probation are on community sentences, they are the key factor driving up caseloads. The effect is far less graphic than images of overcrowded jails but the impact is equally damaging. The section on staffing highlights the high sickness levels amongst the probation workforce. In 2005–2006 the average number of sick days for each employee was 12.6, one of the highest across the public sector.

It is important to recognise that this digest is not in itself a piece of academic research, but is a collation of published research and official data. It is based mainly on official Home Office statistics, some of which are unpublished, and also draws on academic research. The information in the section on mental health is based on the experience of voluntary sector organisations because there has been so little research looking at mental health and people on community sentences.

There are some obvious omissions in the report, for example, we do not include a section on ethnicity. This is partly because detailed information on the use of the new community sentences based on ethnic breakdown has not yet been produced by the Home Office. We intend to look at this in future updated versions of the digest.

The report is not intended to be a campaigning document promoting the greater use of community sentences. Instead, it offers

¹ The project focuses on adult offenders, as the new sentences only apply to over 18-year-olds. This report does not therefore include information about children and community sentences, unless otherwise stated.

² Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office, p.23.

rigorous, objective information and critical analysis about the way the sentences have been used during a period of great change in probation practice and sentencing policy. Some of the shortcomings of community sentences are highlighted, not least the fact that reconviction rates have averaged about 55 per cent since 1997. The section dealing with deaths of people under probation supervision draws attention to the fact that suicide rates amongst offenders on probation are extremely high. While policy and practice have focused on reducing suicides in custody, it has perhaps been an oversight not to focus similar attention and resources on probation.

Finally the report uniquely attempts to provide a detailed overall picture of the multiple social needs of offenders on community sentences. This is not an easy task because there is much less data and research on this subject than on the social exclusion of prisoners. However, we have found that nearly two-thirds of those on community sentences are below the literacy and numeracy level expected of an 11-year-old, more than half are unemployed, just under a third have an accommodation problem, nearly half have mental health problems of some nature, close to a quarter have a drug problem and almost half have an alcohol problem.

Are community sentences able to address these needs in the most effective way? Would social interventions be more appropriate and cost-effective in dealing with alcohol dependency, drug addiction, illiteracy and mental illness? How do we free up probation caseloads so they are not swamped with extremely needy individuals who often pose more of a risk to themselves than to anybody else? This report is designed to inform and focus attention on those questions. Therefore, it will be a live document that is regularly updated.

A brief history of community sentences

Prior to the introduction of a new generic Community Order in the Criminal Justice Act 2003, there had been a range of different community sentences introduced since the Probation Service came into existence in 1907.

The Probation Order was introduced in 1907. Essentially involving one-to-one sessions with a probation officer, the Probation Order could last for a minimum of six months and a maximum of three years. In 2001, its name was changed to the **Community Rehabilitation Order (CRO)**. Since 4 April 2005, the CRO has been in the process of being phased out, and is being superseded by the supervision requirement of the new Community Order.

The Community Service Order (CSO) was introduced in 1972. Its name was changed in 2001 to the **Community Punishment Order (CPO)**, which had a minimum of 40 hours and a maximum of 240 hours of community service. Since 4 April 2005 it has become the unpaid work requirement of the Community Order, with a minimum of 40 and a maximum of 300 hours' unpaid work.

The Combination Order (combining probation and community service) was introduced in the 1991 Criminal Justice Act with a probation element of 12 months to three years and community service element of 40 to 100 hours. It was renamed the **Community Punishment and Rehabilitation Order (CPRO)** in 2001. Its place is now taken by the new Community Order with a supervision and an unpaid work requirement.

The Drug Treatment and Testing Order (DTTO) became available nationally from October 2000 and could last between six months and three years. It has now been superseded by the drug rehabilitation requirement of the Community Order.

The CRO and the CPRO could have a variety of specific requirements added to them: non-residential mental health treatment; residential mental health treatment; residence in an approved probation hostel; residence in another institution; another residential requirement; probation centre/accredited programme; report to a specified person at a specified place; participation in specified activities; refraining from specified activities; mental health treatment by/under a qualified medical person; residential drugs/alcohol treatment; non-residential drugs/alcohol treatment; drugs/alcohol treatment by/under a qualified medical person; drug abstinence requirement; extended requirements for sex offenders.

Key facts and trends in the use of community sentences

The community sentenced population

The number of people serving community sentences at any one time and the number starting community sentences in the course of a year have increased significantly in recent years.

The most recent figures show that on 31 December 2005 there were 132,880 people serving community sentences in England and Wales, a rise of 4 per cent compared to one year earlier.³ However, over the last three years, this number has increased by nearly 17,000 (from 116,125 in 2002), a rise of 14 per cent.

In terms of the numbers commencing a community sentence in a particular year, the most recent figures show that in the 12-month period between July 2005 and August 2006, 144,483 offenders started a community

sentence.⁴ This compares to 136,130 people who started community sentences in 2005.⁵

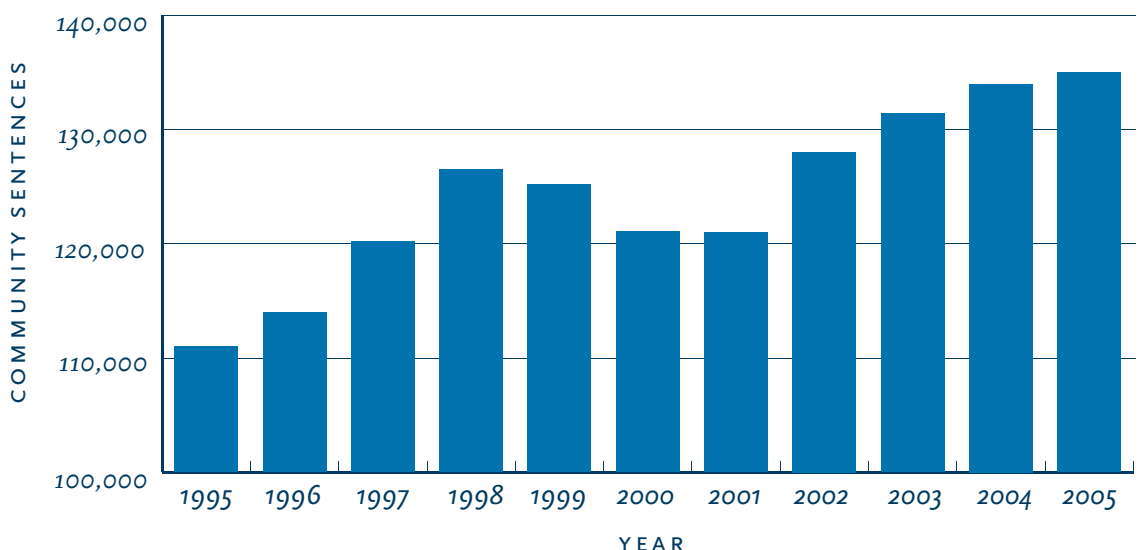
In the decade between 1995 and 2005 the number of people starting community sentences has increased by nearly 24,000, a rise of 21 per cent. In 1995 there were 112,340 community sentence commencements. Ten years later the figure had increased to 136,130 (see Figure 1).⁶

The number of women starting community sentences has increased dramatically. In the decade between 1995 and 2005 the number increased from 14,619 to 20,926, a rise of 43 per cent.⁷

During 2005, 14 per cent of those starting supervision were from a minority ethnic group. Of all offenders starting community sentences in 2005, 85 per cent were of 'white' ethnicity, 6 per cent were 'Black or Black British' and 4 per cent were 'Asian or Asian British'.⁸

Figure 1: Number of offenders starting community sentences, 1995–2005

Source: Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office



3 Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office, p.44.

4 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

5 Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office, p.23.

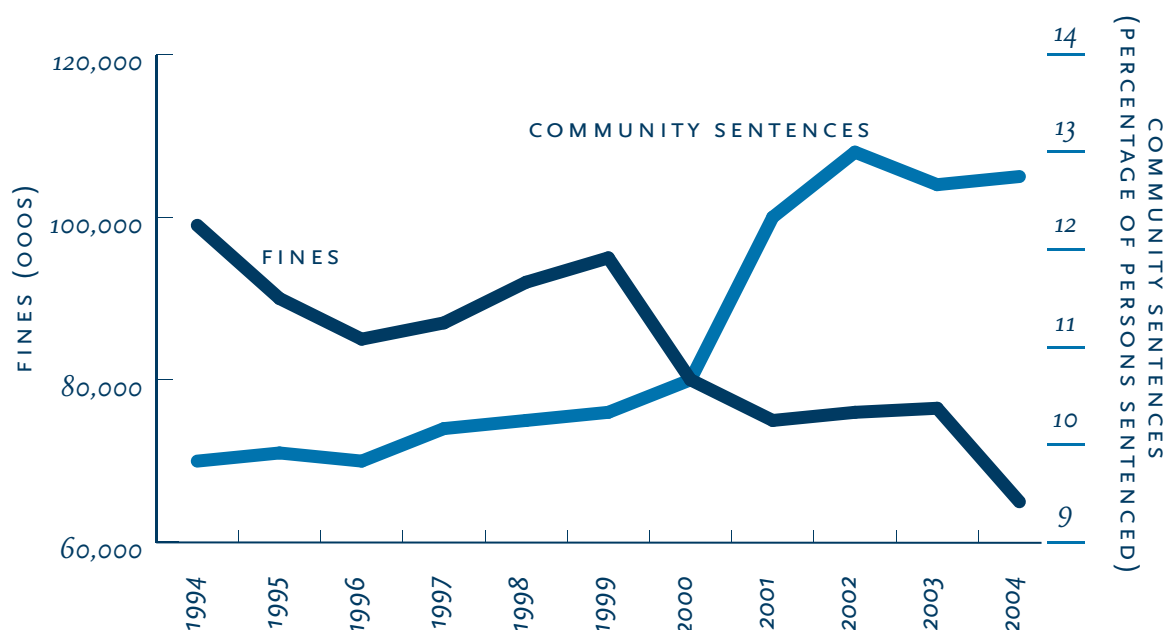
6 *ibid.*

7 *ibid.*, p.23.

8 *ibid.*, pp.21, 36.

Figure 2: Number of offenders serving community sentences as a proportion of people sentenced and the numbers given fines

Source: Cabinet Office (2006), *Prime Minister's Strategy Unit: Policy Review: Crime, Justice and Cohesion*, unpublished, p.15



The average (median) age of those starting community sentences in 2005 was 27, the same as in 2004. In 1995 the average age was 25. Twenty-five per cent of those commencing community sentences in 2005 were aged 36 or over, while 25 per cent were aged 21 or under.⁹

Sentencing trends

The total number of community sentences given at all courts increased steadily from 1995 to 2005, with the number of those sentenced increasing from 129,900 to 204,200 (57 per cent) during this period. Between 2004 and 2005, the number increased by less than 1 per cent, from 202,946 to 204,247.¹⁰

In 2005, 89 per cent of all community sentences were given at the magistrates' court, the same proportion as 2004.¹¹

There has been a significant increase in the numbers of community sentences issued at the magistrates' court. Between 1995 and 2005 the numbers increased from 107,540 to 181,844, a rise of 69 per cent.¹² The proportion of those sentenced at the magistrates' court over the same period who were given

community sentences rose from 8.5 per cent in 1995 to 13 per cent in 2005.¹³

The number of offenders issued with community sentences at the Crown Court in the decade between 1995 and 2005 has remained stable at around 22,400. The proportion of those sentenced at the Crown Court over the period 1995–2005 who were given community sentences has also remained stable at 30 per cent.¹⁴

A steady decline in the use of the fine and the 'up-tariffing' of sentences¹⁵ are believed to be largely responsible for the greater use of community sentences.¹⁶ The government acknowledges that 'sentencers have increased the use of community punishments, but only for those who would previously have got fines'.¹⁷ The use of the fine has decreased by almost the same proportion as the use of community sentences has increased (see Figure 2).

Between 1995 and 2005 the proportion of people sentenced for an indictable offence resulting in a community sentence increased from 28 per cent to 36 per cent.¹⁸ Over the same period the proportion of people

9 *ibid*, p.20.

10 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.63. Note that these data include offenders of all ages, not just adults.

11 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.56.

12 *ibid*, p.61.

13 *ibid*, p.61.

14 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.62.

15 Uptariffing has been succinctly described by the former Chief Inspector of Probation, Rod Morgan: 'Sentences have become substantially more severe, community penalties displacing financial penalties (and to a lesser extent discharges) and immediate custody displacing community penalties and suspended sentences. Furthermore, the custodial sentences being imposed are longer.' See Morgan, R. (2003), 'Thinking about the demand for probation services', *Probation Journal* 50 (1): 7–19.

