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# The Use of the Community Order and the Suspended Sentence Order for Young Adult Offenders

Stephen Stanley



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## About the author

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# Introduction

It is just over two years since the new provisions in the Criminal Justice Act 2003 came into operation which radically reconfigured community sentences to create a single generic Community Order alongside a new Suspended Sentence Order. This change was intended to create more flexible sentences that could be used to meet the needs of different groups of offenders. One of these groups – young adult offenders – is widely recognised as a priority. So how are the new Community Orders and Suspended Sentence Orders being used for young adults and what has been the impact of the sentencing changes? This report attempts to address these questions and initiate discussion around them.

The report forms part of the Centre for Crime and Justice Studies (CCJS) Community Sentences project. The project was originally set up to investigate and monitor the new Community Order. However, as this report demonstrates, it became clear that the new Suspended Sentence Order, sometimes referred to as ‘custody minus’, was playing a significant role in sentencing and impacting heavily on the work of the Probation Service. The project’s remit was therefore expanded to examine the Suspended Sentence Order.

The Community Sentences project has already published two reports. The first, *The Use and Impact of the Community Order and Suspended Sentence Order* (Mair et al., 2007), provides an independent assessment of the new sentences, examining how they are being used and how they are viewed by probation staff.<sup>1</sup> This report looks specifically at young adult offenders, considers whether the new sentences are used differently for this group compared to their use in general, and assesses whether they are being tailored to meet the specific needs of young adults.<sup>2</sup> Further reports will examine the use of the new orders for women and black and minority ethnic offenders. Issues related to these aspects of diversity are therefore not covered in this report.

## Community sentences and young adults

The only community-based court sentence specifically targeted at young adults that was in place prior to the introduction of the Community Order was the Senior Attendance Centre Order. This order provided a short programme of activities and interventions aimed at offenders aged 17 to 20. However, the Senior Attendance Centre Order was used relatively rarely, and levels of use have declined in the last decade, from 808 orders in 1995 to 614 in 2004 (Home Office, 2007b).<sup>3</sup> In addition, in 2003, a community programme aimed specifically at young adults was introduced by the then National Probation Service.<sup>4</sup> The Intensive Control and Change Programme (ICCP) was designed as a direct alternative to custody for 18 to 20 year old offenders and was piloted in 11 probation areas between April 2003 and March 2004. The programme offered ‘high levels of control over the structure of the community sentence’ and ‘intensive, evidence-based interventions during community supervision to tackle criminogenic needs in order to change attitudes and behaviour’ (Partridge, Harris, Abram and Scholes, 2005). The Community Order replaced the ICCP, although the Home Office highlighted the fact that the new order, with its 12 requirements, meant that ‘an intensive, ICCP-type package of interventions continues to be available to sentencers although it is no longer called ICCP’ (ibid).

1. *The Use and Impact of the Community Order and Suspended Sentence Order* is available at [www.kcl.ac.uk/depsta/rel/ccjs/impact-community-order-2007.pdf](http://www.kcl.ac.uk/depsta/rel/ccjs/impact-community-order-2007.pdf). The second report, *Community Sentences Digest*, provides good quality, objective information and analysis 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 is available at [www.kcl.ac.uk/depsta/rel/ccjs/community-sentences-2007.pdf](http://www.kcl.ac.uk/depsta/rel/ccjs/community-sentences-2007.pdf).

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

3. Senior Attendance Centre Orders have been replaced by the attendance centre requirement in Community Orders and Suspended Centre Orders.

4. From January 2007 the National Probation Service was absorbed into the National Offender Management Service and is now known as ‘NOMS Probation’.

In recent years, some probation areas have established young adult teams or 'youth teams' that specialise in working with offenders under the age of 21 or 22. However, these teams have mainly focused on working with young adults on licence post custody rather than with those on community sentences, and most young adults have been supervised by generic teams. In the 1990s, a strong theme of probation was to work with 'autocrime' offenders through motor projects, where the target group was predominantly adults under 21. In addition, a few probation centres, such as Sherborne House in London, specialised in working with young adults, particularly those at risk of a custodial sentence, and several probation areas ran various projects or programmes targeted at young people and young adults with a typical age range of 16 to 25 (Martin, 1998).

