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# The Use of the Community Order and the Suspended Sentence Order for Women

Sunita Patel and Stephen Stanley



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# Introduction

It is three years since the new provisions in the Criminal Justice Act 2003 came into operation, reconfiguring community sentences to create a single generic Community Order alongside a new Suspended Sentence Order. The sentences are intended to give the courts greater flexibility in order to meet better the needs of different groups of offenders.<sup>1</sup> One of these groups – women – is widely recognised as having distinct needs and offending behaviour. So how are the new orders being used for women and what is the impact of the sentencing changes? This report attempts to address these key questions and initiate discussion around them. While the report focuses on women serving Community Orders and Suspended Sentence Orders, we recognise that the women given these sentences are not a homogenous group, but are differentiated by key factors such as age, ethnicity and social class. Issues relating to these aspects of diversity are not covered in the report.

The report forms part of the Community Sentences project of the Centre for Crime and Justice Studies (CCJS). The project, funded by the Esmée Fairbairn Foundation, was initially set up to investigate and monitor the new Community Order. However, as this report demonstrates, soon after the new orders were implemented, it became clear that the use of the Suspended Sentence Order was becoming an increasingly popular option in the courts, which had a direct impact on the work of the probation service. Issues such as up-tariffing<sup>2</sup> were also apparent, and so the project extended its remit to examine the Suspended Sentence Order.

The project has already published three reports. The first, *The Use and Impact of the Community Order and Suspended Sentence Order* (Mair, Cross and Taylor, 2007), provides an independent assessment of how the new sentences have been used and how they are viewed by probation staff. The second report, *The Use of the Community Order and the Suspended Sentence Order for Young Adult Offenders* (Stanley, 2007), looks at how the new sentences have been used for young adult offenders and the wider issues around this. The project also published the *Community Sentences Digest* in May 2007 (Solomon and Rutherford, 2007), which addresses the gap in factual information by providing up-to-date statistics on the use of the new sentences and the people who are subject to them.

This fourth report in the series looks specifically at the use of the new orders for women offenders. It is intended to fill a gap in research and policy analysis focusing on women and community sentences. There has been much research looking at the impact of custody on women offenders and there has been much promotion of the benefits of alternatives to custody for women offenders. However, despite the many calls for more frequent use of community sentences for women, there has been little analysis of how these sentences are currently being used.

The report begins by exploring the background to women on community sentences, trends in the use of community sentences for women and what is known about the needs of women in the criminal justice system. It then presents an analysis of the available sentencing data, including unpublished data from seven probation areas, to examine how the sentences are being used for women in the context of concerns raised prior to their introduction in April 2005. Finally, the report draws conclusions about the impact of the changes that have occurred thus far and makes some policy proposals.

1. For the purpose of this report, offenders are defined as people who have been convicted of a summary or indictable offence.

2. Uptariffing has been described by Rod Morgan as follows: ‘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’ (Morgan, 2003).

The Community Order replaces all existing community sentences for adults. It consists of one or more of 12 possible requirements and may last for just a few hours or for as long as three years. If a Community Order is breached, the court may impose additional requirements as sanctions for the breach or it can revoke the order and resentence, possibly with a custodial sentence, even where the original offence was not punishable by imprisonment.

The Suspended Sentence Order is a custodial sentence and should only be used where the court is minded to pass a custodial sentence of less than 12 months. However, it is made up of the same requirements as the Community Order, so, in the absence of breach, it is served wholly in the community. The Suspended Sentence Order consists of an 'operational period' (the time for which the custodial sentence is suspended) and a 'supervision period' (the time during which any requirements take effect). Both may be between six months and two years and the 'supervision period' cannot be longer than the 'operational period', although it may be shorter. If a Suspended Sentence Order is breached, the court can activate the custodial sentence, impose more onerous requirements or lengthen the supervision period.

# Women and the criminal justice system

Before looking in detail at the use of community sentences for women, in order to provide the necessary context, this chapter reviews the position of women offenders in the criminal justice system. The main issues of concern are sentencing, in particular, the use of imprisonment, the range of factors associated with women's offending, the question of whether women need different provision and interventions from those applied to men, and what sorts of interventions these should be. During the last year the debate has been sharpened with the publication of *The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System* (Corston, 2007). The government's response to this report, discussed in this chapter, broadly accepts many of the points made in the review.

## Women, offending and imprisonment – a brief overview

A consistent finding in criminological research has been that women commit less crime than men (Gelsthorpe, 2004). There are also long-standing differences between women and men in terms of the type of offence for which they are convicted. Women are more likely to be convicted for offences involving theft and handling of stolen goods, drug offences, fraud and forgery (Burman, 2004). Women are also likely to have shorter criminal careers (ibid).

Despite the evidence, the public's perception has been of increased offending among women, and the rising number of women sentenced to custody has contributed to this view (Gelsthorpe, 2004). Between 1996 and 2006, the number of adult women (aged 18 or over) sentenced to immediate custody increased by 77 per cent (from 4,179 in 1996 to 7,391 in 2006) (Ministry of Justice, 2007a). However, it should be noted that this increase began before 1996 and coincided with amendments to the 1991 Criminal Justice Act which were made in 1993. Although the intention of the Act was to reserve custody for the most serious offences, its amendment and subsequent application saw a significant increase in the use of custody (for both men and women).

A significant element of the rise in the use of custody for women was the growth in the use of immediate custody for the less serious category of summary offences. These doubled from around 500 sentences in 1996 to around 1,000 in 2006 (Ministry of Justice, 2007a, b).

Gelsthorpe, Sharpe and Roberts (2007) observe that this increase has taken place despite little change in the pattern of women's offending. Women predominantly commit crimes against property (usually theft or fraud) rather than violent offences or burglaries. While there has been an increase in drug-related offending by women, this merely parallels the increase among men.

Gelsthorpe, Sharpe and Roberts therefore argue that what has changed is not the nature of women's offending but how it is perceived by the courts. In this context, as already noted, it is significant that the rise in women's imprisonment came after the introduction of a model of sentencing based on the seriousness of the offence (the so-called 'just

deserts' model) set out in the 1991 Criminal Justice Act and it followed a long period when the use of custody for women had been relatively low. It appears that, after the 1991 Act, sentencers tended to view offences by women more seriously than they had previously.

However, the fact that most women sentenced to custody receive relatively short sentences suggests that their offences are either on the cusp or just over the 'custodial threshold'. Of 6,535 women sentenced to immediate imprisonment in 2006, three-quarters received a sentence of less than 12 months. It is therefore possible to hypothesise that the rise in imprisonment may have been due partly to a perception on the part of sentencers of a lack of appropriate community sentences.

Trends in the use of community sentences and research looking at sentencers' views are examined in the next chapter.

### The social needs of women in the criminal justice system

Convicted women in the criminal justice system are generally recognised to have a range of social problems. It is well documented that women in custody have multiple problems that are not exactly the same as men's (Prison Reform Trust, 2007). Women offenders supervised by the Probation Service also have a range of social needs that differ in their make-up and severity from those of men. According to data from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys), women are particularly likely to be assessed as having problems related to accommodation and emotional well-being, and high levels of drug abuse are also significant (Gelsthorpe, Sharpe and Roberts, 2007). Gelsthorpe, Sharpe and Roberts (2007, p.17) cite OASys data which show that:

- A third had accommodation needs
- Nearly a third (32 per cent) had misused drugs
- Nearly a quarter (24 per cent) had misused alcohol
- Less than a third (29 per cent) had education and training needs
- Less than a third (28 per cent) had needs in relation to finance
- More than a third (39 per cent) had been victims of domestic violence.

Research evidence cited by Hedderman (2004) identifies previous offending, drug misuse and, to a lesser extent, financial problems as the main factors predicting the reconviction of women. A range of other factors appears to be associated with offending and its onset as well as with custodial sentencing, but these factors do not appear to have great predictive power. They include experience of physical and sexual abuse in childhood and as an adult and reported mental disorder after sentence.

Emotional well-being and mental health needs have been found to be more prevalent among women than men in the criminal justice system. For example, 30 per cent of women in prison have had a previous psychiatric admission compared to 10 per cent of men (Prison Reform Trust, 2007). Many women can also find themselves in custody on remand awaiting a psychiatric assessment, which can have a dramatic effect on their lives in terms of housing and employment, mental health and, for mothers, childcare commitments. It is not clear to what extent the high levels of mental disorder identified in women offenders are a general difference between men and women related to offending behaviour or are a reaction by women to their conviction and sentence and, in particular, to incarceration (Hedderman, 2004).

Overall, there is a lack of research and official published data on the specific needs of women serving community sentences. Previously unpublished OASys data presented

in CCJS' *Community Sentences Digest* (Solomon and Rutherford, 2007) show that of all those serving community sentences nearly half (43 per cent) say they have a mental health problem, 45 per cent say they have an alcohol problem and nearly a quarter (23 per cent) say they have a drug misuse problem. It is fair to assume that women given these sentences will present with a similar range of needs as women who are in custody. In future there needs to be more detailed analysis of the social predicament of women who are given Community Orders and Suspended Sentence Orders, including research based on their accounts of their needs.

## What works for women offenders

Responsive supervision and support of women offenders will have to target both the criminogenic factors leading to reconviction and the factors and circumstances that form the background to women's offending which keep them trapped in a cycle of crime and punishment.

Gelsthorpe, Sharpe and Roberts (2007) argue that the provision of interventions for women, especially unpaid work placements and accredited programmes, is often inappropriate. They argue that most interventions have been developed to address men's offending, the evidence base is dominated by studies of men and the OASys assessment tool was developed using data from a predominantly male sample. This in turn means that the distinctive features of women's offending, and particularly its association with long-term victimisation (see Worrall, 2007), are not fully addressed by the interventions available.

Reviews by Clarke (2004) in her Griffins Society research fellowship paper and by Gelsthorpe, Sharpe and Roberts (2007) for the Fawcett Society have identified common themes for effective and appropriate provision for women. These include:

- Supportive 'women only' provision that accepts offenders and non-offenders
- A holistic approach to deal with factors associated with women's offending, both practical and cognitive
- Provision that facilitates links with other agencies
- Practical help with issues such as accommodation, childcare and transport
- A service user perspective.

Not all of these are evident in the design of mainstream interventions and programmes in the community or indeed in custody.