16 See Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.26. Available at www.kcl.ac.uk/ccjs.

17 Cabinet Office (2006), *Prime Minister's Strategy Unit: Policy Review: Crime, Justice and Cohesion*, unpublished.

18 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.12.

sentenced for indictable offences that led to a fine fell from 30 per cent to 19 per cent.¹⁹

Four out of ten people given a community sentences are first-time offenders with no previous convictions, and the proportion is increasing. Between 2000 and 2005 the proportion of first-time offenders sentenced to a community sentence increased from 32 per cent to 42 per cent.²⁰

In addition, an analysis of correctional services commissioned by the Cabinet Office published in 2003 revealed that ‘of the increase in the number of offenders receiving a community sentence since 1996 two-thirds have no previous conviction’.²¹

Offence breakdown

The largest proportion of offenders given community sentences committed an offence type of ‘theft and handling stolen goods’ or ‘summary motoring offences’²² (see Table 1).²³

Between 1995 and 2005 the number of those given community sentences for ‘summary non-motoring offences’ nearly tripled from 20,073 (15 per cent of all orders made) to 58,029 (28 per cent of all orders made).²⁴

Over the same period, the number of those given a community sentence for ‘summary motoring offences’ increased from 24,007 to 34,494, while continuing to account for nearly 18 per cent of community sentences.²⁵

The offence at magistrates’ courts where a community sentence was imposed most frequently in 2005 was ‘common assault’ (about 22,200). This was followed by: ‘theft from shops’ (about 20,700); ‘driving while disqualified’ (about 14,300); ‘driving with

Table 1: Number of offenders sentenced to community sentences by offence type in 1995 and 2005 (and, for each offence, the percentage of the total number of community sentences)

Source: Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, pp.12–13

Offence type	Number of community sentenced offenders in 1995 (and percentage of total)	Number of community sentenced offenders in 2005 (and percentage of the total)
Violence against the person	10,065 (8)	19,029 (9)
Sexual offences	1,139 (1)	1,444 (1)
Burglary	15,548 (12)	11,112 (5)
Robbery	1,355 (1)	2,539 (1)
Theft and handling stolen goods	34,598 (27)	40,866 (20)
Fraud and forgery	6,258 (5)	7,270 (4)
Criminal damage	3,364 (3)	5,675 (3)
Drug offences	5,466 (4)	9,693 (5)
Other (excluding motoring)	6,087 (5)	11,871 (6)
Motoring	1,962 (2)	2,225 (1)
Summary non-motoring offences	20,073 (15)	58,029 (28)
Summary motoring offences	24,007 (18)	34,494 (17)
Total	129,922	204,247

¹⁹ *ibid*, p.12.

²⁰ *ibid*, Table 6.6, p.149.

²¹ Carter, P. (2003), *Managing Offenders, Reducing Crime*, Strategy Unit, London: Cabinet Office, p.18.

²² A ‘summary’ offence is an offence triable only ‘summarily’. It is not ‘indictable’ and is almost always tried in a magistrates’ court.

²³ Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, pp.12–13.

²⁴ *ibid*.

²⁵ *ibid*, pp.12–13.

alcohol in the blood above the prescribed limit' (about 13,200); and 'criminal damage, £5,000 or less' (about 10,100).²⁶

At the Crown Court, community sentences were most often imposed for 'assaults occasioning actual bodily harm' (about 2,700). This was followed by 'burglary in a dwelling' (about 2,100), 'affray' (about 2,000), 'wounding or inflicting grievous bodily harm' (about 1,100) and 'handling stolen goods' (about 800).²⁷

Reconvictions

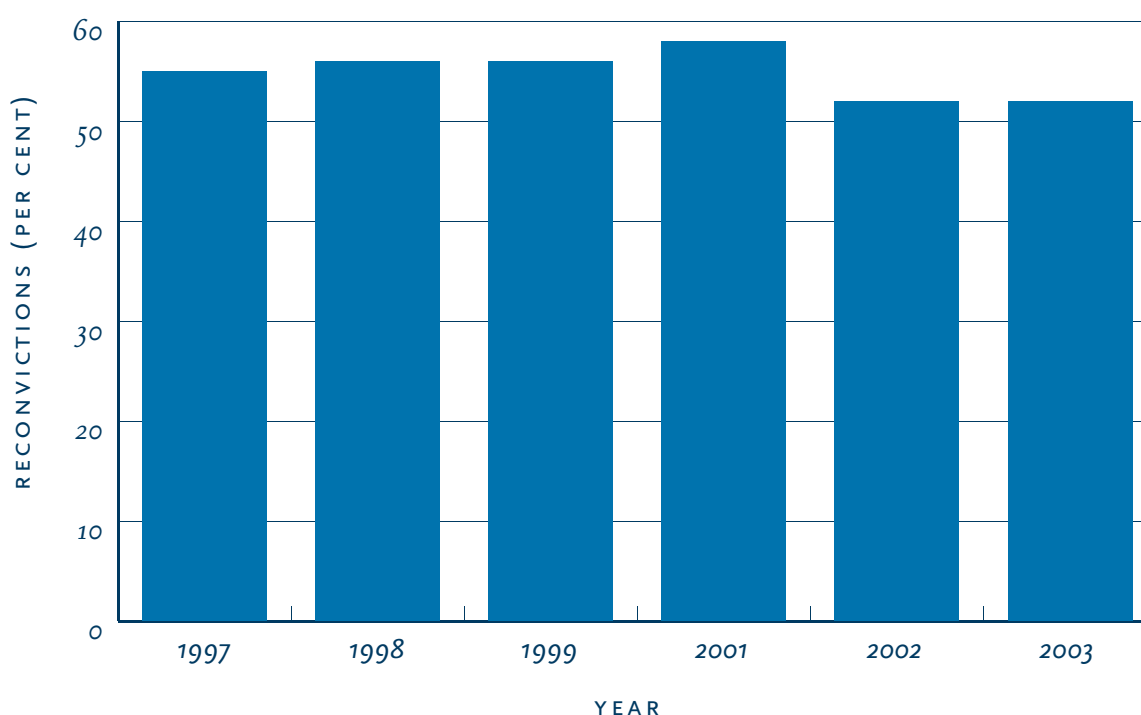
For those starting community sentences in 2003 more than half were reconvicted (53 per cent).

This is a slight decrease from the 55 per cent reconviction rate for those commencing a community sentence in 1997.

Between 1997 and 2003 the reconviction rate has remained close to 55 per cent (see Figure 3).²⁸

Figure 3: Actual two-year reconviction rates for adult offenders on community sentences, 1997–2003²⁹

Source: Home Office (2003), *Probation Statistics England and Wales 2002*, London: Home Office; Home Office (2005), *NOMS Caseload Statistics 2004*, London: Home Office; Home Office (2005), *Re-offending of Adults: Results from the 2002 Cohort*, London: Home Office; Home Office (2006), *Re-offending of Adults: Results from the 2003 Cohort*, London: Home Office



26 *ibid*, p.60.

27 *ibid*, p.60.

28 Home Office (2003), *Probation Statistics England and Wales 2002*, London: Home Office; Home Office (2005), *NOMS Caseload Statistics 2004*, London: Home Office; Home Office (2005), *Re-offending of Adults: Results from the 2002 Cohort*, London: Home Office; Home Office (2006), *Re-offending of Adults: Results from the 2003 Cohort*, London: Home Office.

29 The Home Office notes: 'The method for calculating the baseline re-offending rates for the 2004 figures has changed. The new measure counts all those who commit a further offence within one year for which they are subsequently sanctioned, rather than, as before, only those who are sanctioned within the period. Because an offence will always precede a sanction, this means that the rates are higher than previously reported.' See Home Office (2006), *Departmental Report 2006*, London: Home Office, p.77. Data for the year 2000 are not available.

The Community Order and Suspended Sentence Order: background and key facts³⁰

The Community Order

The Criminal Justice Act 2003 introduced the Community Order which replaced all existing community sentences for adults. It consists of one or more of 12 possible requirements and can last for as short a time as 12 hours or for as long as three years.

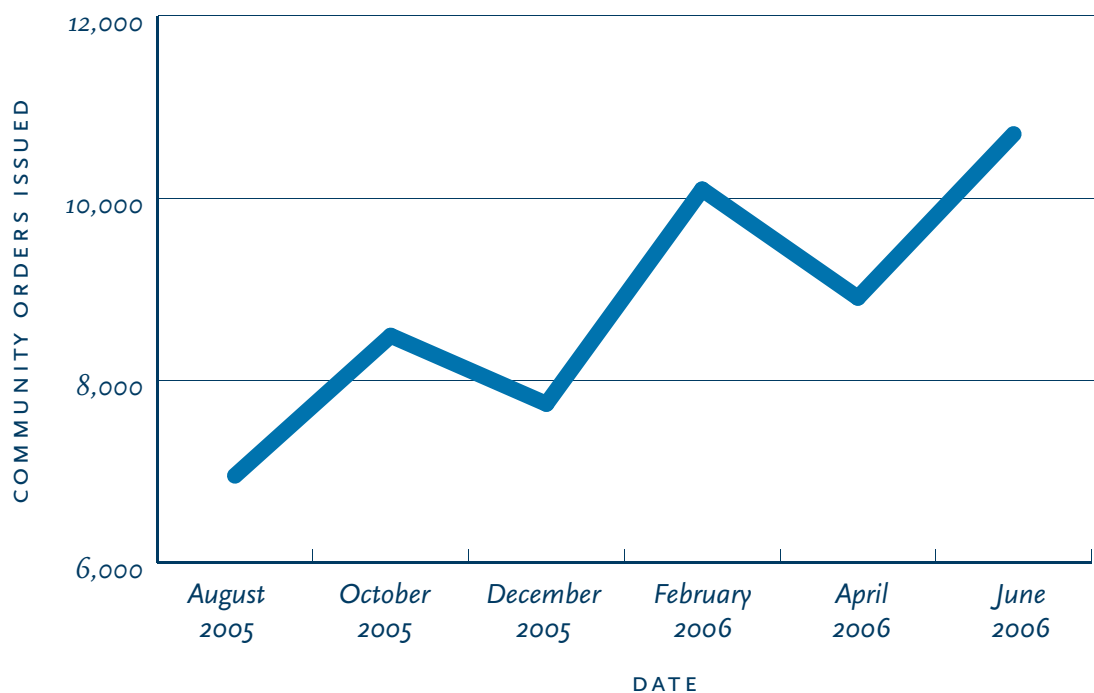
The numbers of Community Orders issued each month have increased since their introduction on 4 April 2005 (Figure 4). By July 2006, 91 per cent of newly issued community sentences were under the Criminal Justice Act 2003 legislation and 9 per cent were still constructed using the pre-2003 Criminal Justice Act community sentences legislation. A total of 127,508 Community Orders had been issued across England and Wales by July 2006.

The average length of a Community Order is nearly 14 months. However, for those with only one requirement, the average is around 12.4 months, while for those with four requirements the average length is 17.6 months.

The most common Community Order issued by the courts between August 2005 and July 2006 was an order made up of a single unpaid work requirement (32 per cent of all orders). The next most common was an order made up of supervision with an accredited programme, followed by an order made up of supervision on its own.

Figure 4: Trends in use of the Community Order, August 2005–July 2006

Source: Home Office (2006), Criminal Justice Act 2003: Statistical Briefing Note No. 6, unpublished



³⁰ Unless otherwise stated, all statistics in this section are drawn from Home Office (2006), Criminal Justice Act 2003: Statistical Briefing Note No. 6, unpublished.

The Suspended Sentence Order

The Suspended Sentence Order (SSO or 'custody minus') is a custodial sentence. It should only be used where the court is minded to pass a custodial sentence of less than 12 months. It is made up of the same requirements as the Community Order, however, so, in the absence of breach, is served wholly in the community for a maximum supervision period of two years.³¹

The Suspended Sentence Order came into force alongside the Community Order in April 2005. The Home Office has noted that 'they are much more demanding than old suspended sentences and more widely available'.³²

The use of the Suspended Sentence Order is rapidly increasing. As Figure 5 below shows, the number of Suspended Sentence Orders issued each month has increased from 606 in August 2005 to 2,978 during July 2006.

The average length of the Suspended Sentence Order is currently 16.6 months. This is despite the fact that the supervision period for a

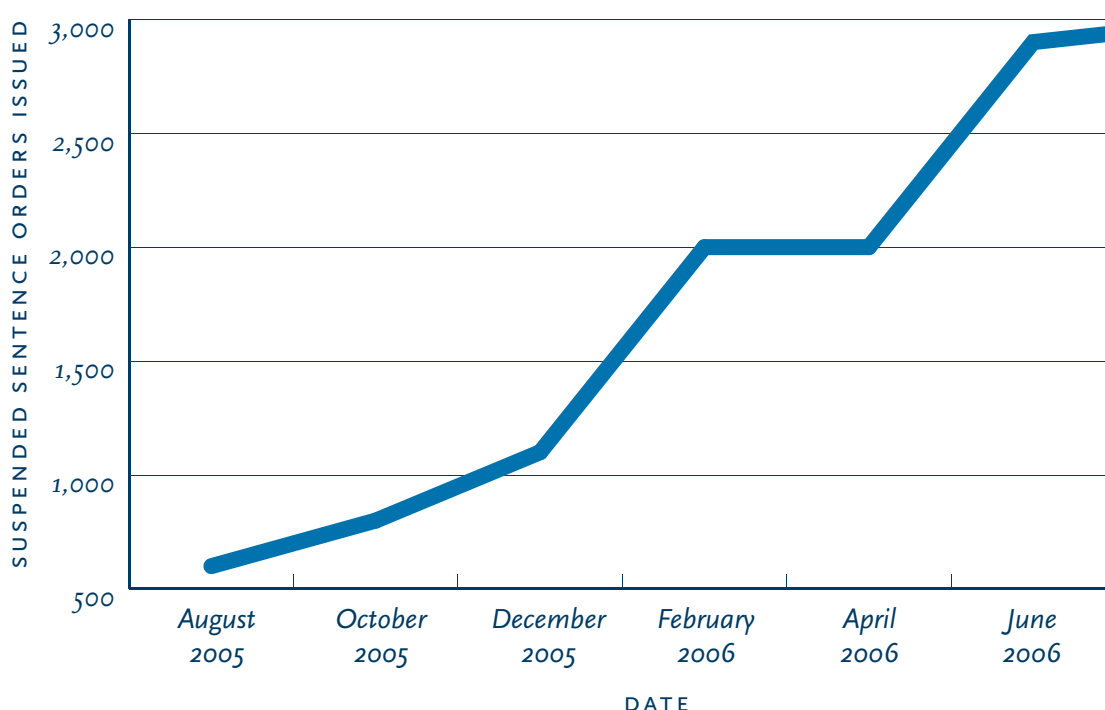
Suspended Sentence Order (the time where requirements are in operation) is a maximum of two years, unlike the Community Order where a maximum of three years is possible.