A key theme in both the Griffins Society and the Fawcett Society reviews is that the way the intervention is structured and delivered is at least as important as what it is. For example, an appropriate unpaid work placement would be more appropriate than an inappropriate offending behaviour programme.

## The government's approach and *The Corston Report*

Following the 2004 Spending Review, which pledged to establish 'radical new approaches to meet the specific needs of women offenders, including one-stop centres... to tackle the causes of crime and re-offending among this group and reduce the need for custody', the Treasury provided £9.15 million to fund demonstration projects in two regions for women offenders and those at risk of offending (HM Treasury, 2004). The Home Office subsequently set up the Together Women Programme, proposing a combination of one-stop shop type provision with linked women's offending action teams. The action teams would provide a floating service from point of arrest to release from prison, helping to locate resources in the community that would support diversion from the criminal justice

process or from custody or support resettlement. The one-stop shop would provide a focal point for the delivery of services to women offenders and those at risk of offending. The Together Women Programme is now operating demonstration projects in the North West and in the Yorkshire and Humberside regions and is due to run until 2009.

As well as initiating the Together Women Programme, in 2005, following concerns arising from the deaths of six women at HMP Styal over a 13-month period, the Home Office set up the Corston review to examine the work being done with 'vulnerable' women offenders. The original terms of reference were to review vulnerable women in contact with the criminal justice system and to identify gaps in provision. But Baroness Corston (2007) successfully argued that it was inappropriate to stigmatise some women as vulnerable, so the review extended its remit to cover the treatment of all women by the criminal justice system.

Generally, the review argued for a national approach to address the needs of women caught up in the criminal justice system. Specifically in relation to the use of community sentences, it proposed that: the use of custody should be restricted to the most serious and violent offenders; the problems that lead women into offending are better addressed through 'casework, support and treatment' (p.8); community sentences could be used more widely and effectively through creative use of the requirements available to the courts; and there should be more flexibility in enforcement to distinguish between 'serious breach... and poor timekeeping' (p.9)

The review recommended that work with women offenders should be based around community centres offering a holistic woman-centred approach. Specifically, it recommended the extension of the Together Women Programme demonstration projects. These projects are based on many of the principles commended by the review: that women are disadvantaged in a criminal justice system targeted at men; that women have specific and particular needs in relation to their offending; and that these needs are best met by a holistic woman-centred approach that reduces the need for custody and helps the support and rehabilitation of women offenders.

The government published its response to the Corston review in December 2007 (Ministry of Justice, 2007c). In relation to the recommendations on the use of community sentences, the government accepted most of the review's recommendations, at least in principle. The government's proposals include:

- Action and information to help courts maximise the use of the Community Order for women
- Dissemination of good practice lessons from the Together Women Programme
- Development of a NOMS *National Service Framework for Women*
- Revision of the National Probation Service *Good Practice Guide on Delivering Effective Services for Women Offenders in the Community*
- General improvement in the provision of women's centres.

As the Together Women Programme is funded until 2009 and is subject to an evaluation, there are obvious difficulties in expanding it before this is completed. However, the government did commit itself to disseminating learning points and best practice from the programme and other exemplars.

It is important to note that the government did not accept Corston's proposal for greater flexibility in dealing with breach and enforcement, asserting that the 2003 Criminal Justice Act gives courts the flexibility required. Courts must take action when any breach is proved, but the aim should be to improve compliance with the sentence not to imprison the offender (Ministry of Justice, 2007c, p.23).

# Trends in the use of community sentences for women

In order to examine trends in the use of community sentences for women it is necessary to look at the numbers serving sentences at any one time, the so-called 'stock' of women on community sentences, and the number starting sentences in the course of a year, the so-called 'flow' of women serving community sentences.

The most recent official figures show that, on 31 December 2006, the Probation Service was recorded as supervising 17,732 women on a community sentence. Of these, the majority, 13,243 women, were on a Community Order. The remainder were serving the old community sentences that at the time were still being phased out. In addition, there were 3,666 women on a Suspended Sentence Order (Ministry of Justice, 2007d). Overall, 14 per cent of all Community Orders and 13 per cent of all Suspended Sentence Orders were on women.

Ministry of Justice statistics provide data on the number of women on orders served in the community (which include all community sentences, suspended sentences and deferred sentences) between 2002 and 2006. The statistics show that the number of women on community sentences has actually declined from 19,075 in 2002 to 17,732 in 2006. This is due to the introduction of the Suspended Sentence Order. Whereas in 2002 all women on court orders in the community were on one of the various old forms of community sentences – Community Rehabilitation Orders (CROs), Community Punishment Orders (CPOs), Community Punishment and Rehabilitation Orders (CPROs) and Drug Treatment and Testing Orders (DTTOs) – in 2006 the new Suspended Sentence Order accounted for 17 per cent of all women serving court orders in the community.

Looking at the flow of women serving community sentences during the course of a year, in 2006, 19,741 women started community sentences. Of these, the majority, 16,641, started a Community Order, with the remainder starting the old community sentences that were being phased out. A further 4,281 women started Suspended Sentence Orders.

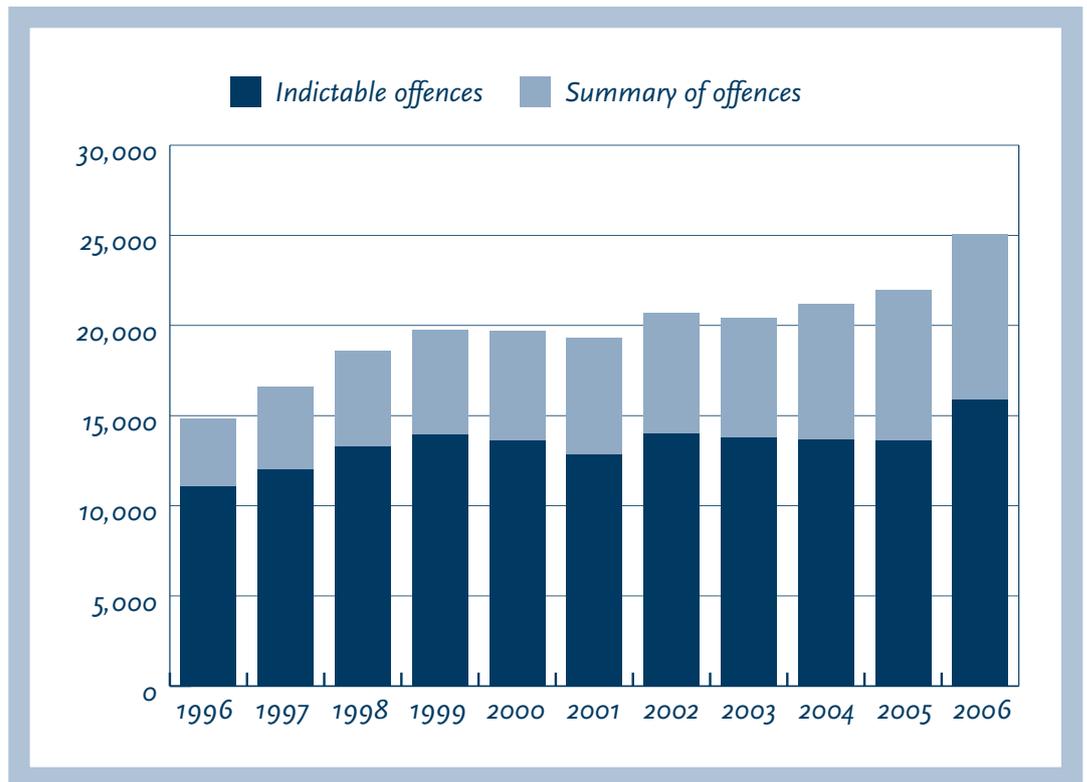
In the decade since 1996, the number of women starting community sentences has risen by 22 per cent, from 16,136 in 1996 to 19,741 in 2006. However, most recently, between 2005 and 2006, there was a 6 per cent decline in the number of women starting community sentences. This is due to the introduction of the Suspended Sentence Order.

Overall, looking at all court orders (both community sentences and suspended sentences) started by women in the community, there was a 44 per cent rise between 1996 and 2006, from 16,136 to 23,251. And in terms of all court orders for both men and women, the proportion started by women has grown from 14 per cent to 18 per cent.

In order to explain the overall increase in the number of women starting community sentences and suspended sentences, it is necessary to look at the breakdown between the more serious indictable offences and the less serious summary offences.

As Figure 1 illustrates, a significant factor in the growth in the use of community sentences and the more recent Suspended Sentence Order is their increasing use for less serious summary offences. The number of orders on women made for summary offences more than doubled between 1996 and 2006, from 3,755 to 9,180. By 2006, summary offences accounted for more than a third (37 per cent) of all court orders for women compared with just a quarter in 1996 (Ministry of Justice, 2007d).

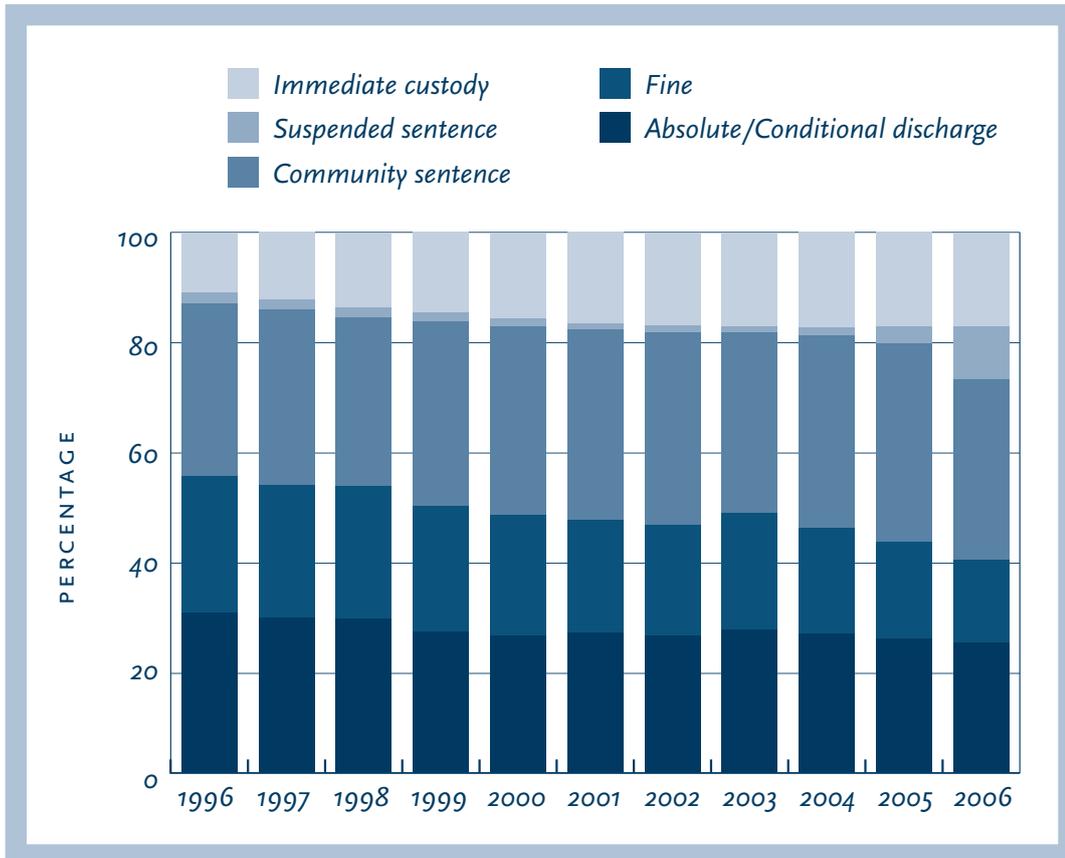
**Figure 1:** Commencements of main court orders, 1996–2006, by indictable or summary offences<sup>3</sup> Source: Ministry of Justice, 2007d, Table 3.3



Looking at the more serious indictable offences (Figure 2), we see a similar pattern, with a decline in the numbers of women given a fine between 1996 and 2006 (from 8,100 (25 per cent of sentences) to 5,400 (15 per cent)) and absolute or conditional discharge (from 9,500 (29 per cent of sentences) to 8,400 (23 per cent)), and a rise in the numbers given a community sentence and Suspended Sentence Order. In the decade to 2006 the number of women given a community sentence for indictable offences increased from 10,300 (31 per cent of sentences) to 11,700 (32 per cent), and for suspended sentences (including the new Suspended Sentence Order) it increased from 600 (2 per cent) to 3,400 (9 per cent) (Ministry of Justice, 2007a). There was also a rise in the use of custody, from 3,700 cases (12 per cent of sentences) in 1996 to 6,300 (17 per cent of sentences) in 2006.

3. This figure is based on summing data for the main individual order types. Offenders sentenced to more than one type of order during a year will be counted more than once, so the total will be different from statistics that count each individual once only each year.

**Figure 2:** Sentencing of women, 1996–2006, for indictable offences *Source: Ministry of Justice, 2007a, Tables 1.6 & 1.7*



The picture that emerges is of a greater use of community sentences for all offences for women and a significant decline in the fine. Across the board there appears to have been an upturning through courts' greater readiness to impose community sentences. Hedderman and Gelsthorpe (1997) argue that for particular offences such as property crimes the courts have been reluctant to impose fines in order not to penalise offenders' children. In order to give some context to trends in the use of community sentences it is instructive to look at what is known from research into the views and experiences of sentencers.

### The views of magistrates and judges

There has been limited research asking magistrates and judges about their views on the use of community sentences for women.

Home Office research (Hedderman and Gelsthorpe, 1997) found that sentencers had difficulty comparing the ways that they would sentence men and women because they dealt with women offenders less frequently. Sentencers traditionally placed women in the 'troubled' offenders rather than 'troublesome' offenders category, and this was likely to impact on their judgment of the severity of the offending and thus of the sentence. This may perhaps explain why women offenders were given sentences with more of a treatment element as opposed to punishment. It may also have led to a shared view that fines for women offenders with childcare responsibilities were unsuitable.



This reluctance to use fines for women offenders, according to the Home Office research, could lead to women receiving community sentences that were more punitive than fines and which also might potentially have a more severe impact in terms of possible future convictions for breach.

The new Community Order presents magistrates with a menu of different requirements to choose from, and there has been widespread concern among academics in the field that sentencers' desire to help women offenders lead law-abiding lives could lead to a greater use of community sentences, with a more complex set of different requirements added in a bid to meet each woman's individual needs (Gelsthorpe, 2006). This would lead to a more severe sentence for the women concerned and, as discussed in the next chapter, has been one of the main concerns about the new order and the way it would be used for this offender group.

CCJS' most recent research (Mair, 2008, forthcoming), based on interviews with magistrates and judges about their use of the new orders, suggests that sentencers are reluctant to impose custodial sentences on women, being aware of the damage that this can do. Nevertheless, the research shows that sentencers are likely to sentence women primarily according to the seriousness of their offence. Mitigating factors and social circumstances, such as employment, are more important than gender in determining sentence, but factors such as childcare responsibilities (primarily but not exclusively affecting women) are cited as making sentencers more likely to use a Community Order or Suspended Sentence Order for women.

Sentencers also feel that the flexibility offered by the Community Order is appropriate for women, perhaps more than for men. It is not clear how far sentencers are aware of or can take account of the interaction between gender, social circumstances, personal experience and offending.

# Trends in the use of the new orders

This chapter looks at aspects of the use of Community Orders and Suspended Sentence Orders for women: the number of requirements ordered, the types of requirements ordered and the types of sentences (defined as combinations of requirements) used. Where appropriate, comparisons are made with the sentencing of men. The data presented are based on statistics available for the use of the orders in 2006. The main sources used are the Offender Management Statistics 2006 (Ministry of Justice, 2007d) and data provided by seven probation areas. These latter data are used to illustrate the regional variations that exist in the use of the orders for women. The data are also used to provide an indication of how the requirements are being combined to make up Community Orders and Suspended Sentence Orders. The findings should not be taken as representative of the national probation caseload but are presented to illustrate the range of patterns and options currently used across the country in sentencing women. Further details about the data and how it was collected are set out in Appendix 1.

The chapter begins by setting out some of the concerns and issues that were raised prior to the introduction of the new sentences before considering whether or not they have become a reality.

## Potential issues and problems

When the new orders came into effect, there was a concern that the reformed sentencing structure would encourage sentencers to impose more and more complex requirements on women offenders via different sentencing options in order to meet their needs (Gelsthorpe, 2006). Imposing complex sentences with multiple requirements could set women up to fail, leading to an increased likelihood of breach incidents and ultimately to more custodial sentences. Arguably, the risk of this is heightened, as The Corston Report notes, by the inflexibility of standards on breach, which make little distinction between what Corston describes as ‘poor timekeeping’ and serious breaches of requirements (Corston, 2007, p.9).

Similar concerns apply to the Suspended Sentence Order. The impact of the order on the sentencing of women depends on whether the courts use the order as a real alternative to custody or as a displacement of non-custodial sentences (in other words, using it as a Community Order with the added threat of custody should the woman breach the terms of the order). If the courts are using the new order as a direct alternative to custody for women, we would expect to see a reduction in short custodial sentences for women; otherwise we could, in the long run, see more women imprisoned for breach of the order rather than for the original offence (Player, 2005).

Another argument in recent literature has been that women offenders are ‘shoe-horned’ into a system designed for male offenders (Gelsthorpe, Sharpe and Roberts, 2007). The Together Women Programme was set up to address this issue, and the Corston recommendations on the potential for using community sentences stress the need for creative and appropriate use of requirements in orders.

The current emphasis on risk-driven practice has also led to concerns that women, because they are often assessed to present a lower risk than male offenders, will not receive adequate and appropriate attention and support from the Probation Service. A potential consequence is a lack of women-specific community provision and unpaid work placement opportunities, which can in turn add pressure on women offenders as they sometimes have to travel long distances to complete their requirements (Gelsthorpe, 2006).

### Number of orders

The National Probation Service recorded 111,752 offenders starting Community Orders in 2006, of whom 16,641 (15 per cent) were women. Of the 32,727 offenders starting Suspended Sentence Orders, 4,281 (13 per cent) were women (see Table 1).

**Table 1:** The use of Community Orders and Suspended Sentence Orders, by gender, 2006  
*Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*

Number of commencements	All	Females	Males	Per cent female
Community Orders 2006	111,752	16,641	95,111	15%
Suspended Sentence Orders 2006	32,727	4,281	28,446	13%

### Offence types

As Table 2 shows, the most common type of indictable offence committed by women on Community Orders was theft and dishonest handling (30 per cent of orders made in 2006). Summary motoring offences accounted for 16 per cent of new orders and other summary offences for a quarter. Nine per cent of new orders were made for violent offences.

The picture for Suspended Sentence Orders is similar in that the most frequent indictable offence type was theft and dishonest handling (28 per cent). Violence against the person offences (14 per cent) were slightly more common than for Community Orders as were 'other indictable offences' (14 per cent), while summary motoring offences (10 per cent) and other summary offences (19 per cent) were less common. The prevalence of theft offences in orders on women arguably reflects what is known about patterns of women's offending.

**Table 2:** Offence types in orders made on women and men, 2006 *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*

	Community Order				Suspended Sentence Order			
	Men		Women		Men		Women	
	Number	%	Number	%	Number	%	Number	%
Violence against the person	9,683	10	1,467	9	4,740	17	594	14
Sexual offences	611	1	14	0	215	1	11	0
Robbery	303	0	52	0	209	1	25	1
Burglary	4,387	5	295	2	1,674	6	116	3
Theft and handling	15,552	16	4,942	30	3,893	14	1,211	28
Fraud and forgery	2,304	2	1,334	8	714	3	384	9
Criminal damage	3,342	4	293	2	568	2	51	1
Indictable motoring offences	1,013	1	56	0	628	2	30	1
Other indictable offences	9,444	10	1,415	9	3,413	12	618	14
Summary motoring offences	21,822	23	2,604	16	6,461	23	443	10
Other summary offences	26,650	28	4,169	25	5,931	21	798	19
Total	95,111	100	16,641	100	28,446	100	4,281	100

The main differences in the use of orders for women and men were as follows:

- Women offenders were more likely than men to have received a Community Order or Suspended Sentence Order for offences of theft and dishonest handling and for fraud and forgery.
- Men were more likely to receive a Community Order or Suspended Sentence Order for summary offences, particularly summary motoring offences.
- A marginally larger proportion of men received a Community Order or a Suspended Sentence Order for burglary.