The Suspended Sentence Order is being used more often than the government initially estimated. In July 2006, 23 per cent of the total number of Community Orders and Suspended Sentence Orders issued were Suspended Sentence Orders, a rise from 8 per cent in August 2005. The Home Office had estimated that the proportion of Suspended Sentence Orders would be about half this figure.³³

Fears are growing about the numbers of people on Suspended Sentence Orders who are going to prison as a result of small technical breaches. While the Suspended Sentence Order was billed as a means of keeping less serious offenders out of prison, it has been acknowledged by the Home Office that 'evidence also suggests the new Suspended Sentence Order may be being used in cases where a Community Order would be appropriate'.³⁴

Figure 5: Trends in use of the Suspended Sentence Order, August 2005–July 2006

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished



³¹ Breach of the Suspended Sentence Order does not automatically result in a custodial sentence, although 'the court must activate the suspended sentence unless it is of the opinion it would be unjust to do so in view of all the circumstances'. Home Office (2005), *Probation Circular 25/2005: Criminal Justice Act 2003: Implementation on 4 April*, London: Home Office, p.84.

³² Home Office (2006), *Making Sentencing Clearer*, London: Home Office, p.4.

³³ See Mair G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.17. Available at www.kcl.ac.uk/ccjs.

³⁴ Home Office (2006), *Making Sentencing Clearer*, London: Home Office, p.6.

The requirements of the Community Order and Suspended Sentence Order³⁵

This section sets out the 12 requirements and their main purposes. It looks at the most recent official statistics, examining the average number of requirements used and which orders are being used most frequently. Further information about the use of each requirement is given in the relevant sections of the report.

Sentencers are encouraged to provide a 'tailor-made' sentence to suit the needs of individual offenders and the community. The new Community Order and Suspended Sentence Order enable judges and magistrates to create hybrid orders by combining several requirements, the number of which must be in proportion to the seriousness of the offence. The 12 requirements are available for sentencers constructing both the Community Order and the Suspended Sentence Order.³⁶

The 12 requirements are:

- **Unpaid work (40 to 300 hours)**

An unpaid work requirement must be completed within 12 months. It involves activities such as cleaning up graffiti, making public areas safer and conservation work. The work is intended to benefit the local community and in some probation areas residents are able to suggest projects for offenders with an unpaid work requirement to carry out.

- **Supervision (up to 36 months; 24 months maximum for Suspended Sentence Orders)**

An offender is required to attend appointments with an offender manager or probation officer. The focus of the supervision and the frequency of contact are specified in the sentence plan, which is based on the particular issues the offender needs to work on. The supervision requirement lasts for the period of time the Community Order is in force.

- **Accredited programme (length to be expressed as the number of sessions; should be combined with a supervision requirement)**

These programmes aim to change offenders' thinking and behaviour. For example, the Enhanced Thinking Skills Programme is designed to enable offenders to understand the consequences of their offence and make them less impulsive in their decision-making. This requirement is particularly intended for those convicted of violence, sex offending, drug or alcohol abuse, domestic violence and drink impaired driving

- **Drug rehabilitation (six to 36 months; 24 months maximum for Suspended Sentence Orders; offender's consent is required)**

If offenders commit a crime linked to drug abuse, they may be required to go on a Drug Rehabilitation Programme. Programmes may involve monthly reviews of an offender's progress.

- **Alcohol treatment (six to 36 months; 24 months maximum for Suspended Sentence Orders; offender's consent is required)**

This requirement is intended for offenders who are alcohol dependent and need intensive, specialist treatment.

- **Mental health treatment (up to 36 months; 24 months maximum for Suspended Sentence Orders; offender's consent is required)**

After taking professional advice, the court may decide that the offender's sentence should include mental health treatment under the direction of a doctor or psychologist.

³⁵ Unless otherwise stated, statistics in this section are taken from Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

³⁶ The requirement descriptions are drawn from: National Probation Service (2006), *The Tailored 12 Requirements Poster*, London: Home Office; and Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.9, available at www.kcl.ac.uk/ccjs

■ **Residence (up to 36 months; 24 months maximum for Suspended Sentence Orders)**

An offender may be required to live in a specified place, such as in a probation hostel or other approved accommodation.

■ **Specified activity (up to 60 days)**

Specified activity may include community drug centre attendance, education and basic skills or reparation to victims.

■ **Prohibited activity (up to 36 months; 24 months maximum for Suspended Sentence Orders)**

Offenders may be ordered not to take part in certain activities at specified times, such as attending football matches. If offenders do not comply with this requirement, they can be sent back to the courts for re-sentencing.

■ **Exclusion (up to 24 months)**

An offender may be prohibited from certain areas and will normally have to wear an electronic tag during that time.

■ **Curfew (up to six months and for between two and 12 hours in any one day; if a stand-alone Curfew Order is made, there is no probation involvement)**

An offender may be ordered to stay at a particular location for certain hours of the day or night. Offenders will normally wear an electronic tag during this part of their sentence.

■ **Attendance centre (12 to 36 hours with a maximum of three hours per attendance)**

The court can direct offenders under the age of 25 to spend between 12 and 36 hours at an attendance centre over a set period of time. The offender will be required to be present for a maximum of three hours per attendance. The attendance centre requirement is designed to offer 'a structured opportunity for offenders to address their offending behaviour in a group environment while imposing a restriction on their leisure time'.

Home Office guidance sets out the various requirements and the sentencing purposes for which they might be proposed (see Table 2). The guidance notes that 'some requirements may also have other functions or purposes'.³⁷

Table 2: Community Order requirements and main purposes

Source: Home Office (2005), *Criminal Justice Act 2003: Implementation*, Probation Circular, 25/2005, London: Home Office, p.67

Requirement	Punishment	Reparation	Rehabilitation	Protection
Unpaid work	+	+	+	
Supervision			+	
Accredited programme			+	
Drug rehabilitation			+	
Alcohol treatment			+	
Mental health			+	
Residence			+	+
Specified activity		+	+	
Prohibited activity	+			+
Exclusion	+			+
Curfew	+			+
Attendance centre	+			

³⁷ Home Office (2005), *Criminal Justice Act 2003: Implementation*, Probation Circular, 25/2005, London: Home Office, p.67.

The use of requirements with the Community Order

The average number of requirements issued for a Community Order by July 2006 was 1.7, the majority of orders imposing either one or two requirements upon an offender (84 per cent).

In July 2006, half of all Community Orders had just one requirement. Just over one-third had two requirements, 13 per cent had three and 2 per cent had four or more requirements (see Figure 6).

In July 2006 only 11 cases were recorded of Community Orders with five requirements. On this basis there is, at present, no evidence to suggest that requirement overload is occurring with the Community Order.³⁸

Community Orders with just one requirement last for an average of 12.4 months. Orders with two requirements last an average of 15.1 months. Orders with three requirements average 16.2 months and orders with four requirements average 17.6 months.³⁹

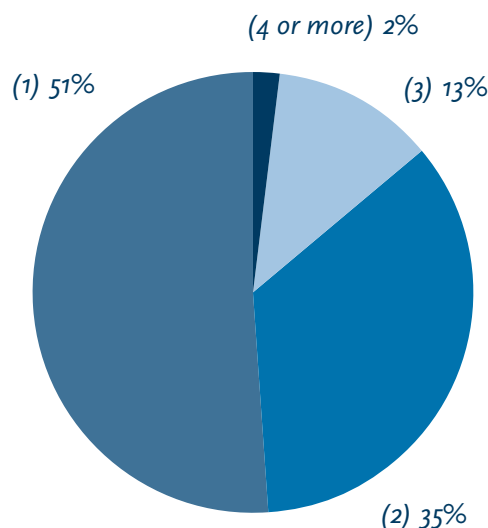
Overall, the most frequently used requirement with Community Orders is supervision (37 per cent), followed by unpaid work (30 per cent). Five of the requirements (residential, attendance centre, mental health treatment, prohibited activity, and exclusion) make up less than 1 per cent of total use of requirements, or just over 1 per cent when combined (see Figure 7).

The number of curfew requirements (see Figure 7) represents a considerable underestimate because stand-alone curfews are not supervised by the Probation Service and therefore are not included in the data-set. The Home Office estimate for stand-alone curfew requirements (covering the Community Order and the Suspended Sentence Order) is 17,600 – a substantial number. This caveat must be taken into account throughout this report.

Of those 55,020 Community Orders with only one requirement made during the 12 months between August 2005 and July 2006, two-thirds (65 per cent) involved unpaid work,

Figure 6: Commencements of Community Orders by number of requirements issued, July 2006 (percentage)

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished

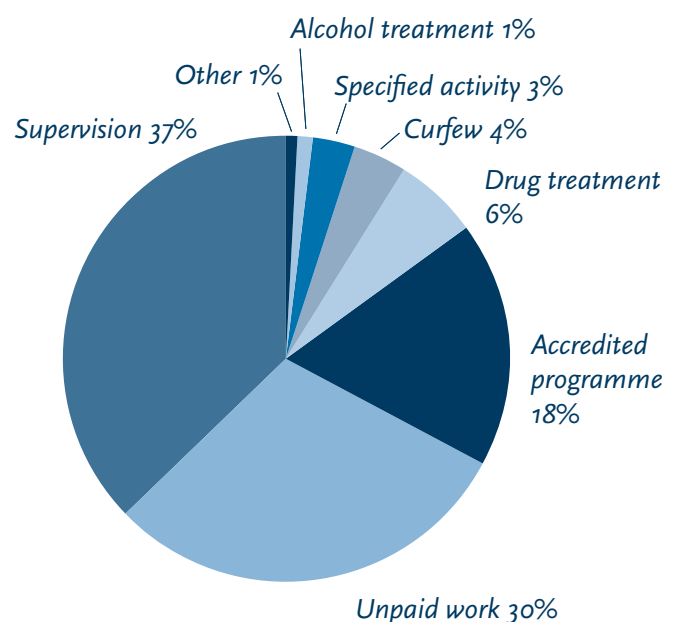


³⁸ See Mair G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.18. Available at www.kcl.ac.uk/ccjs.

³⁹ *ibid*, p.19.

Figure 7: Requirements issued with Community Orders, August 2005–July 2006 (excluding stand-alone curfews)

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished



while nearly one-third (29 per cent) involved supervision.

For Community Orders with two requirements, the most common combinations were: supervision and accredited programmes (45 per cent); supervision and unpaid work (21 per cent); and supervision and drug treatment (15 per cent).

Where three requirements were used for Community Orders, the most common combinations were: supervision, accredited programme and unpaid work (43 per cent); supervision, accredited programme and drug treatment (19 per cent); and supervision, accredited programme and curfew (7 per cent).

Between August 2005 and July 2006, six requirements were used less than 100 times to make single requirement Community Orders. Specified activity was used 75 times on its own, alcohol treatment 35 times, mental health treatment 15 times, the residential requirement 12 times, exclusion 11 times and prohibited activity five times.

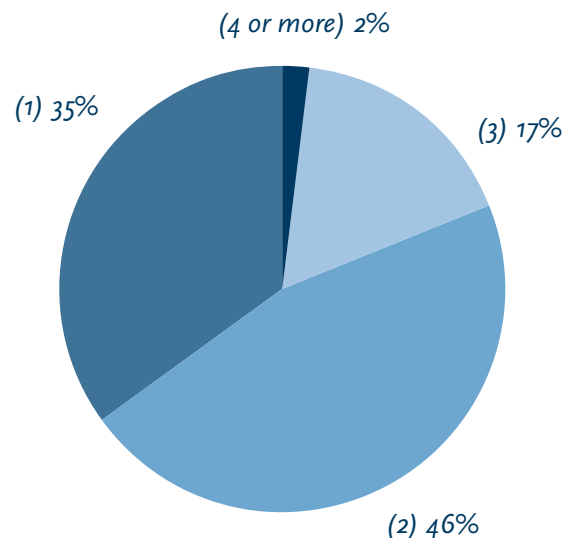
Independent research has found that, for the most part, the Community Order is simply the Community Rehabilitation Order, the Community Punishment Order or the Community Punishment and Rehabilitation Order (sometimes with an additional requirement). However, the research found that there does seem to have been a shift in the balance of unpaid work and supervision. There is very little evidence of innovation and some requirements have been used very rarely indeed – notably alcohol treatment, mental health treatment, prohibited activity, residence, exclusion and attendance centre requirements.⁴⁰

General use of the Suspended Sentence Order

The average number of requirements issued for a Suspended Sentence Order by July 2006 was 1.9. The majority (81 per cent) of these orders imposed either one or two requirements upon an offender. The average number of requirements set for Suspended Sentence Orders has been higher than predicted.

Figure 8: Commencements of Suspended Sentence Orders by number of requirements issued, July 2006 (percentage)

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished



In July 2006, just over a third of all Suspended Sentence Orders had just one requirement.

Nearly half had two requirements, 17 per cent had three, and 2 per cent had four or more requirements (see Figure 8).

Proportionately fewer Suspended Sentence Orders had just one requirement, compared to Community Orders. Between April 2005 and July 2006, only 36 per cent of Suspended Sentence Orders had a single requirement attached at sentence compared to 49 per cent of Community Orders. The courts do not appear to be following the advice set out by the Sentencing Guidelines Council when it comes to setting the number of requirements for Suspended Sentence Orders.

The average length of the Suspended Sentence Order is 16.6 months. Given that the Suspended Sentence Order has, on average, more requirements than the Community Order, one might expect that its average length would be commensurately longer. However, the supervision period for a Suspended Sentence Order (the time where requirements are in operation) is a maximum period of two years, unlike the Community Order where a

⁴⁰ There are a variety of possible reasons why these requirements have been so little used: they are not widely available (the attendance centre, alcohol treatment); they are not traditionally part of probation's culture (the exclusion requirement and prohibited activity); there is some confusion about duplication/overlap (the exclusion requirement and prohibited activity); the National Offender Management Service assessment tool, OASys, is not picking up problems such as mental health. See Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.21. Available at www.kcl.ac.uk/ccjs.

maximum of three years is possible. In theory, this limitation could drive the length of the Suspended Sentence Order down, but this has so far not been the case.

Overall, the most frequently used requirement for Suspended Sentence Orders is supervision (43 per cent), followed by accredited programme (21 per cent). Five of the requirements (residential, attendance centre, mental health treatment, prohibited activity and exclusion) make up less than 2 per cent of the orders used in total (see Figure 9).

Of the 7,816 Suspended Sentence Orders with just one requirement issued between August 2005 and July 2006, the majority involved supervision (51 per cent), while a further 41 per cent involved unpaid work. Four per cent involved a Curfew Order, 1 per cent involved drug treatment and a further 1 per cent involved an accredited programme.

For Suspended Sentence Orders with two requirements, the most common combination was supervision and accredited programmes (50 per cent). The next most common combinations were supervision and unpaid

work (22 per cent), and supervision and drug treatment (10 per cent).

For Suspended Sentence Orders with three requirements, the most common combination was supervision, accredited programme and unpaid work (41 per cent). The next most common combination was supervision, accredited programme and drug treatment (14 per cent), followed by supervision, accredited programme and curfew (11 per cent).

Regional variations

There is considerable regional variation across England and Wales' 42 probation areas in the number and different type of requirements used.

The use of single requirement Community Orders varies widely across different regions. Norfolk used stand-alone requirements in nearly two-thirds of cases (65 per cent), while North Wales did so in only a third of cases (34 per cent). Eight other areas used single requirement Community Orders less than 45 per cent of the time: Northumbria, Wiltshire and Gwent (44 per cent); Gloucestershire (42 per cent); and Northamptonshire, Staffordshire, West Midlands and Avon and Somerset (41 per cent).

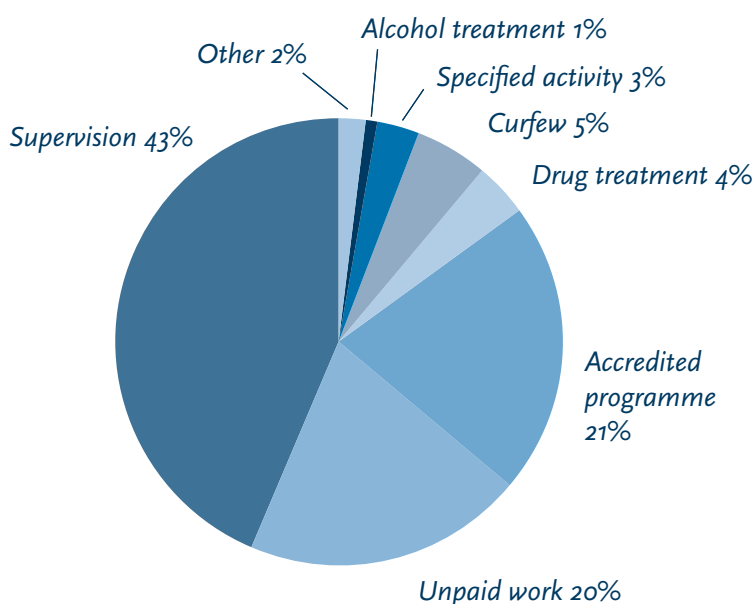
The use of three or more requirements in a Community Order also varies across different regions. For example, in North Wales, a third (32 per cent) of orders had three or more requirements, while in Norfolk the proportion was 9 per cent.

There are considerable differences between areas in the type of requirements issued with orders. For example, unpaid work made up almost half of requirements (47 per cent) in Norfolk, but only a quarter (24 per cent) in Staffordshire. Supervision comprised almost half of requirements in Teesside (47 per cent) but only 27 per cent in North Wales.

Regional variations are also found for the Suspended Sentence Order. In three areas, more than 50 per cent of Suspended Sentence Orders had only one requirement, while for six areas the figure was less than 30 per cent.

Figure 9: Requirements issued with Suspended Sentence Orders, August 2005–July 2006 (excluding stand-alone curfews)

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished



These six areas were around two to three times more likely to have orders with three or more requirements than the former.⁴¹

Seriousness and number of requirements

There should be a direct relationship between the courts' view of seriousness of the offence and the number of requirements in an order.

The most recent data suggest that this is largely the case.⁴² Three-quarters (74 per cent) of those assessed as being of low seriousness received a Community Order with only a single requirement, whereas only 37 per cent of those assessed as being of high seriousness received a single requirement Community Order.

The mean number of requirements for offences assessed being of low seriousness was 1.3; for high seriousness it was 1.9. However, while 4 per cent of low seriousness offences had three requirements attached to the Community Order, 11 per cent of those assessed at medium seriousness also had three.⁴³ At present there is no clear reason for this variation.⁴⁴

⁴¹ For a more detailed analysis, see Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.21. Mair notes: 'While variations would be acceptable if they were due to different patterns of offending or different levels of assessed need, there are problems if they are a result of unequal access to facilities. Offenders would not be dealt with fairly or consistently if they had access to more facilities in some areas than in others; and if few offenders receive a certain requirement in some areas where it is not available, then it may be assumed that the requirement is not necessary.' Available at www.kcl.ac.uk/ccjs.

⁴² *ibid*, p.25. Available at www.kcl.ac.uk/ccjs.

⁴³ *ibid*.

⁴⁴ This is an issue that the Community Sentences project intends to explore in further detail.

Unpaid work⁴⁵

⁴⁵ Unless otherwise stated, statistics in this section are taken from Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

⁴⁶ Home Office (2006), *NPS Annual Report 2005–06*, London: Home Office, p.6.

⁴⁷ National Probation Service (2005), *Unpaid Work Requirement leaflet*, London: Home Office.

⁴⁸ *ibid*.

⁴⁹ Home Office (2006), *National Probation Service Performance Report 20*, London: Home Office, p.5; personal communication with NOMS. This includes completions as part of Community Orders, Suspended Sentence Orders and the pre-Criminal Justice Act 2003 community sentences which were being gradually phased out during this period.

⁵⁰ Personal communication with NOMS.

⁵¹ Home Office (2006), *A Five-Year Strategy for Protecting the Public and Reducing Re-offending*, London: Home Office, p.21.

⁵² HM Inspectorate of Probation (2006), *An Effective Supervision Inspection Programme Thematic Report: 'Working to Make Amends'*, London: Home Office, p.5.

⁵³ National Probation Service (2005), *Unpaid Work Requirement leaflet*, London: Home Office.

⁵⁴ See Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.22. Available at www.kcl.ac.uk/ccjs.

The unpaid work requirement replaced 'Enhanced Community Punishment' and has been promoted to the public under the brand 'Community Payback'.⁴⁶

The Home Office states that the offender who receives the unpaid work requirement 'will be expected to carry out work that is demanding and that will benefit other people' and that they 'will be paying back the community for the harm or damage' caused by their offending. Unpaid work is also intended to provide the offender with an opportunity to learn new skills and 'get on better' with other people.⁴⁷

Many different types of unpaid work are available, ranging from removing graffiti to agricultural labour. If the offender has a job during the week he or she is able to complete the unpaid work at weekends.⁴⁸

In 2005–2006 there were 51,026 unpaid work completions totalling about 6.5 million hours.⁴⁹

Unpaid work has increased dramatically in recent years, with the number of hours spent by offenders on community sentences doing unpaid work rising from around 5 million in 2003–2004 to 6.5 million in 2005–2006, an increase of 30 per cent.⁵⁰

The government aims to increase the number of unpaid work hours to 'approaching 10 million in 2011'. It hopes that offenders completing unpaid work programmes will make 'an important contribution towards the work necessary to prepare for the Olympic Games' in London in 2012.⁵¹

A recent report by HM Inspectorate of Probation found that there were 'wide variations in the quality of case management' across the country in relation to the conduct of unpaid work programmes. The report, published in 2006, said that 'not all of the projects provided the positive benefit to the

offender intended ...e.g. in terms of contact with beneficiaries or skills development, but they did provide the punishment and indirect reparation that Community Service and then Community Punishment had offered'.⁵²

Unpaid work and the Community Order

An offender sentenced to a Community Order with the unpaid work requirement will have to work at least six hours a week and finish the requirement within 12 months, with a total of between 40 and 300 hours of work.⁵³

Unpaid work has been one of the most frequently used requirements since the introduction of the Community Order. Overall, out of all Community Order requirements issued in the 12 months between August 2005 and July 2006, there were 56,781 unpaid work requirements, 30 per cent of all requirements issued. Only the supervision requirement was used more often (37 per cent).

The most common use of the unpaid work requirement was in Community Orders comprising only one requirement. In the 12 months from August 2005 and July 2006, unpaid work was the requirement used in two-thirds (65 per cent) of all Community Orders issued with only one requirement (35,980 out of 55,020).⁵⁴

The stand-alone unpaid work requirement was used more often than any other combination of requirements for Community Orders. The 35,980 stand-alone unpaid work requirements issued between August 2005 and July 2006 accounted for nearly a third (32 per cent) of all Community Orders.

Proportionately more men received the unpaid work requirement as part of their Community

Order than women. Men were issued with an unpaid work requirement in 31 per cent of cases compared to only 24 per cent for women.

Unpaid work and the Suspended Sentence Order

Out of all the Suspended Sentence Orders issued by the courts in the 12 months between August 2005 and July 2006, there were 7,930 unpaid work requirements. This figure represented 20 per cent of all requirements issued with Suspended Sentence Orders during this time.

The majority were stand-alone requirements, i.e. they were not combined with another requirement. In the 12 months between August 2005 and July 2006 two-fifths (41 per cent) of all Suspended Sentences issued with one requirement had unpaid work as the requirement (3,190 out of a total of 7,816).

The 3,190 stand-alone unpaid work requirements issued during this time accounted for 15 per cent of all Suspended Sentence Orders.

Supervision⁵⁵

The Home Office states that an offender who receives a supervision requirement must meet regularly with someone from the Probation Service who will work with him or her to identify the things in their life that need to change and then help them change them. The supervision requirement can last for up to 36 months. The Home Office leaflet issued for offenders notes that the requirement 'might help you get started on a college course, or find somewhere to live, or manage your money, for example. They might also work with you to help you with any other Requirements in your Order. The aim is that you should complete your sentence and stop committing crimes'.⁵⁶

The supervision requirement has been the most frequently used requirement out of all Community Order requirements issued since implementation in April 2005. Between August 2005 and July 2006, there were 69,656 supervision requirements issued with Community Orders. This accounted for 37 per cent of all requirements issued during this time.

The most common use of the supervision requirement was when the courts issued single requirement Community Orders. During the 12 months between August 2005 and July 2006, three out of ten single requirement Community Orders were made up of a stand-alone supervision requirement (15,727 out of 55,020). These accounted for 14 per cent of all Community Orders.

Nearly half of all requirements issued with Suspended Sentence Orders were supervision requirements. Supervision was by far the most frequently used requirement. In the 12 months between August 2005 and July 2006, 16,807 supervision requirements were issued. This amounted to 43 per cent of all requirements issued with Suspended Sentence Orders during this period,

Half of all single requirement Suspended Sentence Orders comprised the supervision requirement (4,007 out of a total of 7,816). One in five Suspended Sentence Orders comprised a stand-alone supervision requirement.