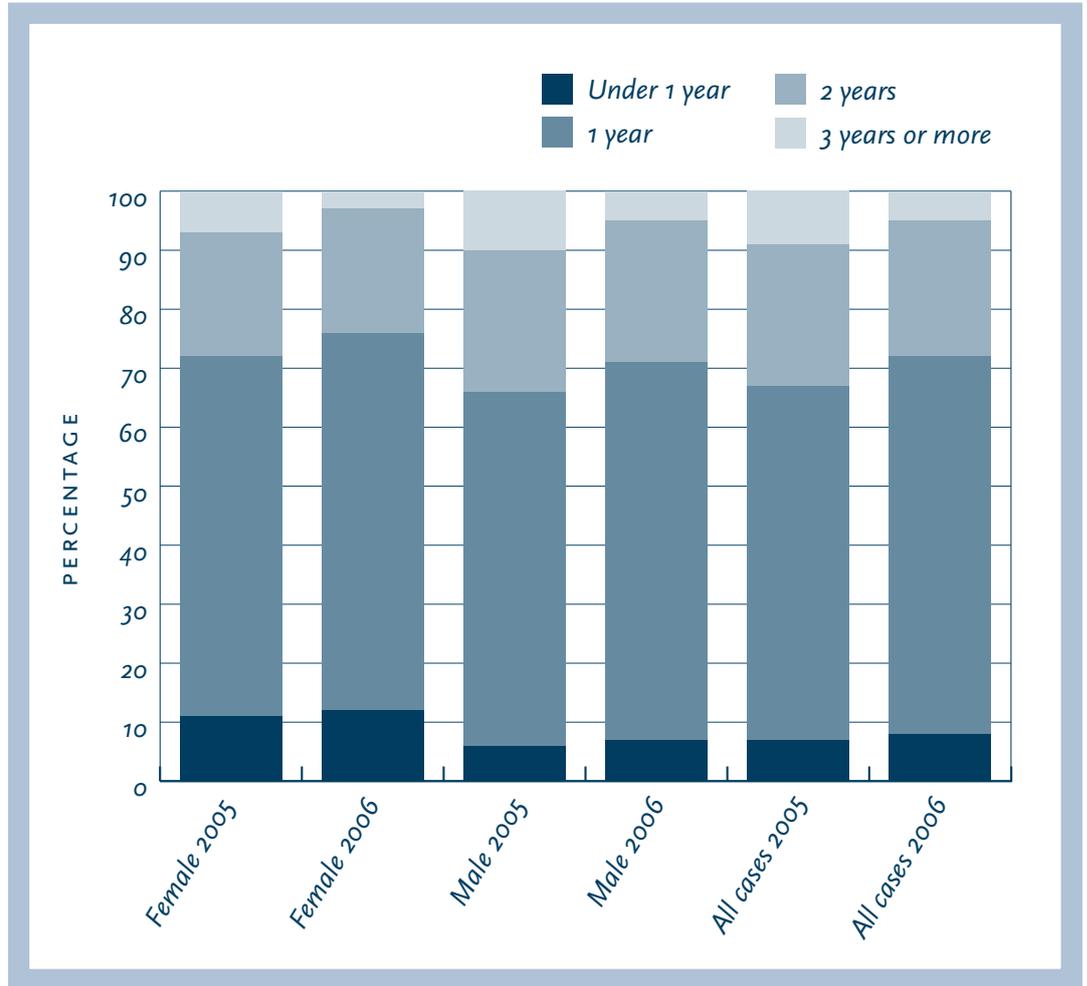
Although they reflect different patterns of offending, these figures suggest that the new orders are not being used more for less serious offences for women than for men. The trend, already noted, of the orders and community sentences generally being used increasingly for summary offences appears to apply both to women and to men.

### Length of orders

The average length of a Community Order for women was 17.1 months in 2006. This is lower than the average for 2005 of 19.6 months. The shortening length of Community Orders for women is mainly accounted for by sentencers using three-year or longer orders proportionately less often. Over three-quarters (76 per cent) of Community Orders for women in 2006 were for 12 months or less.

By contrast, the average length of an order on men was 19.4 months in 2006 but 23.7 months in 2005; 71 per cent of orders for men were for 12 months or less. See Figure 3.

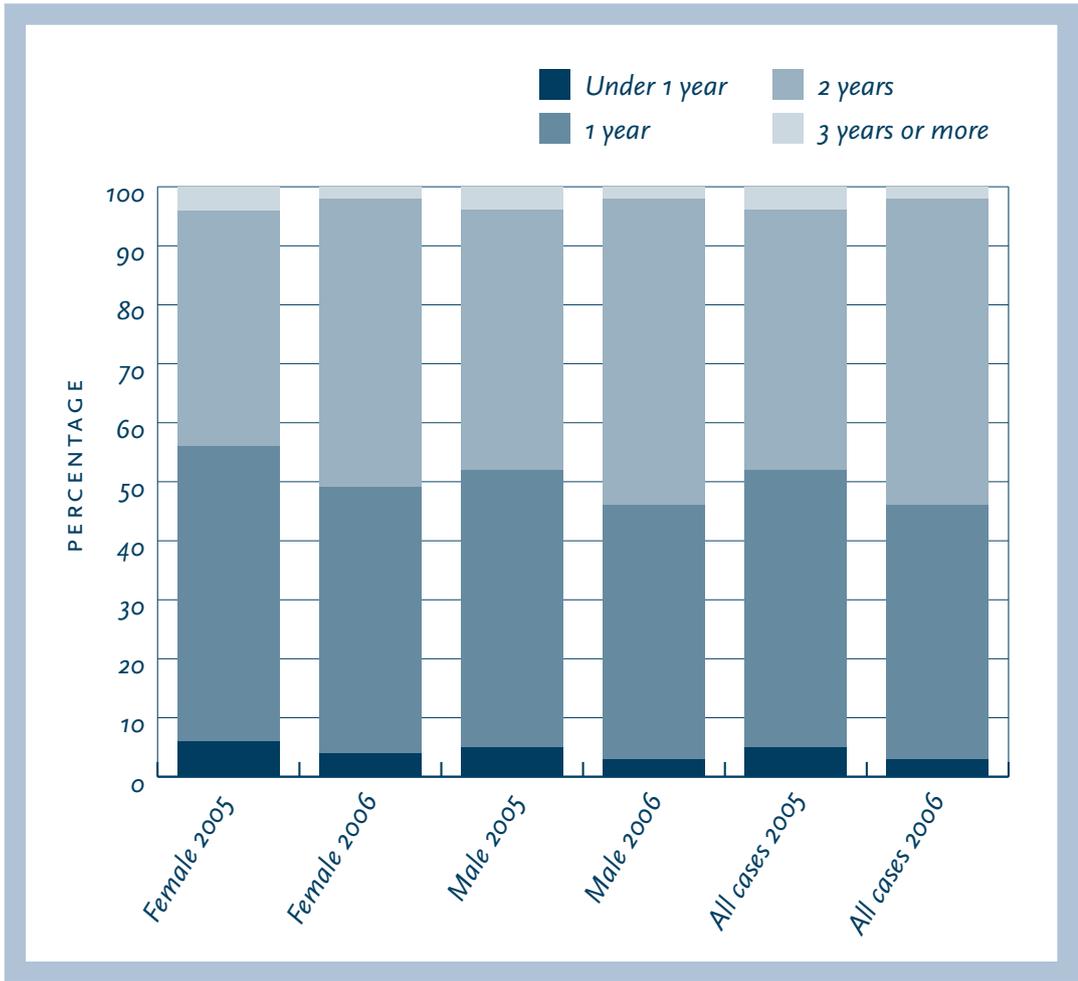
**Figure 3:** Lengths of Community Orders, 2005 and 2006, by gender *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*



The average length of a Suspended Sentence Order on women was 17.5 months in 2006. This is slightly higher than the average for 2005 of 16.9 months. Just under half the Suspended Sentence Orders made for women in 2006 were for one year or less (49 per cent).

By contrast, the average length of an order on men was 17.8 months in 2006 but 18.3 months in 2005. Orders for women are shorter but the gap is narrowing. Nearly half (46 per cent) of orders for men were for one year or less. See Figure 4.

**Figure 4:** Lengths of Suspended Sentence Orders, 2006, by gender *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*



**Number of requirements**

For Community Orders made in 2006, just over half (56 per cent) of women were given a single requirement, a third (33 per cent) received two requirements and one in ten (10 per cent) received Community Orders with three requirements. Only 1 per cent received orders with four requirements and an insignificant number (eight cases) were given with five or more requirements.

Women were slightly more likely than men to have an Community Order with a single requirement (56 per cent of women, 50 per cent of men) and slightly less likely to have an order with three or more requirements (11 per cent of women, 15 per cent of men).