⁵⁵ Unless otherwise stated, statistics in this section are taken from Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

⁵⁶ National Probation Service (2005), *Supervision Requirement leaflet*, London: Home Office.

Curfew⁵⁷

An offender who receives a curfew requirement must be at a particular place at certain times for between two and 12 hours at a time, depending on what the court has decided. The curfew is monitored by electronic equipment, which most commonly involves an offender wearing an electronic tag. Curfews are usually at an offender's home address and run from early evening to early morning. The offender must keep to the rules of the curfew for as long as the requirement lasts.

Electronic monitoring in England and Wales is delivered by private security companies under contract to the Home Office. New contracts were awarded to Group4Securicor, and Premier Monitoring Services Ltd. They became operational from 1 April 2005 and cover the whole of England and Wales in five contract areas. Contracts are for five years, with a possible extension of up to two further years. Group4Securicor manages the North East, North West, East Midlands, Yorkshire, Humberside, the South East and the South West. Premier Monitoring Services Ltd manages the West Midlands, Wales, London and the Eastern region.⁵⁸

Stand-alone curfew requirement data for Community Orders and Suspended Sentence Orders are not supplied by probation areas, but monitored by the private companies. The Home Office estimates that between August 2005 and July 2006 there were around 17,600 court orders given with stand-alone curfew requirements, covering both Community Orders and Suspended Sentence Orders'.⁵⁹

Of all Community Orders issued in the 12 months between August 2005 and July 2006, there were 7,230 curfew requirements issued in combination with other requirements. They account for 4 per cent of all requirements issued over that period.⁶⁰

Of all Suspended Sentence Orders issued in the 12 months between August 2005 and July 2006, there were 1,905 curfew requirements issued in combination with other requirements. They account for 5 per cent of all requirements issued over that period.⁶¹

Research has found that probation areas experience difficulties liaising and communicating with the companies running electronic monitoring. Probation officers say that information about breach is not always passed on and that, in general, communication can be poor.⁶²

⁵⁷ Unless otherwise stated, statistics in this section are taken from Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

⁵⁸ For further information, see <http://www.probation.homeoffice.gov.uk/output/Page137.asp>

⁵⁹ Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

⁶⁰ *ibid.*

⁶¹ *ibid.*

⁶² See: Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.20; Bottomley, A.K., Hucklesby, A. and Mair, G. (2004), 'The new uses of electronic monitoring: findings from the implementation phase in three pilot areas', in *Issues in Community and Criminal Justice*. Monograph 5, pp.13–51; Mair, G. (2005), 'Electronic monitoring in England and Wales: evidence-based or not?', *Criminal Justice* 5(3): 257–277.

Alcohol

⁶³ Private correspondence with Home Office. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

⁶⁴ NOMS (2006), *Working with Alcohol Misusing Offenders – A Strategy for Delivery*, London: Home Office, p.5. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys). Data include people serving community sentences and some who are under licence supervision post-custody in the community.

⁶⁵ NOMS (2006), *Working with Alcohol Misusing Offenders – A Strategy for Delivery*, London: Home Office, p.8.

⁶⁶ *ibid*, p.10.

⁶⁷ Home Office (2006), 'Half Full and Half Empty': *An Inspection of the National Probation Service's Substance Misuse Work with Offenders*, London: Home Office, p.6.

⁶⁸ National Probation Service (2005), *Alcohol Treatment Requirement leaflet*, London: Home Office.

⁶⁹ See http://www.cjsonline.gov.uk/offender/community_sentencing/alcohol_treatment/index.html

⁷⁰ National Probation Service (2006), *New Sentences for Offences Committed on or after 4 April 2005: Alcohol Treatment Requirement*, NPS; *Working with Alcohol Misusing Offenders – A Strategy for Delivery*, London: Home Office, p.10.

⁷¹ *ibid*.

Almost half (45 per cent) of offenders on community sentences have an alcohol problem. Home Office research looking at a sample of adult offenders in England and Wales found that the level of 'criminogenic need' with relation to alcohol misuse for those assessed in 2005–2006 on community sentences was 45 per cent.⁶³ There is limited official information and there has been very little academic research examining the nature of these problems. However, information is available on all offenders under probation supervision in the community, including those who are on licence post-custody.

Research shows that the alcohol problems of offenders under probation supervision in the community vary in their scope and nature. Home Office research looking at a sample of offenders under probation supervision in 2004–2005 found that over one-third (37 per cent) had a current problem with alcohol use and a similar proportion (37 per cent) with binge drinking. Nearly half (47 per cent) had misused alcohol in the past and just under a third (32 per cent) exhibited violent behaviour related to their alcohol use.⁶⁴

The same research found that a quarter (27 per cent) of offenders had problems with motivation to tackle their alcohol misuse.⁶⁵ The government has noted that 'social factors such as accommodation, education and employment are significantly associated with re-offending and need to be addressed in conjunction with alcohol misuse for effective outcomes'.⁶⁶

A 2006 report by HM Inspectorate of Probation looking at the National Probation Service's substance misuse work with offenders found that alcohol treatment was scarce in the seven areas inspected. It also found that no targets existed or were planned for alcohol treatment

requirements and that probation areas were therefore unlikely to prioritise their development.⁶⁷

The alcohol treatment requirement

Under the provisions of the Community Order and the Suspended Sentence Order, the offender's dependency on or misuse of alcohol does not need to have caused or contributed to the offence for the offender to be issued with an alcohol treatment requirement.⁶⁸

The court must be satisfied with several factors before issuing an alcohol treatment requirement: the offender is dependent on alcohol, and may benefit from treatment; arrangements have or can be made for the treatment to take place; the requirement is suitable for the offender; and the offender expresses willingness to comply with the requirement and work towards reducing or eliminating alcohol dependency.⁶⁹

The alcohol treatment requirement can last for between six months and three years for those sentenced to a Community Order and between six months and two years for those serving a Suspended Sentence Order. During this time, only one warning may be given in any 12-month period for an unacceptable failure to comply with the alcohol treatment requirement or any other requirements of the order before breach action must be initiated.⁷⁰

Alcohol interventions can also be provided to those who are not issued with an alcohol treatment requirement. Brief information, advice and support, generally delivered by non-specialists, is available for those offenders with less serious alcohol problems, i.e. hazardous and harmful drinkers. This is delivered through a supervision or activity requirement.⁷¹

Alcohol-related offending behaviour can also be addressed via substance misuse accredited group work programmes. These include Addressing Substance Related Offending (ASRO) and the Offender Substance Abuse Programme (OSAP), which can be used either as stand-alone programme requirements or alongside other requirements. The Drink Impaired Drivers (DID) scheme is available for drink-drivers with no other specific needs, and the Lower Intensity Alcohol Module (LIAM), aimed at those whose alcohol misuse and offending needs are not sufficient to lead to a referral to one of the existing substance misuse programmes, is currently being piloted.

The alcohol treatment requirement and the Community Order

There were 2,291 alcohol treatment requirements issued as part of a Community Order between August 2005 and July 2006. This represents only 1.2 per cent of all requirements issued during this time.⁷²

The use of the alcohol treatment requirement by the courts increased in proportion to the number of requirements set in a Community Order. Between August 2005 and July 2006, 5 per cent of Community Orders with three or more requirements contained an alcohol requirement, compared to only 3 per cent for sentences with two requirements.⁷³

Only a very small number of single requirement Community Orders used a stand-alone alcohol treatment requirement. There were only 35 stand-alone alcohol requirements issued out of a total of 55,020 single requirement orders issued between August 2005 and July 2006 (0.06 per cent of the total).⁷⁴ The alcohol requirement is nearly always used in combination with other requirements, particularly in conjunction with the supervision requirement.

There is significant regional variation in the issuing of alcohol treatment requirements with Community Orders. Most are concentrated in London, the East and the West Midlands. There is a dearth of alcohol treatment

requirements in the North of England. For example, in the North East, only 15 were issued out of a regional total of 12,381 requirements (0.12 per cent), and only 47 out of 29,631 (0.16 per cent) were issued in the North West. This compares to London with 673 out of 23,753 (2.8 per cent), the East with 297 out of 15,277 (1.9 per cent), and the West Midlands with 402 out of 23,016 (1.7 per cent).⁷⁵

The alcohol treatment requirement and the Suspended Sentence Order

A very small number of alcohol requirements have been issued with Suspended Sentence Orders. There were only 558 alcohol treatment requirements issued as part of a Suspended Sentence Order between August 2005 and July 2006, just 1.4 per cent of all the requirements issued during this time.⁷⁶

A very small number of single requirement Suspended Sentence Orders used a stand-alone alcohol treatment requirement. There were only nine stand-alone alcohol requirements issued out of a total of 7,816 single requirement orders issued between August 2005 and July 2006 (0.1 per cent of the total).⁷⁷

72 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

73 *ibid.*

74 *ibid.*

75 Four local areas (Teesside, Leicestershire, Northamptonshire and Suffolk) did not issue a single alcohol treatment requirement. See Home Office (2006).

76 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

77 *ibid.*

Drugs

The government estimates that there are between 250,000 and 280,000 problematic drug users in England and Wales, and about a third are serving a community or custodial sentence at any one time.⁷⁸

Nearly a quarter of offenders serving community sentences have a drug misuse problem. Home Office research looking at a sample of adult offenders in England and Wales found that the level of ‘criminogenic need’ with relation to drug misuse for those assessed in 2005–2006 serving community sentences was 23 per cent.⁷⁹ There is limited official information and there has been very little research examining the nature of these drug misuse problems.

A report by the Probation Inspectorate found that provision of treatment programmes for offenders with drug misuse problems was ‘generally readily available’ if the courts wished to issue them as part of community sentences.⁸⁰

There is a structure in place for the ‘aftercare’ of offenders who complete drug treatment programmes as part of their sentences.

According to the Home Office, on completion of a Community Order with a drug treatment requirement, or a DTTO, the offender manager will refer the offender to the local Criminal Justice Integrated Team (CJIT) to address any ongoing treatment and housing needs where appropriate.⁸¹ It is unclear how effective this ‘aftercare’ support is.

An increasing number and proportion of community sentences are issued to offenders convicted of drug offences. A quarter of all offenders convicted of drug offences received a community sentence in 2005, compared to 17 per cent per cent in 1995.⁸²

A larger proportion of young offenders are given a community sentence for a drug

offence. More than half of 10- to 17-year-olds convicted of drug offences in 2005 received a community sentence (52 per cent), compared to only 21 per cent of adult offenders.⁸³

Community sentences were used more often for offenders convicted of Class B drug offences than those convicted of Class A drug offences. Nearly four out of ten offenders convicted of ‘production, supply and possession with intent to supply a controlled Class B drug’ received a community sentence, compared to around 20 per cent of those convicted for the same offence but for a Class A drug.⁸⁴

The drug rehabilitation requirement

The drug rehabilitation requirement (DRR) replaced the Drug Treatment and Testing Order (DTTO) in April 2005 as part of the new Community Order implemented by the Criminal Justice Act 2003. The Community Order applies to offences committed on or after 4 April 2005, but the DTTO will continue to be available for issuing to 16- and 17-year-olds until April 2007 and in respect of offences committed before 4 April 2005. It is also available for the Suspended Sentence Order.

The drug rehabilitation requirement of the Community Order lasts between six months and three years, and has minimum contact hours depending on the seriousness of the offence.

This ranges from a minimum of one hour of contact per week, to eight hours or 15 hours per week. Breach of the requirement, or not meeting the terms set by the court, will result in the offender being returned to court. For the Suspended Sentence Order, the requirement can last for up to 24 months.

The Probation Service narrowly missed its initial target of 16,000 drug rehabilitation

78 NOMS (2005), *Strategy for the Management and Treatment of Problematic Drug Users within the Correctional Services*, London: Home Office, p.1.

79 Personal correspondence with Home Office. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

80 Home Office (2006), *‘Half Full and Half Empty’: An Inspection of the National Probation Service’s Substance Misuse Work with Offenders*, London: Home Office, p.3.

81 See Home Office *How We Manage Offenders*, <http://noms.homeoffice.gov.uk/managing-offenders/reducing-re-offending/drugs-alcohol/>

82 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.65.

83 *ibid*, p.71.