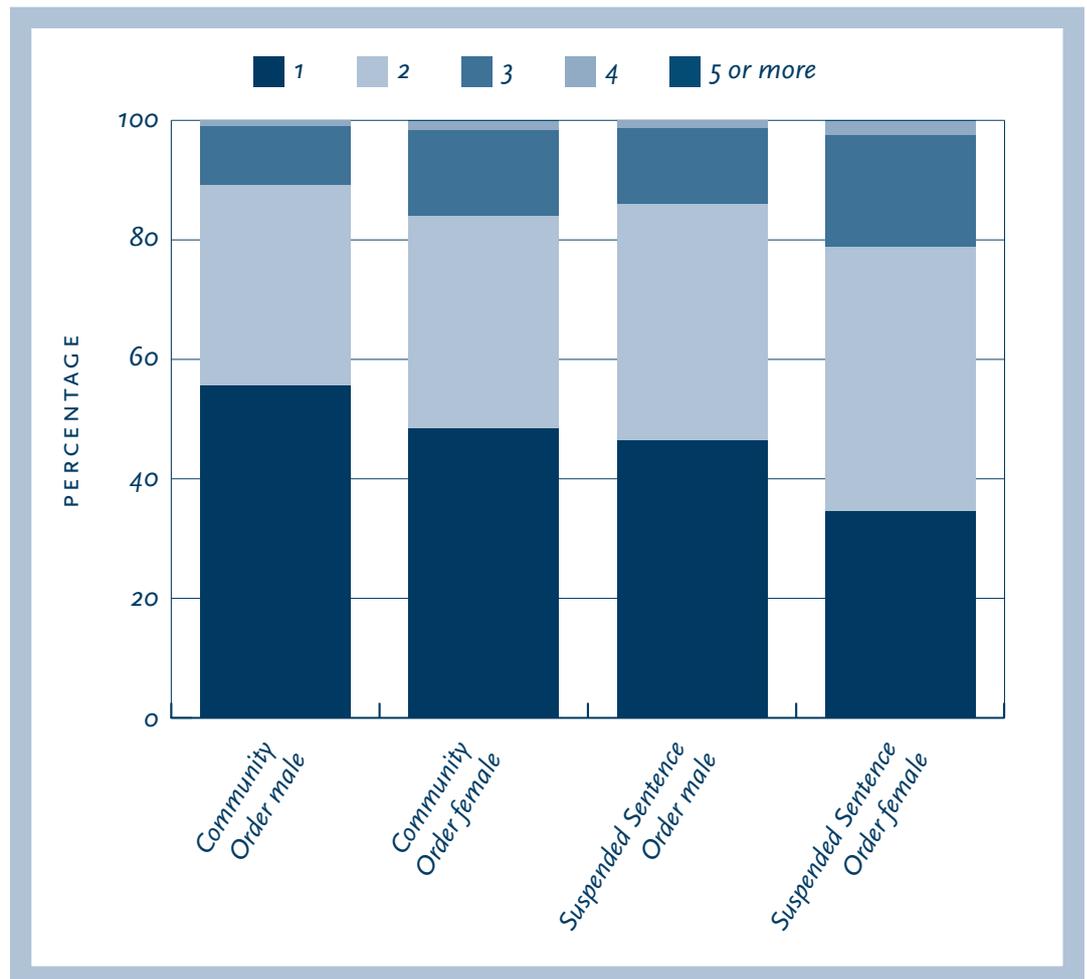
The mean number of requirements per Community Order was 1.6 for women and 1.7 for men.

Figure 5 also shows that women were most likely to receive a single requirement with the Suspended Sentence Order (45 per cent); 39 per cent of orders had two requirements and 12 per cent had three or more. In comparison, men were most likely to have orders with two requirements (44 per cent); 34 per cent had an order with a single requirement and 18 per cent had orders with three requirements.

The mean number of requirements for Suspended Sentence Orders for women was 1.7 compared with 1.9 for men. The greater use of multiple requirements for men may reflect the greater seriousness of offences for which these orders are made.

The information presented above suggests that orders for women tend to be shorter and have fewer requirements than those on men, and so shorter and less onerous than the national average. There is therefore little evidence that community sentences on women are relatively overloaded and excessively complex.

**Figure 5:** Numbers of requirements in Community Orders and Suspended Sentence Orders, 2006, by gender *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*

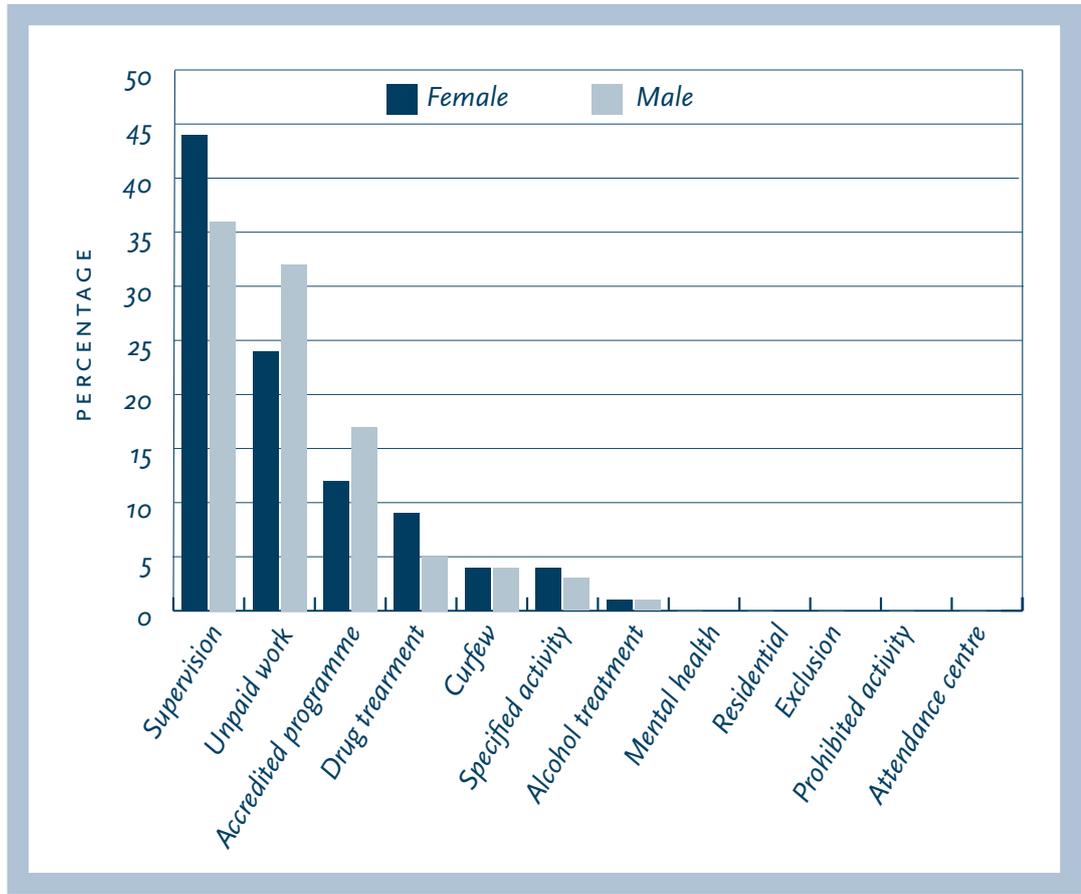


### Types of requirements

The most used requirement for women offenders on a Community Order was supervision (44 per cent of all requirements), followed by unpaid work (24 per cent), accredited programmes (12 per cent) and drug treatment (9 per cent). The other requirement options available were hardly used at all. The mental health requirement was only used for 109 women (see also Seymour and Rutherford, 2008); similarly, the alcohol treatment requirement was very rarely used (1 per cent).

The supervision requirement was also the most common requirement in orders on men (36 per cent), closely followed by unpaid work (32 per cent), then accredited programmes (17 per cent) and drug treatment (5 per cent). See Figure 6.

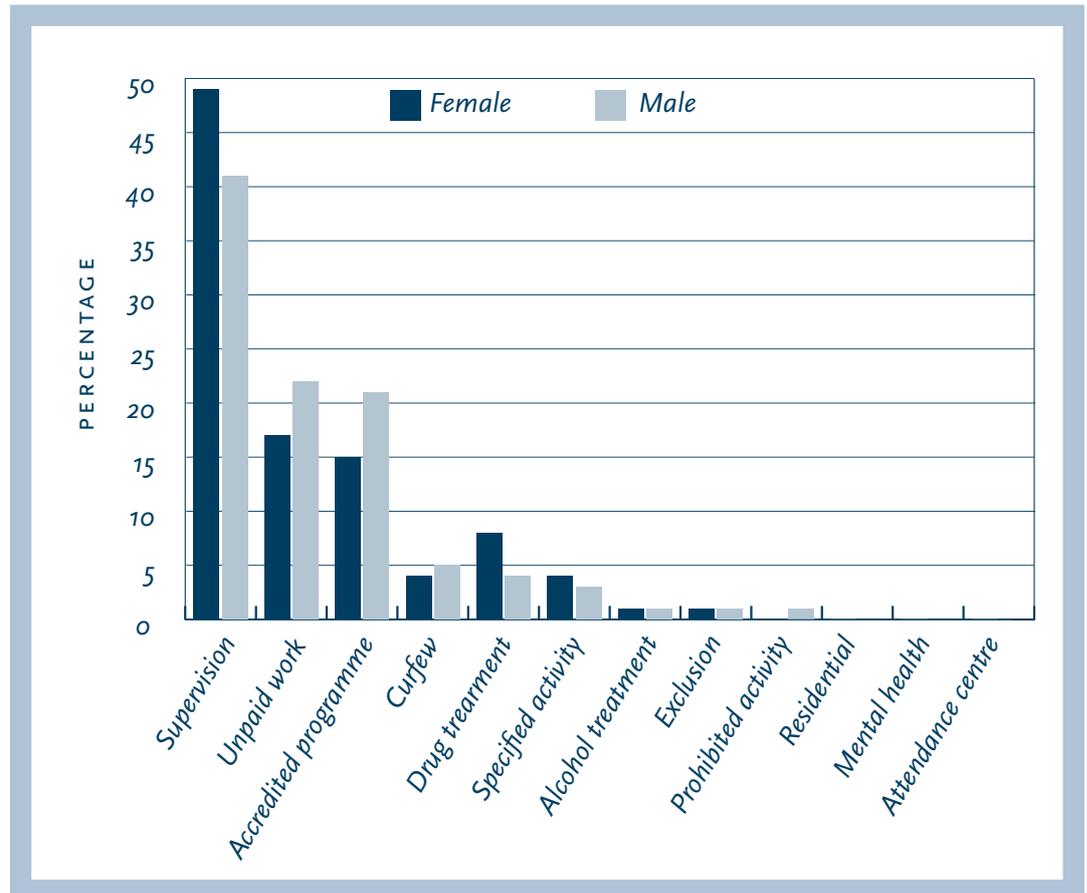
**Figure 6:** Use of requirements in Community Orders, 2006, by gender *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*



Requirements in Community Orders for women were more likely to include supervision and less likely to be for unpaid work than in orders for men. Drug treatment appears relatively more often for women than for men although, as explained in the next section of this chapter, the level of use varies between areas. The use of drug treatment overall may reflect the aetiology of women’s offending while variations in use may reflect the availability of treatment facilities.

A similar pattern applies to the Suspended Sentence Order, where supervision requirements were more common for women (49 per cent) than for men (41 per cent), as were drug treatment requirements (8 per cent for women, 4 per cent for men) (see Figure 7). Requirements for accredited programmes were more common in orders on men (21 per cent) than in those on women (17 per cent), as were requirements for unpaid work (22 per cent for men, 17 per cent for women). Once again, we find that the mental health requirement (only given to 30 women) and alcohol treatment requirement were very rarely used for this sentence.