84 Home Office (2006), *Criminal Statistics England and Wales Supplementary Tables, Volume 5*, London: Home Office, Table S5.1.

requirements and DTTO commencements between April 2005 and March 2006, achieving 14,001.⁸⁵

Completion rates for the drug rehabilitation requirement have improved dramatically since the introduction of the DTTO, from 28 per cent in 2003 to 40 per cent in 2005–2006. A target of 5,000 completions was introduced for 2006–2007. In 2005–2006 the target was 4,000 completions, which was very nearly met, with a total of 3,977 between April 2005 and March 2006.⁸⁶

The total number of drug rehabilitation requirements given as part of a Community Order between August 2005 and July 2006 was 11,363 (6 per cent of all the requirements issued).⁸⁷ This represents an increase in the number of community sentence commencements involving drug treatment. Prior to April 2005, the DTTO accounted for only around 4 per cent of community sentences.⁸⁸

The drug rehabilitation requirement is most commonly used in combination with one or two additional requirements as part of a Community Order. Where it is used in combination with one other requirement it is most often used with a supervision requirement. When used in combination with two other requirements it is most often used with a supervision requirement and an accredited programme.⁸⁹

Only a small number of single requirement Community Orders comprise a drug rehabilitation requirement. Between August 2005 and July 2006, only 996 drug treatments were issued as the only requirement of a Community Order (2 per cent of all single requirement Community Orders). It is more common for drug rehabilitation requirements to be used in combination with other requirements – this was the case in 90 per cent of drug rehabilitation requirements made.⁹⁰

Unlike other requirements, there has been no significant regional variation in the use of the drug rehabilitation requirement since its introduction in April 2005. Across regions the drug rehabilitation requirement accounts for between 4 and 6 per cent of all requirements used in each area.⁹¹

Only 4 per cent of Suspended Sentence Orders included a drug rehabilitation requirement between August 2005 and July 2006.⁹²

The drug rehabilitation requirement is most commonly used in combination with one or two additional requirements as part of a Suspended Sentence Order. Where it is used in combination with one other requirement it is most often used with a supervision requirement. When used in combination with two other requirements it is most often used with a supervision requirement and an accredited programme.⁹³

A very small number of single requirement Suspended Sentence Orders use only a drug rehabilitation requirement. Only 113 drug treatments were issued with single requirement Suspended Sentence Orders between August 2005 and July 2006 (1.4 per cent of all single requirement Suspended Sentence Orders).⁹⁴

The Drug Treatment and Testing Order (DTTO)

Owing to its recent introduction, there is a relatively small amount of data available relating to the drug rehabilitation requirement on the matters of offence types, breach, completion, regional trends, re-offending rates and opiate testing. However, data drawn from the analysis of DTTOs can act as a guide to drug rehabilitation and the community sentence.

Statistics on the use of DTTOs show that burglary, theft and drug offences were the most common offences committed by those sentenced to a DTTO. Of all those given a DTTO community sentence in 2004, 20 per cent were convicted for burglary, 52 per cent for theft or handling stolen goods, and 8 per cent for drug offences. For all offenders who were given a community sentence in 2004, 4 per cent received a DTTO.⁹⁵

Research found that while serving the DTTO offenders were far less likely to be convicted of further offences. An evaluation of the three DTTO pilots found that, on average, offenders committed 75 per cent fewer offences while on

85 Personal communication with NOMS regions and performance unit.

86 National Probation Service (2006), *Annual Report 2005/06*, London: Home Office, p.11; personal communication with NOMS regions and performance unit.

87 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

88 *ibid.*

89 *ibid.*

90 *ibid.*; personal communication with Home Office.

91 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

92 *ibid.*

93 *ibid.*

94 *ibid.*

95 Home Office (2005), *Sentencing Statistics 2004*, London: Home Office, pp.52–53.

the order and reduced their spending on drugs by over 90 per cent.⁹⁶

Offenders who completed their DTTOs were less likely to be reconvicted of further offences compared to those who failed to complete. The research found that nine out of ten offenders who had their DTTO revoked re-offended within two years, compared to half of those who completed the order. In addition, offenders who completed their orders reduced their annual conviction rate to levels well below those of the previous five years.⁹⁷

Only three in ten DTTOs were completed.⁹⁸ The most common reason for non-completion of a DTTO was a failure to comply on the part of the offender. Of the 14,109 DTTOs not completed between its introduction in October 2000 and November 2004, 59 per cent (8,340) were revoked because of a failure to comply with the order, 30 per cent (4,285) were revoked because of conviction of another offence or offences, and 11 per cent (1,484) for other reasons such as offender ill health or death.⁹⁹ There was also great regional variation in DTTO completion. In 2004–2005, the worst performing regions were Staffordshire (14 per cent DTTO completion) and North Yorkshire (15 per cent). The best performing regions were South London (53 per cent) and Dorset (51 per cent).¹⁰⁰

Despite the low completion rate, Home Office research has found that 90 per cent of offenders on DTTOs were still in treatment at 12 weeks, which, according to the Home Office, ‘is the minimum treatment period as having some impact on drug use and offending’.¹⁰¹

A high proportion of offenders who completed the DTTO tested positive for drugs a year later. Twelve months after completing the order, nearly 70 per cent were testing positive for opiates.¹⁰²

96 NOMS (2005), *Strategy for the Management and Treatment of Problematic Drug Users within the Correctional Services*, London: Home Office, p.18.

97 Home Office (2003), *The Impact of Drug Treatment and Testing Orders on Offending: Two-Year Reconviction Results*, Home Office Findings 184, p.1.

98 *ibid.*

99 House of Commons Hansard, 8 Feb 2005: Column 1417W. <http://www.parliament.the-stationery-office.co.uk/pa/cm200405/cmhansrd/v0050208/text/50208w18.htm>

100 House of Commons Hansard, Written Answers, 12 Jan 2005, Column 542W. <http://www.publications.parliament.uk/pa/cm200405/cmhansrd/v0050112/text/50112w07.htm>

101 Personal communication with NOMS.

102 National Audit Office (2004), *The Drug Treatment and Testing Order: Early Lessons*, London: The Stationary Office, p.4.

Mental health

There has been extensive research looking at the mental health needs of prisoners,¹⁰³ and the government has acknowledged that ‘we continue to imprison too many people with mental health problems’.¹⁰⁴ However, there is relatively little information about the mental health needs of the tens of thousands of people on community sentences.

Nearly half of all offenders serving community sentences have mental health problems.

Home Office research looking at a sample of adult offenders in England and Wales found that the level of ‘criminogenic need’ with relation to ‘emotional wellbeing’ for those assessed in 2005–2006 serving community sentences was 43 per cent.¹⁰⁵ There is limited official information and there has been very little research examining the nature of these mental health problems. However, data are available relating to all offenders under probation supervision in the community, including those who are on licence post-custody.

A significant number of offenders under probation supervision in the community suffer from a personality disorder. Research carried out by the London probation area has found that a third experience some form of personality disorder.¹⁰⁶

Women on probation appear to have higher levels of mental health need than men. A national study in 1997 found that one in five men compared to a third of women under the supervision of the Probation Service said they had a mental disorder.¹⁰⁷ Further research is required to establish if this continues to be the case and to what degree.

Research suggests that the level of mental health need could be increasing. In 2002 a review of work in inner city London boroughs found that at least 20 to 30 per cent of

individuals in touch with the Probation Service showed evidence of a mental disorder. This compares to research conducted in 2006 which showed that 48 per cent have mental health concerns.¹⁰⁸

Research shows that many offenders under supervision in the community self-harm. A study in West Yorkshire found a very high incidence of deliberate self-harm among offenders supervised by the Probation Service. Almost one-third of the 238 people involved reported one or more incidents of self-harm, 72 per cent of which were believed to be serious attempts at suicide.¹⁰⁹

Mental health problems are often combined with multiple needs. Work carried out by the Revolving Doors Agency, which runs services for offenders with mental health problems in the community, including people under probation supervision, shows that just under half of their clients required support to address at least two significant problems, such as housing difficulties, drug issues and alcohol dependency.¹¹⁰

The experience of the Revolving Doors Agency shows that offenders on community sentences who have mental health problems have been slipping through the net of services with their needs unidentified. Research carried out by the Agency looking at their clients, many of whom had spent different periods on community sentences and also often in custody, found that a third had some unmet needs.¹¹¹

The mental health treatment requirement

The new Community Order and Suspended Sentence Order introduced in April 2005 includes a mental health treatment requirement. Home Office guidance states that

¹⁰³ The most authoritative study is Singleton et al. (1998), *Psychiatric Morbidity among Prisoners in England and Wales*, London: Office for National Statistics.

¹⁰⁴ Home Office (2006), *A Five-Year Plan for Protecting the Public and Reducing Re-offending*, London: Home Office, p.26.

¹⁰⁵ Personal correspondence with Home Office. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

¹⁰⁶ Personal communication with the London Probation Service.

¹⁰⁷ Mair, G. and May, C. (1997), *Offenders on Probation*, Home Office Research Study 167, London: Home Office.

¹⁰⁸ Home Office (2002), *The London Probation Area Strategy for Work with Mentally Disordered Offenders*, London Probation, p.1; personal communication with London Probation Service.

¹⁰⁹ Akhurst, M., Brown, I. and Wessely, S. (1994), *Dying for Help: Offenders at Risk of Suicide*, West Yorkshire Probation Service, West Yorkshire Health Authority, Association of Chief Officers of Probation 1994.

¹¹⁰ O'Shea, N. et al. (2003), *Snakes and Ladders: Findings from the Revolving Doors Agency Link Worker Scheme*.

¹¹¹ *ibid*.

‘the court must be satisfied that, on the evidence of a registered medical practitioner, the mental condition for the offender is such as requires and may be susceptible to treatment, but does not warrant the making of a Hospital or Guardianship Order; the offender is willing to comply and treatment can be arranged’.¹¹²

Since the introduction of the Community Order, very few mental health treatment requirements have been issued. Between August 2005 and July 2006 there were only 591 mental health requirements issued with Community Orders, 0.3 per cent of the total requirements issued during this period. This compares to 11,361 drug treatment requirements.¹¹³

For Suspended Sentence Orders there were also very few mental health treatment requirements issued. There were only 113 mental health requirements between August 2005 and July 2006, less than 1 per cent of all Suspended Sentence Order requirements issued.¹¹⁴

Not all offenders who have mental health problems are given a mental health treatment requirement because mental health needs are not always identified. Before imposing a mental health requirement, a psychiatric report is needed with a named consultant and the treatment needs to be available. If either of these is not in place, the mental health requirement will not be used and the offender will miss out on the treatment they need. Anecdotal evidence from probation officers suggests that this is often the case.¹¹⁵

Offenders given a community sentence may not be eligible for the mental health treatment requirement because of the nature of their mental health problems. Research looking at offenders who had been assessed by a Criminal Justice Mental Health Team found that, in practice, most of the team’s clients had had previous contact with mental health services but they had been diagnosed as having either a minor or an untreatable mental illness. Only a small proportion therefore fulfilled the criteria for eligibility for services – i.e. a diagnosis of a severe and enduring mental health problem. Their pattern of service use was sporadic or precipitated by a crisis and was dominated by non-attendance.¹¹⁶

There is a lack of mental health provision for offenders on community sentences. A report commissioned by the Home Office and the Department of Health published at the end of last year looked at community provision for offenders. It concluded: ‘...there is a particular dearth of mental health provision for offenders in the community. Whilst the Offender Mental Health Care Pathway published in January 2005 by the Department of Health provides some examples of good practice, this primarily relates to the provision of mental health services to ex-prisoners discharged into the community.’¹¹⁷

Offenders on community sentences who have both mental health and drug problems face particular difficulties accessing services and treatment. The voluntary sector service provider, Turning Point, has found that ‘support is not offered for mental health needs until after drug treatment has ended or may not be offered in cases in which mental health needs are only identified once treatment has started. Some areas don’t take people with mental illness because these clients are assessed as not being able to cope with the available treatment’.¹¹⁸

¹¹² Home Office (2005), *Criminal Justice Act 2003: Implementation on 4 April*, Probation Circular, London: Home Office, p.44.

¹¹³ Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

¹¹⁴ *ibid.*

¹¹⁵ Personal communication with probation officers.

¹¹⁶ Green, G. (2003), ‘A follow-up study of individuals assessed by a Criminal Justice Mental Health Team’, *The Research Findings Register*, Summary 1086, Retrieved, 22 March 2006, from <http://www.ReFeR.nhs.uk/ViewRecord.asp?ID=1086>

¹¹⁷ Offender Health Care Strategies (2005), *Improving Health Services for Offenders in the Community*. See http://www.ohcs.co.uk/pdf/guides/000101_hop_report.pdf

¹¹⁸ <http://www.turning-point.co.uk/NR/rdonlyres/A99F485D-EE0B-4029-AB07-39AB5D374D6F/34166/TheBigConversation.doc>

Accommodation

Nearly a third of those serving a community sentence have an ‘accommodation’ problem. Home Office research looking at a sample of adult offenders in England and Wales, found that one in three offenders (32 per cent) assessed in 2005–2006 serving community sentences had an ‘accommodation need’.¹¹⁹

A significant proportion of offenders serving community sentences are without stable accommodation. Home Office data show that around 14 per cent are either homeless or in transient accommodation.¹²⁰

According to a report carried out by HM Inspectorate of Probation in 2005, there were a number of concerns about offenders serving community sentences and accommodation issues. These included: ‘more than half of the [probation] cases did not have an adequate assessment of accommodation issue’; and ‘limited housing stock in the locality and access to move on accommodation was a concern for all areas’.

The Probation Inspectorate found that housing assessments failed to take account of race and diversity issues. The research found that ‘in 41 per cent of cases there was no evidence that a consideration of race or other diversity requirements was included in the assessment of the accommodation needs’.¹²¹

A lack of stable accommodation for offenders on probation increases the likelihood of reconviction. The Home Office has found that ‘the reconviction rates for those offenders who had an accommodation need, and had not accessed an Approved Premises place, was 36.3 per cent. The reoffending [sic.] rate of offenders not identified as having an accommodation need was 19.6 per cent’. However, it was also found that ‘for offenders in Approved Premises the figure for non-reconviction was 96.9 per cent’.¹²²

The residential requirement

Sentencers can issue a residential requirement as part of a Community Order or a Suspended Sentence Order. If issued with a residential requirement, offenders must live in a particular place for as long as the requirement lasts. It might be their home or someone else’s home, or it might be a probation hostel, for example. The offender is not allowed to live anywhere else unless the officer responsible for their sentence grants permission.

Since the Community Order was introduced, very few residential requirements have been issued. Only 572 residential requirements were issued between August 2005 and July 2006, and less than 1 per cent of all Community Order requirements (187,865 in total) were residential requirements.¹²³

The same is true for Suspended Sentence Orders. Only 167 residential requirements were issued out of a total of 39,093, less than 1 per cent of the total issued during the same period.¹²⁴

Use of the residence requirement with the Community Order has varied greatly across England and Wales. Seventeen per cent of all residence requirements were issued in Northumbria (98 in total) between August 2005 and July 2006, the highest issuing criminal justice area for this requirement. Only 20 residence requirements were issued in the whole of Wales and none at all in Suffolk.¹²⁵

119 Personal communication with the Home Office. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

120 *ibid.*

121 HM Inspectorate of Probation (2005), *An Effective Supervision Inspection Programme Thematic Report: An Inspection of National Probation Service Work on Offender Accommodation*, London: Home Office, pp.22, 32, 6 and 19 respectively.

122 *ibid.*, pp.6, 35.

123 Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

124 *ibid.*

125 *ibid.*

Education and employment

¹²⁶ Personal communication with the Home Office. These data are based on a sample of offenders using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

¹²⁷ Home Office (2004), *Reducing Re-offending National Action Plan*, London: Home Office, p.33.

¹²⁸ Home Office (2005), *The Impact of Corrections on Re-offending: A Review of 'What Works'*, Home Office Research Study 291, Third edition, London: Home Office, p.20.

¹²⁹ Home Office (2006), *Performance Report on Offender Management Targets (PROMPT)*, April 2005–March 2006, London: Home Office, p.2.

¹³⁰ *ibid*.

¹³¹ Home Office (2004), *Reducing Re-offending National Action Plan*, London: Home Office, p.33.

¹³² Home Office (1999), *Explaining Reconviction following a Community Sentence: the Role of Social Factors*, Home Office Research Study 192, London: Home Office, p.17.

¹³³ Home Office (2004), *Basic Skills Programmes in the Probation Service: An Evaluation of the Basic Skills Pathfinder*, Findings 203, London: Home Office, p.3.

¹³⁴ HM Government (2006), *Reducing Re-offending Through Skills and Employment: Next Steps*, London: The Stationary Office, p.22.

¹³⁵ Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

More than half (54 per cent) of those serving a community sentence have an 'education, training and employability' problem. Home Office research looking at a sample of adult offenders in England and Wales found that the level of 'criminogenic need' with relation to 'education, training and employability' for those assessed in 2005–2006 serving community sentences was 54 per cent.¹²⁶ There is limited official information and there has been very little research examining the nature of these problems. However, data are available relating to all offenders under probation supervision in the community, including those who are on licence post-custody.

Nearly two-thirds of offenders under probation supervision in the community have the numeracy and literacy ability below that expected of an 11-year-old (level 1). Just over one-third of offenders supervised in the community are below level 1 for speaking and listening.¹²⁷

Young adults serving community sentences are particularly in need of support to address basic skills problems. According to the Home Office, a quarter of 18- to 20-year-olds serving community sentences have 'basic skills' deficits. This is a higher prevalence rate compared with older offenders.¹²⁸

The most recent figures show that nearly 45,000 offenders serving community sentences started a basic skills programme. In 2005–2006 there were 44,972 starting these programmes, well ahead of the National Offender Management Target of 40,000.¹²⁹

Most offenders who start basic skills programmes do not complete them. Only a third of offenders who started basic skills programmes completed them. Just 14,930 were completed in 2005–2006, although this was against a target of 10,000.¹³⁰

More than half (55 per cent) of offenders serving community sentences are unemployed at the start of their sentence.¹³¹

There is a greater chance of reconviction for those who are unemployed after completing their community sentence than for those who are employed.¹³² In addition, the unemployed are much more likely to have basic skills needs, a risk of reconviction and substance abuse problems than the employed. All are factors strongly associated with offending.¹³³

The government plans to introduce a target for the Probation Service based on numbers of offenders who stay in employment for at least four weeks. The target is to come into effect from April 2007 and is part of the Home Office's initiatives for 'Reducing Re-Offending through Skills and Employment'.¹³⁴

The activity requirement

The activity requirement, available for the Community Order and the Suspended Sentence Order, is intended to help offenders find secure employment, improve their skills and engage them in learning. It can last for up to 60 days. The requirement might involve assistance to help the offender in various ways: to read and write better; to solve problems at work; to learn interview skills; to write a good job application; or to get on a suitable training course.

There have been a small number of specified activity requirements issued since the introduction of the Community Order. Between August 2005 and July 2006, 5,384 specified activity requirements were issued, amounting to 3 per cent of total requirements issued.¹³⁵ The specified activity requirement is nearly always used in combination with other requirements, in particular the supervision

requirement and the accredited programme. On only 75 occasions was the specified activity requirement issued on its own to form a Community Order.

Very few specified activity requirements have been issued with the Suspended Sentence Order. Only 1,105 were issued between August 2005 and July 2006, 3 per cent of the total requirements issued. The specified activity requirement was only used as a stand-alone requirement for a Suspended Sentence Order 26 times.¹³⁶

Deaths of people under probation supervision¹³⁷

Most studies on deaths in the criminal justice system tend to focus on prisoners. This is in large part due to concern about suicides in prison. However, some evidence suggests that offenders under community supervision may be at least as vulnerable as prisoners.

Suicide rates amongst offenders on probation are extremely high. Research has found that rates of suicide were nine times higher among male offenders supervised by the Probation Service than among men in the local population. Suicides amongst men on probation supervision were found to be higher than amongst prison populations.¹³⁸

Offenders under probation supervision in the community have twice the death rate of those serving a custodial sentence. This is four times as high as the general population. According to research, a possible explanation could be that in the community there is a greater opportunity to engage in anti-social and potentially life-threatening behaviour such as excessive drug taking, physical assaults and drink-driving-related traffic accidents.¹³⁹

A Home Office study revealed that over five times as many offenders under probation supervision in the community died compared to offenders sentenced to custody. However, as a proportion of deaths, nearly twice as many sentenced offenders died of natural causes in prison (39 per cent) compared to those serving sentences in the community (20 per cent).

Drugs and/or alcohol as a main or contributing factor accounted for a greater proportion of deaths, both self-inflicted and by natural causes, among community-supervised offenders (46 per cent) than among prisoners (3 per cent). Almost two-thirds of accidental deaths and around one-third of suicide/self-inflicted deaths among community offenders could be traced to drugs and/or alcohol.

¹³⁷ Unless otherwise stated, data are drawn from Home Office (2001), *Deaths of Offenders in Prison and under Community Supervision*, Findings 153, London: Home Office. It is important to note that the data in this section refer to offenders under probation supervision, not just those serving community sentences. When referring to 'deaths', unless otherwise specified, this includes deaths by natural causes, accidental deaths and self-inflicted deaths.

¹³⁸ Pritchard, C., Cox, M. and Dawson, A. (1997), 'Suicide and violent death in a six-year cohort of male probationers compared with patterns of mortality in the general population: evidence of a cumulative socio-psychiatric vulnerability', *Journal of the Royal Society of Health*, 117, pp.180–185. It is important to note that this data related to all offenders on probation, not just those serving community sentences.

¹³⁹ Home Office (2001), *Deaths of Offenders in Prison and under Community Supervision*, Findings 153, London: Home Office.

Termination and breach¹⁴⁰

Offenders can breach a community sentence if they do not comply with a Community Order or Suspended Sentence Order requirement or if they commit a further offence while the sentence is still in force. If they breach the sentence, they could be returned to court, where the court may decide to impose more requirements or send them to prison.

Breach of the Suspended Sentence Order does not automatically result in a custodial sentence, although ‘the court must activate the suspended sentence unless it is of the opinion it would be unjust to do so in view of all the circumstances’.¹⁴¹

A significant number of offenders are being sent to prison for breaching their Suspended Sentence Order, and the number is increasing. According to the Home Office 800 people were sent to prison for breaching their Suspended Sentence Order between January and August 2006, compared to only 132 in the whole of 2005.¹⁴²

There are growing concerns about the numbers of people on Suspended Sentence Orders who are going to prison as a result of small technical breaches. While the Suspended Sentence Order was billed as a means to keep less serious offenders out of prison, it has been acknowledged by the Home Office that ‘evidence also suggests the new Suspended Sentence Order may be being used in cases where a Community Order would be appropriate’.¹⁴³

The Home Office found that the number of terminations of Community Orders rose from 2,240 in the third quarter of 2005 to 14,750 in the second quarter of 2006. The reason for these terminations is not yet clear. The Home Office notes that orders are generally terminated for negative reasons (such as breach) rather than for positive reasons (such as successful early completion of the order).¹⁴⁴

The Home Office has noted that because the average length of a Community Order is around 14 months there is not yet sufficient data available on the reasons for termination. Therefore, for now, it is necessary to reflect on data on breach from pre-Criminal Justice Act 2003 community sentences and on more general data on terminations (which may be for negative reasons such as breach, or positive reasons such as early completion).

The number of breaches of community sentences has more than doubled in recent years. In 2004 there were 51,270 breaches of Community Punishment Orders, Community Rehabilitation Orders, Community Punishment and Rehabilitation Orders, and Drug Treatment and Testing Orders, compared to 31,151 in 1999 and 19,122 in 1994.¹⁴⁵

The breach rate has also increased and there is a wide variation between different community sentences. The highest breach rate for those serving the pre-Criminal Justice Act 2003 community sentences was for those serving the Community Punishment and Rehabilitation Order. In 2004, this sentence had a breach rate of 60 per cent, a rise from 29 per cent in 1999. The next highest breach rate in 2004 was 49 per cent for those serving the Drug Treatment and Testing Order; this was an increase of 32 per cent since its introduction in 2001. The Community Punishment Order’s breach rate increased from 24 per cent in 1994 to 37 per cent in 2004. The Community Rehabilitation Order’s breach rate increased from 10 per cent in 1994 to 31 per cent in 2004.¹⁴⁶

Offenders who breached their DTTO sentence were most likely to be sent to prison as a result of the breach. Nearly half (44 per cent) of those breaching their Drug Treatment and Testing Orders received an immediate custodial sentence in 2004. A quarter of those who

¹⁴⁰ The Home Office has noted that because the average length of a Community Order is around 14 months there is not yet sufficient data available on the reasons for termination. The same applies to the Suspended Sentence Order. Here, therefore, it is also necessary to reflect on data on breach from pre-Criminal Justice Act 2003 community sentences.

¹⁴¹ Home Office (2005), *Probation Circular 25/2005: Criminal Justice Act 2003: Implementation on 4 April*, London: Home Office, p.84.

¹⁴² See, Doward, J. (2006), ‘Strategy to empty jails backfires’, *The Observer*, 3 December 2006.

¹⁴³ Home Office (2006), *Making Sentencing Clearer*, London: Home Office, p.6.

¹⁴⁴ Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

¹⁴⁵ Home Office (2005) *Offender Management Caseload Statistics 2004*. London: Home Office, Table 5.4.

¹⁴⁶ Home Office (2005), *Sentencing Statistics 2004 England and Wales*, London: Home Office, p.90.

breached their Supervision Orders were immediately sent to prison. Nearly one in five of those breaching their Community Rehabilitation Order and 16 per cent of those breaching their Community Punishment and Rehabilitation Order received an immediate prison sentence in 2004 after breaching their sentence.¹⁴⁷

Breach data have been withdrawn from recent published official statistics providing data for 2005 owing to concerns about accuracy. The Home Office states: 'Data quality checks have shown large variations in the provision of breach data from the police forces and the courts rendering the data unsuitable for publication. Statistics on breaches will not be published until significant improvements have been made to the submissions of this data to the Home Office.'¹⁴⁸

¹⁴⁷ *ibid.*, p.92.