**Figure 7:** Use of requirements in Suspended Sentence Orders, 2006, by gender *Source: Offender Management Statistics 2006 (Ministry of Justice, 2007d)*



When comparing the data for the use of requirements for Community Orders and Suspended Sentence Orders for women with that for male offenders we find that women offenders are more likely to receive supervision and less likely to receive unpaid work. Almost a third (32 per cent) of male offenders were given unpaid work compared to almost a quarter (24 per cent) of women offenders.

The tendency to use supervision for women relatively more often and unpaid work less often is long standing and predates the implementation of the 2003 Criminal Justice Act. Two major reasons may be suggested. First, there has been, and in some places there still is, a lack of suitable placements for women doing unpaid work. Second, there is the general perception, borne out by much of the data that has been presented in the research literature, that women are in particular need of support to deal with issues and problems related to their offending. Within the current sentencing framework, this support is best provided through a supervision requirement.

The tendency in current orders to use accredited programmes less often for women than for men but drug treatment requirements more often can be linked to Hedderman's (2004) observations about the relative prevalence of drug misuse and its impact on the likelihood of reconviction, as highlighted in Chapter 1. It could also be attributed to probation staff perceptions that 'cognitive deficits' in women may be differently structured and worked through differently than in men; women's offending can often be construed as 'rational' given their circumstances. It should also be noted that there is only one accredited programme for women – the Women's Programme. This may also explain the relatively low use of accredited programmes for women.

The general pattern in the use of requirements for women could therefore be seen to reflect both the perception and reality of specific needs. It is less clear perhaps that the levels of use of each requirement are entirely responsive to these needs.

Mental health is a case in point. Recognising the fact that many women offenders suffer from mental health issues, it is interesting to note that the mental health requirement has hardly been used at all as part of the new Community Order or Suspended Sentence Order. The Offender Management Statistics show that the mental health requirement has been used very rarely, making up less than 1 per cent of the requirements in orders made in 2006.

A recent report by the Sainsbury Centre for Mental Health (Seymour and Rutherford, 2008) notes the disparity between assessments of the prevalence of mental health problems and the low use of this requirement. The report found that women were as likely to get a mental health treatment requirement as men (although other work – for example, Hedderman, 2004 – argues that the prevalence of such problems is greater among women). It suggests four main reasons why the level of use is so low: the legislation restricts the circumstances in which this requirement can be used; the provision is not always available; psychiatric assessments are difficult to obtain; and the complexity of offenders' needs may mean that other problems are tackled first because they are more straightforward to address and may sometimes mask or override a mental health problem.

### Regional variations

Regional variations have always been apparent in sentencing and the use of community sentences but, as noted by Mair, Cross and Taylor (2007), they are particularly interesting for the new orders because of the number of requirements available.

In the data presented in this section, which were provided by the seven probation areas, the geographical location of each area is not given because the data were provided on condition that each area would remain anonymous. The number of cases provided by each area is not given; however, where percentages are based on fewer than 100 cases, they are shown in brackets. Further information about the data is set out in Appendix 1.

As already noted, just over half of Community Orders for women have one requirement. But this overall figure appears to mask considerable variation across the seven probation areas examined (see Table 3). The proportion of orders with a single requirement varied from 44 per cent to 65 per cent. In five of the seven areas, the majority of Community Orders had a single requirement. In the other two areas, large minorities (44 per cent and 45 per cent) of orders had a single requirement.

**Table 3:** Number of requirements made in Community Orders for women by area (percentage) and average number of requirements for each area (figures exclude orders with no requirements recorded)

Area	One	Two	Three+	Mean no.
Area 1	65	21	14	1.5
Area 2	44	44	13	1.7
Area 3	56	32	12	1.6
Area 4	63	27	9	1.5
Area 5	62	23	15	1.6
Area 6	55	27	17	1.6
Area 7	45	35	21	1.8

The proportion of orders with two requirements ranged from 21 per cent to 44 per cent. In one area, the same proportion of orders had two requirements (44 per cent) as had one. Community Orders with more than three requirements ranged from 9 per cent to 21 per cent in the seven areas.

The two areas with the highest proportions of three or more requirements were metropolitan areas. The numbers of requirements ordered may reflect courts' or areas' assessments of the seriousness of women's offending and what is needed to address it.

**Table 4:** Number of requirements made in Suspended Sentence Orders for women by area (percentage) and average number for each area (figures exclude orders with no requirements recorded)

Area	One	Two	Three+	Mean no.
Area 1	(74)	(26)	(0)	(1.2)
Area 2	43	41	16	1.7
Area 3	52	28	20	1.7
Area 4	56	32	12	1.5
Area 5	(42)	(39)	(19)	(1.8)
Area 6	(45)	(37)	(18)	(1.8)
Area 7	39	42	20	1.8

Similar variations in the number of requirements used by the seven probation areas are found for the Suspended Sentence Order (Table 4). For example, the number of orders with a single requirement ranged from more than half in Area 1 to less than 40 per cent in Area 7.

Given the variations across the seven areas in the number of requirements used in the Community Order and Suspended Sentence Order, it is also worth examining the type of requirements used. Table 5 summarises the use of different types of requirements in Community Orders for women by area.

**Table 5:** Types of requirements made in Community Orders for women by area (percentage)

	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Area 7
Supervision	50	38	46	48	33	39	43
Unpaid work	20	26	25	22	27	30	19
Accredited programme	16	15	11	6	6	10	17
Drug treatment	7	8	5	8	5	7	11
Curfew	1	3	5	3	18	2	2
Specified activity	5	4	5	11	7	11	6
Alcohol treatment	0	5	2	1	3	1	0
Mental health	0	1	0	0	0	0	0
Residential	0	1	0	1	1	0	1
Exclusion	0	0	0	0	0	0	0
Prohibited activity	0	0	0	0	0	0	0
Attendance centre	0	0	0	0	0	0	0

There are considerable differences between areas. For example, an accredited programme requirement made up 6 per cent of requirements in two areas (Areas 4 and 5) but 16 per cent in Area 1 and 17 per cent in Area 5. Supervision made up half of requirements in Area 1 but a third in Area 5. Finally, unpaid work made up a fifth of requirements in Area 1 but nearly a third (30 per cent) in Area 6.

There is also surprising variation in the use of curfew requirements. In Area 5, 18 per cent of requirements were for curfews. The majority of these were stand-alone curfew requirements. These are not enforced by the Probation Service and data are recorded separately by the electronic monitoring companies that are responsible for the administration of stand-alone curfews (see Mair, Cross and Taylor, 2007).<sup>4</sup> Nevertheless it is clear that some at least of these orders are also recorded on area case management databases. It should also be noted that Area 5 had a high use of curfews before the introduction of the new orders.

4. As the data for stand-alone curfew requirements are collected separately by the electronic monitoring companies which then send the information on to the Ministry of Justice, full statistics are not included in the data provided by the seven probation areas. Nevertheless it is clear that some at least of these orders are also recorded on area case management databases.

**Table 6:** Types of requirements made in Suspended Sentence Orders for women by area (percentage)

	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Area 7
Supervision	(67)	40	48	53	(39)	(50)	53
Unpaid work	(15)	22	19	15	(19)	(18)	9
Accredited programme	(9)	18	13	7	(8)	(9)	19
Drug treatment	(0)	5	7	7	(2)	(10)	7
Curfew	(3)	5	4	7	(15)	(3)	3
Specified activity	(6)	4	5	6	(8)	(5)	7
Alcohol treatment	(0)	3	2	1	(4)	(3)	1
Mental health	(0)	1	0	2	(1)	(1)	1
Residential	(0)	1	2	0	(2)	(0)	1
Exclusion	(0)	2	0	1	(1)	(0)	0
Prohibited activity	(0)	1	0	0	(1)	(1)	0
Attendance centre	(0)	0	0	0	(0)	(0)	0

There are also considerable variations in the use of requirements for Suspended Sentence Orders (Table 6). For example, two areas made substantial use of accredited programmes, and in one (Area 7) accredited programme requirements were the second most frequently used, after supervision.

The use of supervision ranged from 39 per cent to 67 per cent of requirements; use of unpaid work ranged from 9 per cent to 22 per cent of requirements; and use of accredited programmes ranged from 7 per cent to 19 per cent of requirements.

A range of factors might account for the variations in the use of requirements between the seven areas. These include: different levels of assessed need, particularly in relation to drug misuse; unequal distribution of facilities; different probation area policies or preferences; and different sentencing patterns and probation responses to targets. These are discussed in more detail in the next section.

### Combinations of requirements

In this section, we look at how different combinations of requirements are used in Community Orders and Suspended Sentence Orders. As combinations of requirements are not analysed by gender in the Ministry of Justice published national statistics, we use the data provided by the seven probation areas to examine regional variations. It is important to recognise that these data do not provide the full national picture but only give a partial indication of how combinations of requirements are being used for women.

Table 7 summarises all the main combinations of requirements used for all Community Orders. Stand-alone unpaid work requirements were the most frequent requirements in three of the seven areas, and stand-alone supervision requirements were the most common in four areas. The percentage of orders with the combination of supervision and accredited programme requirements ranged from 3 per cent (Area 5) to 16 per cent (Area 2); the combination of supervision with drug treatment ranged from 1 per cent of orders (Area 1) to 10 per cent (Area 2). In Area 7, drug treatment was more often provided in combination with supervision and accredited programme requirements (11 per cent of orders) than in the other areas.

In Area 5, as already noted, curfew requirements were most frequent; 17 per cent of Community Orders recorded had a stand-alone curfew requirement.

**Table 7:** Main combinations of requirements made in Community Orders for women by area (percentage)

	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Area 7
Unpaid work	23	31	26	25	28	34	22
Supervision	41	10	28	38	16	20	23
Supervision and accredited programme	12	16	10	4	3	8	11
Supervision and unpaid work	4	5	8	5	5	6	7
Supervision and drug treatment	1	10	5	7	2	3	6
Supervision, unpaid work and accredited programme	2	4	3	0	2	3	3
Curfew	0	1	1	4	17	0	0
Supervision, accredited programme and drug treatment	6	1	2	1	2	2	11
Supervision and specified activity	3	3	4	7	4	6	6
Supervision and mental health	0	1	1	0	0	1	0
Supervision and alcohol treatment	1	5	1	1	2	1	1
Others	7	12	12	7	19	16	10
Total	100	100	100	100	100	100	100

Looking at the overall pattern in the use of requirements for women offenders and the combinations used in Community Orders with more than one requirement, there is no consistent pattern. However, some overarching themes do appear.

The first is a preference for supervision requirements. In four of the seven areas, the most common orders were those with a stand-alone supervision requirement. In the other three areas, a stand-alone unpaid work requirement was preferred.

The use of the supervision and accredited programme combination varied between 3 per cent and 16 per cent of orders.

There has been a general tendency to see women as more deserving of ‘help’ than men and this may be exemplified by the use of stand-alone supervision requirements. Again, there may be a preference in some areas and some courts for an approach that lessens the difference in the treatment of men and women for less serious offences. However, it must be noted that resource constraints and local policies on the use of requirements also have a part to play. If a significant proportion of women subject to Community Orders for more serious offences are assessed as having problems that require the use of

accredited programmes or treatment then resource constraints may lead to areas restricting supervision, in combination with another requirement, to more serious cases. (There is also the question, which cannot be addressed through these data, of whether volume targets for accredited programmes and drug treatment have influenced the use of requirements to maximise the number of programme and treatment starts.)

It is also noteworthy that the three areas making most use of drug treatment with supervision (with or without an accredited programme requirement) contained local authorities with high levels of deprivation, where there may be a more obvious association between drug misuse and women's offending.

There are strong suggestions in the research literature (Clarke, 2004; Hedderman, 2004; Gelsthorpe Sharpe and Roberts, 2007) that sentencing packages based on the provision of 'help' are more appropriate than purely punitive or restrictive ones, and this might imply a bias against unpaid work in favour of supervision. This does appear to be the case in the majority of the seven areas we have examined, but the balance between unpaid work and supervision also appears to be affected by local policies and resources. However, a key issue identified, and noted by Corston, is the question of responsivity. Does the provision within each community sentence properly address the needs of the offender? The concerns therefore are about the quality and appropriateness of the provision within each Community Order rather than the requirements used. Thus, for example, if unpaid work is to be used, it is seen as important that the placements are suitable for women.

The other major theme that has implications for the use of requirements in Community Orders for women is the need for treatment. As noted in Chapter 1, there are high levels of mental health and drug misuse problems among women in the criminal justice system. We might therefore expect this to be reflected in the use of requirements in Community Orders. As we have seen, some areas do use drug treatment requirements for a significant minority of women, but the use of mental health treatment is generally less evident. As well as issues related to local policies and resources, the availability of treatment facilities in the community is certain to be a factor. It is also worth noting that, as women offenders typically have orders with fewer requirements than men, the opportunity to use treatment requirements is constrained.

In the seven areas studied, in only one area (Area 2) was there a relatively high use of mental health treatment requirements. The study by the Sainsbury Centre for Mental Health (Seymour and Rutherford, 2008) cites statistics to show that seven out of 42 probation areas account for 55 per cent of mental health treatment requirements but only 36 per cent of the total number of requirements ordered.

Table 8 shows the combinations of requirements used in Suspended Sentence Orders. It is notable that a high proportion of orders in Areas 2, 3 and 5 are for 'other' combinations. These are mainly cases where a restrictive requirement has been added to the order.

For Suspended Sentence Orders, supervision was the most common requirement in six of the seven areas, ranging from 15 per cent to 56 per cent of requirements. Unpaid work on its own was relatively rare (4 per cent to 21 per cent of requirements) and was the most common sentence only in Area 2. The combination of supervision and accredited programme ranged from 6 per cent to 21 per cent of orders and was most used in Areas 2 (19 per cent) and 7 (21 per cent).

**Table 8:** Main combinations of requirements made in Suspended Sentence Orders for women by area (percentage)

	Area 1	Area 2	Area 3	Area 4	Area 5	Area 6	Area 7
Unpaid work	(15)	21	15	12	(13)	(11)	4
Supervision	(56)	15	34	42	(20)	(32)	35
Supervision and accredited programme	(11)	19	9	8	(10)	(6)	21
Supervision and unpaid work	(4)	9	9	6	(8)	(10)	6
Supervision and drug treatment	(0)	4	3	7	(0)	(7)	3
Supervision, unpaid work and accredited programme	(0)	3	3	1	(0)	(5)	5
Curfew	(0)	3	3	8	(7)	(2)	0
Supervision, accredited programme and drug treatment	(0)	2	6	0	(0)	(4)	6
Supervision and specified activity	(7)	2	1	5	(4)	(5)	10
Supervision and mental health	(0)	0	0	1	(0)	(0)	1
Supervision and alcohol treatment	(0)	2	2	2	(1)	(6)	0
Others	(7)	19	15	7	(37)	(13)	10
Total	(100)	100	100	100	(100)	(100)	100

Percentages based on fewer than 100 cases are shown in brackets.

### Termination and breach

The first data about terminations for the new orders became available with the publication of the Offender Management Statistics 2006 (Ministry of Justice, 2007a). As the average order length is around 18 months, these figures are biased towards shorter orders and towards orders terminating early, usually due to breach and/or conviction for another offence. Even so, the percentage of orders that ran their full course is relatively low – less than half (41 per cent) of all orders were completed.

**Table 9:** Terminations of Community Orders, 2006, by gender

<b>Community Orders</b>	<b>Males</b>	<b>Females</b>
Ran their full course	39%	41%
Terminated early for:		
Good progress	13%	12%
Failure to comply with requirements	24%	25%
Conviction of an offence	15%	12%
Other reasons	10%	11%
All Community Orders (=100%)	59,711	10,866

Table 9 shows that terminations of Community Orders on women are marginally more likely to be a consequence of the order having run its full course (41 per cent for women as against 39 per cent for men) and less likely to be for conviction of another offence (12 per cent as against 15 per cent) but very slightly more likely to be for failure to comply with requirements (25 per cent as against 24 per cent).

The lower rate of termination for reconviction may be due to the fact that women have generally been less likely to re-offend (Cunliffe and Shepherd, 2007). However, the high level of failure to comply with requirements gives rise to some concern. Except for Drug Treatment and Testing Orders (DTTO) (where 24 per cent of terminations of orders on women were for non-compliance), the general pattern for the old community sentences before the new orders were introduced was for women to be at least as compliant as men and more likely overall to complete the order.

**Table 10:** Terminations of Suspended Sentence Orders, 2006, by gender

<b>Suspended Sentence Orders</b>	<b>Males</b>	<b>Females</b>
Ran their full course	30%	37%
Terminated early for:		
Good progress	6%	6%
Failure to comply with requirements	28%	27%
Conviction of an offence	25%	19%
Other reasons	10%	12%
All Community Orders (=100%)	8,176	1,233

For Suspended Sentence Orders terminating in 2006, orders on women were more likely to run their full course (37 per cent as against 30 per cent of orders on men). The difference is mainly attributable to the lower rate of conviction of another offence for women (19 per cent of total terminations) but the rate of failure to comply with requirements was also slightly lower among women (27 per cent) compared to men (28 per cent). See Table 10.

For the reasons already stated, these figures are not measures of the outcome of orders, but it must be questioned whether a high level of failure to comply with requirements bodes well for the future use of the order. Mair, Cross and Taylor (2007 and 2008 forthcoming) have noted comments by probation officers and sentencers on the rigidity and lack of discretion in enforcing orders. Similarly, Corston's comments on the need for

flexibility and discrimination in dealing with different kinds of failure to comply seem apposite here (Corston, 2007, p.55).

## Uptariffing and the use of custody

Given the concerns that have been expressed about the use of custody for women, a key issue in judging the impact of the Community Order and the Suspended Sentence Order is whether their introduction has had any discernible effect on the prison population. At present, all the indicators we have are based on sentencing changes and changes in the offender management caseload between 2004 (the year before the orders were implemented) and 2006.

The key facts based on the most recent sentencing data (Ministry of Justice, 2007a, b) are as follows:

- The number of women (aged 18 or over) sentenced for more serious indictable offences fell by 11 per cent, from 41,600 to 37,100 (the number had peaked in 2002 and 2003).
- The number of women given an immediate custodial sentence for an indictable offence also fell by 11 per cent, from 7,100 to 6,300 (again, the downward trend dates back to at least 2003).
- The number of women given a Community Order or a Suspended Sentence for an indictable offence rose by 3 per cent, from 14,700 to 15,100. But this rise is entirely attributable to the introduction of the Suspended Sentence Order because community sentences, including the old sentences (CRO, DTTO, CPO, CPRO) and the new Community Order, fell by 17 per cent from 14,100 to 11,700 and Suspended Sentences increased from 600 to 3,400 between 2004 and 2006.
- Fines fell by 31 per cent over the same period, from 7,800 to 5,400.
- The number of women sentenced to immediate custody for summary offences grew from around 500 sentences in 1996 to around 1,000 in 2006 (Ministry of Justice, 2007a, b), as did the use of community sentences and Suspended Sentences for summary offences (from 3,800 in 1996 to 9,200 in 2006) (Ministry of Justice, 2007b).