¹⁴⁸ *ibid.*

Women¹⁴⁹

The most recent published figures show that on 31 December 2005 there were 19,956 women serving community sentences in England and Wales, about one in seven (15 per cent) of the total number.¹⁵⁰

In terms of the numbers commencing a community sentence in a particular year, the most recently published figures show that in 2005, 20,926 women started a community sentence, about one in seven (15 per cent) of the total number.¹⁵¹

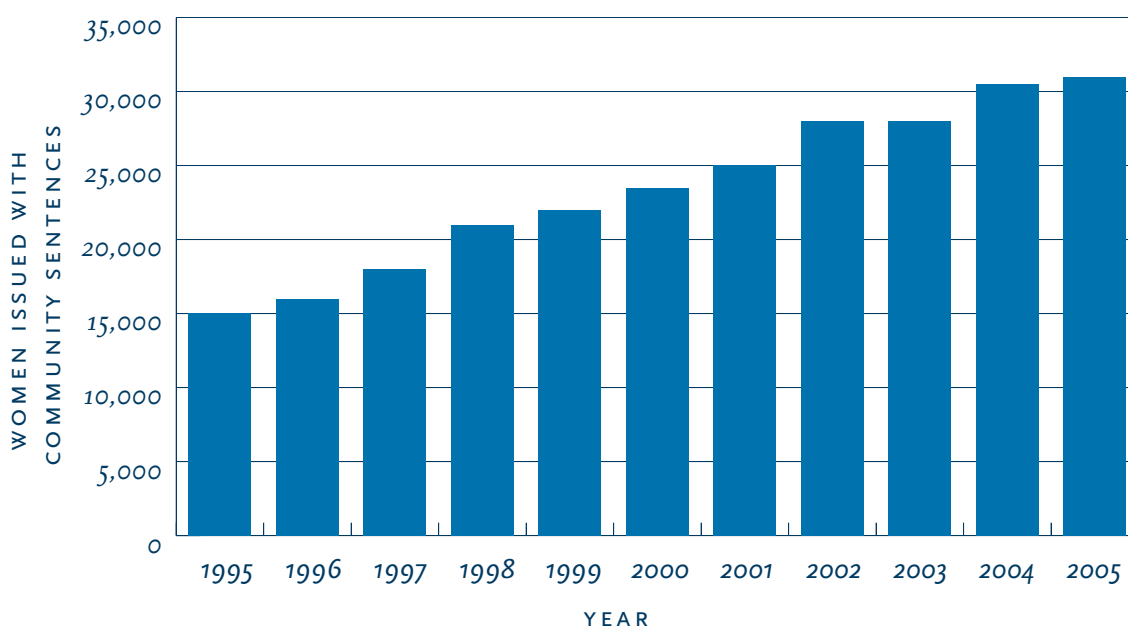
Trends in the use of community sentences for women

The total number of women starting community sentences has increased dramatically. In the decade between 1995 and 2005 the number increased from 14,619 to 20,926, a rise of 43 per cent.¹⁵²

The number of community sentences given to women at all courts has also significantly increased, more than doubling in the decade between 1995 and 2005. The number of women given community sentences by the courts increased from 15,043 in 1995 to 31,388 in 2005 (see Figure 10).¹⁵³

Figure 10: Number of women given community sentences at all courts, 1995–2005

Source: Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.64



149 Unless otherwise stated, all data in this section are derived from Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6*, unpublished.

150 Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office, p.44.

151 *ibid*, p.23.

152 *ibid*.

153 Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.70.

The proportion of women given a community sentence at all courts has also increased, rising from 7 per cent in 1995 to 11 per cent 2005.¹⁵⁴

This rise is partly due to 'uptariffing' and the decline in the use of the fine in favour of more punitive sentences.¹⁵⁵

The most common offences committed by women subsequently issued with a community sentence are 'theft and handling stolen goods' and 'summary offences'. Combined, they account for nearly 60 per cent of offences (see Table 3).

The use of the Community Order and Suspended Sentence Order

Women are more likely than men to receive just one requirement with a Community Order.

More than half (55 per cent) of all women given Community Orders are issued just one requirement (compared to only 48 per cent of men). Between August 2005 and July 2006, 34 per cent of women received two requirements,

and 10 per cent three requirements. Only 1 per cent received four or more.

Women are more likely than men to receive just one requirement with a Suspended Sentence Order. Nearly half (48 per cent) of all women given Suspended Sentence Orders are issued with just one requirement (compared to 34 per cent of men). Between August 2005 and July 2006, 40 per cent of women received two requirements, 11 per cent received three requirements, and 1 per cent received four or more.

There is some evidence that men's and women's orders are made up of different requirements. For both the Community Order and the Suspended Sentence Order, women are more likely to have a supervision requirement and less likely to be required to carry out unpaid work than men (see Table 4).¹⁵⁶

Men are rather more likely than women to be required to attend an accredited programme for both orders; and women are more likely than men to be required to undergo drug treatment. While the assessment of offenders'

¹⁵⁴ *ibid*, p.64.

¹⁵⁵ Uptariffing has been succinctly described by the former Chief Inspector of Probation, Rod Morgan: 'Sentences have become substantially more severe, community penalties displacing financial penalties (and to a lesser extent discharges) and immediate custody displacing community penalties and suspended sentences. Furthermore, the custodial sentences being imposed are longer.' See Morgan, R. (2003), 'Thinking about the demand for probation services', *Probation Journal* 50 (1): 7–19.

¹⁵⁶ This mirrors the use of the Community Rehabilitation Order (CRO) and the Community Punishment Order (CPO) for men and women (in 2004, 19 per cent of CROs commenced were made on females, while the figure for CPOs was 12 per cent).

Table 3: Number of women sentenced to community sentences, by offence type, 2005 (percentage)

Source: Home Office (2007), *Sentencing Statistics 2005*, London: Home Office, p.67

Offence type	Number (% of total)
Theft and handling stolen goods	9,199 (29)
Fraud and forgery	2,661 (8)
Violence against the person	2,539 (8)
Other (excluding motoring offences)	1,614 (5)
Drug offences	1,292 (4)
Criminal damage	706 (2)
Burglary	697 (2)
Robbery	457 (1)
Motoring offences	77 (0)
Sexual offences	24 (0)
Summary offences (excluding motoring offences)	9,127 (29)
Summary motoring offences	2,995 (10)
Total	31,388

needs may well be the explanation for these different uses of requirements, further research is needed to confirm this.¹⁵⁷

cent of women serving community sentences are reconvicted.¹⁵⁹ This figure has remained stable in recent years.

Termination and reconviction

Women are more likely than men to have their community sentence terminated early for positive reasons, such as completion or termination early because of good progress.

For example, 75 per cent of females had their Community Punishment Orders terminated for positive reasons, compared to 66 per cent of males. However, women were more likely to have their DTTO terminated for failing to comply with the order's requirements.¹⁵⁸ This reflects the high level of substance misuse amongst female offenders.

Nearly half of women serving community sentences are reconvicted for further offences.

Latest Home Office figures show that 46 per

Table 4: Distribution of requirements for males and females, Community Order and Suspended Sentence Order, August 2005–July 2006 (percentage)

Source: Home Office (2006), *Criminal Justice Act 2003: Statistical Briefing Note No. 6, unpublished*

Requirement	Community Order males	Community Order females	Suspended Sentence Order males	Suspended Sentence Order females
Supervision	36	44	42	51
Unpaid work	31	24	21	16
Accredited programme	18	14	22	15
Drug treatment	6	9	4	8
Curfew	4	3	5	3
Specified activity	3	3	3	4
Alcohol treatment	1	1	1	1
Mental health	0	0	0	0
Residential	0	0	0	0
Exclusion	0	0	1	1
Prohibited activity	0	0	0	0
Attendance centre	0	0	0	0
Total Number	162,370	25,495	34,751	4,342

¹⁵⁷ It is intended that the CCJS Community Sentences project will examine the use of orders for women later in 2007.

¹⁵⁸ Home Office (2006), *Offender Management Caseload Statistics 2005*, London: Home Office, p.59.

¹⁵⁹ Home Office (2006), *Re-offending of Adults: Results from the 2003 Cohort*, Home Office Statistical Bulletin 20/06, London: Home Office, p.19.

The Probation Service: expenditure, staffing and performance

¹⁶⁰ Home Office (2005), *National Probation Service for England and Wales Business Plan 2005/06*, London: Home Office, p.31.

¹⁶¹ House of Commons, *Hansard*, 18 April 2006, *Written Answer, Column 354W*. See also Solomon, E. et al (2007), *Ten Years of Criminal Justice under Labour: An Independent Audit*, London: Centre for Crime and Justice Studies, p.21.

¹⁶² House of Lords, *Hansard*, 21 March 2007, *Written Answer Column WA208*. The Home Office adds that, 'As 2005-2006 was a transitional year, with sentences running under both the pre-CJA 2003 regulations and the CJA 2003 regulations, this estimated cost should be treated with caution.' Furthermore it does not include 'the custodial cost arising from breach of a Suspended Sentence Order'.

¹⁶³ Home Office (2006), *NPS Human Resources Workforce Information Report Issue 11*, London: Home Office, Table 1, p.3.

¹⁶⁴ Solomon, E. et al (2007), *Ten Years of Criminal Justice under Labour: An Independent Audit*, London: Centre for Crime and Justice Studies, p.22.

¹⁶⁵ *ibid*, p.20.

¹⁶⁶ National Probation Service (2006), *Human Resources Workforce Profile Report*, Issue 3, London: Home Office, p.1.

¹⁶⁷ National Probation Service (2006), *Annual Report 2005/06*, London: Home Office, p.6.

¹⁶⁸ National Probation Service (2006), *Annual Report 2005/06*, London: Home Office, p.7.

¹⁶⁹ *ibid*, p.3.

The budget for the Probation Service for 2005–2006 was £932.7 million.¹⁶⁰

The Probation Service saw a 160 per cent increase in government funding between 1998–1999 and 2004–2005, from £0.3 billion to £0.9 billion.¹⁶¹

The Home Office estimates that in 2005–2006 the average cost of an individual Community Order or an individual Suspended Sentence Order was £2,400.¹⁶²

Over 21,000 people work for the National Probation Service (NPS) in England and Wales. The most recent figures show that 5,231 (25 per cent) were probation officers, 1,264 (6 per cent) were trainee probation officers, and 6,366 (30 per cent) were probation support officers. There were 4,721 support staff and 1,591 middle managers.¹⁶³

The workforce has increased by 50 per cent, from 14,000 in 1997. This increase has in large part been made up by an increase in the number of probation support officers rather than qualified probation officers.¹⁶⁴

At the end of the 2005/2006 financial year, there were nearly 1,000 'active vacancies' in the Probation Service, a 5.3 per cent deficit on the required workforce.¹⁶⁵

Over two-thirds of the Probation Service workforce are women (67 per cent at the end of 2005).¹⁶⁶

The proportion of staff from minority ethnic backgrounds is relatively large compared to that of the prison or police service. At the end of December 2005, 12 per cent of Probation Service staff were from minority ethnic backgrounds. This was an increase from 11 per cent in the previous year and was up from 10 per cent in 2000, against a target of 8.3 per cent for 2009. All regions exceeded their target.¹⁶⁷

The Probation Service has high sickness levels amongst its workforce. The average number of days lost to sickness per employee per year in 2005-2006 was 12.3 days. This is the same as in the previous two years, and misses the target of nine days per employee. Only five probation areas achieved or exceeded the target, with three more areas having fewer than ten days per employee.¹⁶⁸

National Standards

In 2005–2006, the Probation Service achieved or exceeded in seven of its eleven key performance targets. It was within 10 per cent of the other four (see Table 5).¹⁶⁹

Table 5: Probation Service performance targets and achievements, 2005–2006¹⁷⁰

Performance Target ¹⁷¹	Achievement ¹⁷²
‘95% of race and ethnic monitoring data on staff and offenders is returned on time and using the correct (Census 2001) classifications’	Met
‘90% of risk of harm assessments, risk management plans and OASys sentence plans on high risk offenders are completed within five working days of the commencement of the order or release into the community’	Missed 81%
‘90% of risk of harm assessments and OASys sentence plans are completed on prolific and other priority offenders within five working days of commencement of the order or release into the community’	Missed 82%
‘90% of reports (“expedited” and “adjourned”) provided within the timescale required by the court’	Met 97%
‘50,000 successful completions of ECP/unpaid work’	Met 102% (51,082)
‘8,033 basic skills awards (contributing, alongside the LSC-led partnership target of 1,967 awards, to a total of 10,000 awards for offenders in the community)’	Met 186% (14,930)
‘4,000 DTTO/DRR completions’ (38.75% completion rate)	Met 40% completion rate
‘15,000 accredited programme completions’	Met 114% (17,127)
‘Initiate breach proceedings in accordance with National Standards within ten working days in 90% of cases’	Met 91%
‘Increase to 85% the proportion of orders or licences in which the offender complies’	Missed 81%
‘90% of appointments to be arranged in accordance with National Standards’	Missed 85%
‘65% of appointments to be attended in accordance with National Standards’	Missed 64%

¹⁷⁰ See NPS (2005), *National Probation Service for England and Wales Business Plan 2005–06*, London: Home Office, pp.32–34

¹⁷¹ Taken from: NPS (2005), *National Probation Service for England and Wales Business Plan 2005–06*, London: Home Office, pp.32–34

¹⁷² Taken from: NPS (2006), *Annual Report 2005–2006 National Probation Service for England and Wales*, London: Home Office; and NPS (2006), *National Probation Service Performance Report 20 and Weighted Scorecard 2005/06*, London: Home Office, p.12.

The Community Sentences Digest is an innovative, user-friendly document that provides good quality objective information about the way community sentences are used, key facts and figures relating to trends in their use, and information about the multiple needs of adult offenders serving community sentences. It will be a vital resource for anybody interested in alternatives to custody. The report is part of the Community Sentences project of the Centre for Crime and Justice Studies which was set up to investigate and monitor the new Community Order and Suspended Sentence Order introduced in the Criminal Justice Act 2003.

The Centre for Crime and Justice Studies at King's College London is an independent charity that informs and educates about all aspects of crime and criminal justice. We provide information, produce research and carry out policy analysis to encourage and facilitate an understanding of the complex nature of issues concerning crime.

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