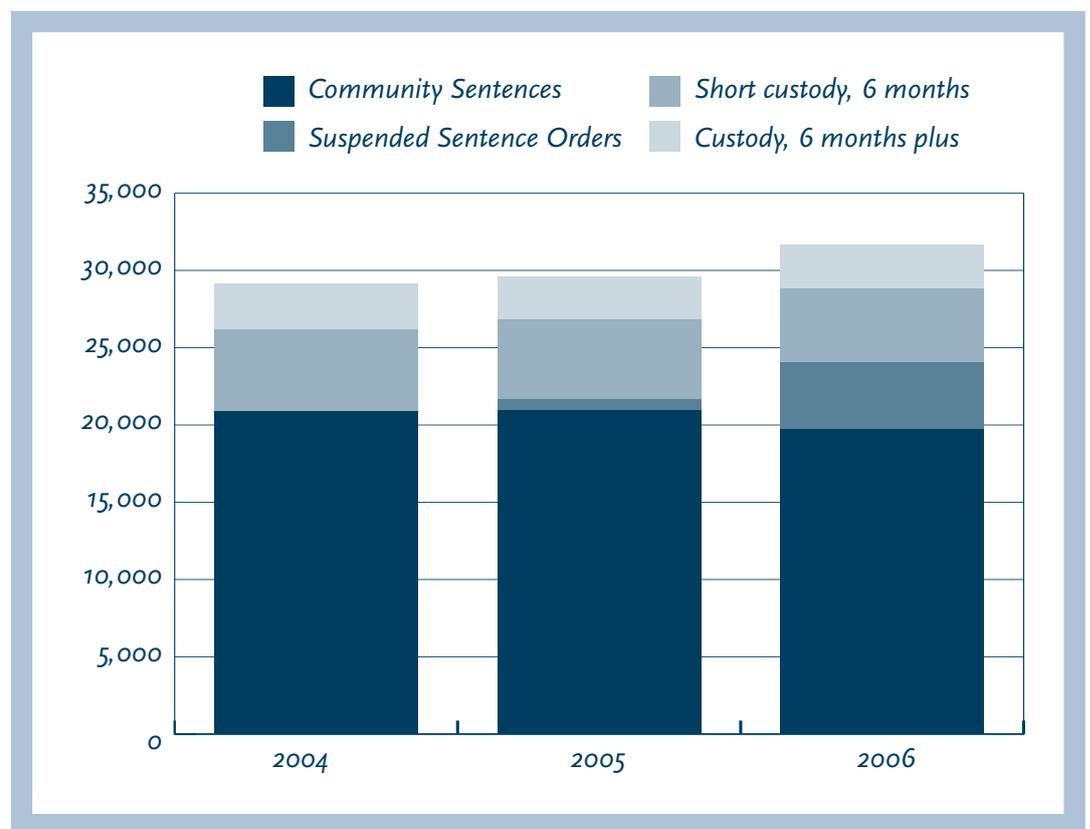
The sentencing data suggest that the use of immediate custody for indictable offences committed by women has remained at a constant rate (17 per cent of sentences) and that the growth of the Suspended Sentence Order has been at the expense of the Community Order and the fine. There is no indication that the introduction of the new orders has had a significant impact on the courts' use of immediate custody. The trend in numbers sentenced and numbers sent to custody was downwards before the implementation of the Act.

If we look at the most recent Offender Management Statistics (Ministry of Justice, 2007d), we find:

- The number of receptions into custody of women under sentence fell by 7 per cent, from 8,402 in 2004 to 7,846 in 2006. This is a smaller fall than the fall in custodial sentences for indictable offences and seems to show the impact of custodial sentencing for summary offences.
- The total number of court orders commenced by the Probation Service (including the Suspended Sentence Order) rose by 11 per cent, from 20,881 to 23,251. Again, this rise is almost entirely due to the Suspended Sentence Order as the numbers of Community Orders (old and new) fell by 5 per cent (from 20,881 to 19,741). This confirms that the growth in the use of the Suspended Sentence Order has been at the expense of the Community Order and the fine.

- As the fall in custodial receptions of women is strongest in shorter sentences (six months or under), it appears possible that the Suspended Sentence Order may have led to some reduction in the use of short custodial sentences. If so, the sentencing statistics suggest that this effect is concentrated on sentences for summary offences.
- If there is a diversion effect from the use of Suspended Sentence Orders, it is a very weak one. In 2006, 3,558 more Suspended Sentence Orders were made than in 2005. The number of receptions into custody under sentence for short sentences fell by 356, so ten Suspended Sentence Orders were needed to avert one short custodial sentence – a diversionary effect of 10 per cent.

**Figure 8:** Community sentences, Suspended Sentence Orders and custodial sentences for women offenders, 2004–2006 *Source: Ministry of Justice (2007d) Offender Management Caseload Statistics 2006, London: Ministry of Justice*



Although, as already noted, orders for women are less likely than those for men to be for summary offences, we have to conclude that there is little evidence that the introduction of the new orders has had a significant impact in reducing the use of custody for women offenders. The great majority of women received into custody continue to receive short sentences (under six months).

The Suspended Sentence Order may have had a small diversionary effect in the use of custody for summary offences in the order of 10 per cent. (By contrast, when community service was introduced, it was estimated to have an initial diversionary effect of between 45 and 50 per cent (Pease, Billingham and Earnshaw, 1977)). Although the number of women dealt with by the courts is now falling, the total sentenced to Community Orders, Suspended Sentence Orders or custody is continuing to rise.

# Conclusions and recommendations

The new orders have now been available to sentencers for three years. This report is based mainly on data about the use of these orders in 2006. By then, the great majority of cases before the courts were eligible to be sentenced under the 2003 Criminal Justice Act using the new orders. As in earlier reports on the use of the new orders, it is apparent that many if not most of the older patterns of sentencing are being replicated for women. Thus, for example, there is a preference for supervision over unpaid work that reflects the earlier use of community rehabilitation over community punishment for women.

The literature cited in this report is clear that the style and content of the sentence and the way that it is managed are at least as important for women as the form and type of requirements used. There are limits therefore to what can be said about the appropriate use of the new orders for women. It may be, for example, that an unpaid work placement with access to a resource such as the Together Women Programme would be as appropriate as a mix of supervision and treatment requirements.

Nevertheless, within these limits, the following are presented as the key findings from this research:

- Despite concerns prior to the introduction of the new orders, women do not seem to be overburdened by the number of requirements given to them.
- There seems to be evidence of some form of gender differentiation in terms of the requirements that are used more frequently for women, i.e. supervision versus unpaid work. This perpetuates an earlier preference for community rehabilitation over community punishment for women.
- The use of community sentences for summary offences has been increasing and 41 per cent of Community Orders on women made in 2006 were for such offences.
- Despite this trend, orders on women were most likely to be for offences involving theft or fraud and less likely to be for summary offences than those on men.
- The data available on terminations of the new orders for women suggest that the rate of termination for failure to comply with requirements is relatively high. This supports Baroness Corston's concerns about the lack of flexibility in dealing with breaches of requirements.
- The use of combinations of requirements in the new orders seems to be dependent on the availability of services, local policies and the specific needs of women offenders in different areas.
- While the new orders offer courts and the Probation Service the opportunity to make sentences that are more innovative and responsive to the circumstances of offenders, and so potentially more effective, there is limited evidence that this is happening in practice. Most combinations of requirements appear to mirror the old order types. It is not clear whether this reflects the views of sentencers and probation staff or whether it also relates to the limited range of facilities available for offenders.

- There are significant local variations in the use of requirements. It is not possible from this research to identify fully the reasons for these. It is suggested that there are variations across probation areas in offence seriousness, assessed needs and available resources.
- There is little evidence that the introduction of the new orders has had a significant impact on the use of custody for women. If there has been an impact, it is very limited, with an estimated 10 per cent of Suspended Sentence Orders substituting for immediate custody, and it is most likely to be on the use of short custodial sentences for summary offences.
- If the new orders have such a limited impact on custodial sentencing, their introduction is likely to result over time in more women rather than fewer going into prison for less serious offences.

These findings in turn suggest the following recommendations for policy and practice:

1. There is room for requirements in the new orders to be used more creatively to address and respond to the needs and circumstances of women before the courts. In particular, the specified activity requirement could be used more often and involve voluntary sector organisations that have experience of working with disadvantaged women.
2. There is a particular opportunity for courts to use requirements to meet mental health and drug treatment needs for women. This requires local development and commissioning of appropriate and accessible services as set out in the Department of Health's recent framework, *Supporting Women into the Mainstream: Commissioning Women Only Community Day Services* (Department of Health, 2006).
3. More research is needed on the factors that lead to local variation in the use of requirements. This would help assure nationally appropriate provision.
4. More in-depth research looking at the experiences of women offenders serving their sentences in the community is required in order to assess the impact of the Community Order and Suspended Sentence Order on this offender group.
5. The Corston Report's recommendation on improving flexibility in dealing with breaches should be revisited.
6. The impact, direct and indirect, of the new orders on the use of custodial sentences for women and on the female prison population should be reviewed in detail. Such evidence as there is suggests that the current effect is a small reduction but at the risk of a long-term increase disproportionate to the offences for which women are sentenced.

This report is based on the relatively early use of the new orders and provides important emerging findings. It suggests that early concerns about the overuse of requirements in orders on women are not borne out in practice. On the question of the appropriateness of requirements and interventions used, it raises some significant issues that should not be disregarded or overlooked but merit greater attention. More fundamentally, while there has been considerable focus on the imprisonment of women, there needs to be a much greater research and policy focus on the use of both suspended sentences and community sentences for women.

# Appendix

## A brief note on the area data

Fourteen probation areas were approached for data. Owing to the range of demands on them and pressure on resources, only half the areas approached were able to provide data for this project. Areas approached were chosen to be representative of three broad sections of England – the north, the south and the midlands. Areas were chosen to include metropolitan areas and shire counties. Shire counties covered a range of settings, from those that were predominantly rural and/or suburban to those containing large cities.

Of the seven areas able to provide data, two were metropolitan areas and five were shire counties. Two of the five shire counties contained large conurbations. Two areas were in the south, one was in the north and four were in the midlands.

The seven areas contain ten of the 20 most deprived local authorities (unitary authorities, counties, metropolitan boroughs and London boroughs) in England, 15 of the 37 most deprived authorities and seven of the 37 least deprived areas (source: Department of Communities and Local Government indices of deprivation, <http://www.communities.gov.uk/communities/neighbourhoodrenewal/deprivation/deprivation07/>). Five of the seven areas contain conurbations with higher than average indicators of deprivation.

The data provided by areas covered commencements of Community Orders and Suspended Sentence Orders in 2006. In the data presented in this report, the geographical location of each area is not given because the data were provided on condition that each area would remain anonymous. The number of cases provided by each area is not given for the same reason; however, where percentages in tables are based on fewer than 100 cases, they are shown in brackets.

The table below shows the numbers of cases (commencements of orders on women offenders in one year) provided by each of the seven areas, together with the total numbers of requirements recorded for these cases.

**Table A1:** Numbers of cases and requirements

Area	Community Orders		Suspended Sentence Orders	
	No. of cases	No. of requirements	No. of cases	No. of requirements
Area 1	164	250	27	33
Area 2	1216	2067	318	549
Area 3	486	758	145	244
Area 4	490	719	140	203
Area 5	354	552	90	166
Area 6	264	430	84	148
Area 7	757	1353	155	279



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The Community Sentences project of the Centre for Crime and Justice Studies investigates and monitors the new Community Order and Suspended Sentence Order introduced in the Criminal Justice Act 2003. It offers rigorous, objective information and critical analysis about the way the sentences are used during a period of great change in probation practice. This report is the second publication looking at how the sentences are being used for specific groups of offenders.

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