Most local probation initiatives were abolished or diluted with the establishment of a National Probation Service in 2001 and the introduction of accredited programmes, which were not generally designed to be responsive to young adults (see Cann, Falshaw and Friendship, 2005). However, a focus on young adults, particularly those at risk of custody, continued with the introduction of the ICCP. Furthermore, the initial National Probation Service Strategy, *A New Choreography* (National Probation Service, 2001), gave a strong commitment to improving the delivery of services to young adults and targeting them as a specific group in all business plans, performance reports and reviews.

### Recent developments

In 2005, the Barrow Cadbury Trust produced a report, *Lost in Transition* (Barrow Cadbury, 2005), which argued for a graduated response to offending by young adults based on their maturity rather than just their calendar age. The National Offender Management Service (NOMS) responded by setting up a project on young adults, which was due to report in March 2007. The NOMS Special Report 3 (Home Office, 2007a) states:

*'There is an emerging argument in favour of looking to re-align our age definitions in line with other agencies but the full implications need further exploration before any firm recommendation is put to ministers and no firm decisions have been made.'*

According to an unpublished NOMS report, the young adults project has completed a review which proposes to ministers that the upper age limit for young adult offenders should be extended from 20 to 24 years and suggests that regional offender managers review commissioning services for 18 to 24 year olds (NOMS, 2007).

While the new Ministry of Justice considers these proposals, this report aims to provide the first independent examination of how the changes in sentencing introduced by the Criminal Justice Act 2003 are affecting young adults. The report begins by considering how best to define young adults and looks at what is currently known about the specific needs of young adult offenders from recent research and an analysis of data from two probation areas. It examines trends in the use of community sentences for young adults prior to the implementation of the Criminal Justice Act in April 2005. It then presents an analysis, based on official statistics and data provided by two probation areas, of how the sentences are being used. Finally, it draws conclusions about the extent of the changes that have occurred so far as a result of the introduction of the new orders. It should be noted that this report does not present new qualitative or quantitative research. Instead, it aims to provide initial indications of how community sentences are being used for young adult offenders.

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.

The Suspended Sentence Order (SSO) 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 SSO 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.



# Young adults in the criminal justice system

## Defining young adult offenders

The most appropriate age definition for young adult offenders has been the subject of much discussion among criminal justice policy makers and practitioners for many years. Dunkel (2007) notes other European jurisdictions' recognition of the need for discretion and overlap in the treatment of young adults, enabling courts to use sentencing measures for juveniles in place of those for adults where appropriate.<sup>5</sup> At present, in England and Wales, the Home Office defines young adult offenders as those aged 18 to 20 years. There is a clear cut-off point at the age of 18, when jurisdiction moves to the adult courts, and a cut-off point at 21 for the transfer from young offender custodial institutions to prisons. However, as already noted, these arrangements are currently under review.

The Barrow Cadbury Trust report, *Lost in Transition*, argues that the sudden transition of status from child to adult in the criminal justice system at the age of 18 is counterproductive because it is not accompanied by an equivalent change in maturity (Barrow Cadbury, 2005). The criminal justice system does not recognise that the circumstances of young adults may change rapidly over time as they mature. The report recognises the risks in pinning definitions strictly to age, especially because different agencies in England and Wales vary in how they partition services by age. For example, under the Children (Leaving Care) Act 2000, children and young people are offered ongoing support until they are 21.

The unpublished NOMS review of young adult offenders proposes defining young adults as those aged between 18 and 24, at least as far as community sentences are concerned, and urges regional offender managers to review the commissioning of programmes for the 18 to 24 age group (NOMS, 2007). For the purpose of this report it has therefore been decided to look at offenders aged between 18 and 24, to examine how the Community Order and Suspended Sentence Order are used for this age group and make comparisons with adults over the age of 24. This has the added advantage of avoiding a polarisation between those aged 18 to 20 and supposedly more 'adult' offenders. However, when looking at sentencing trends in the use of custody and community sentences, it is necessary to rely on annual sentencing statistics, which only provide a breakdown for 18 to 20 year olds. This is also the case for data relating to breach and terminations of the pre-Criminal Justice Act 2003 community sentences.

## Characteristics and needs of young adult offenders

Home Office research has found strong associations between drug misuse, alcohol misuse, delinquent associates and lack of qualifications and the criminal conviction of young people (Flood-Page et al., 2000; Wilson, Sharp and Patterson, 2006). However, there has been very little research looking at the specific characteristics and needs of young adults serving community sentences.

An evaluation of the Intensive Control and Change Programme pilots showed that young adults generally have greater needs than their adult counterparts (Partridge, Harris,

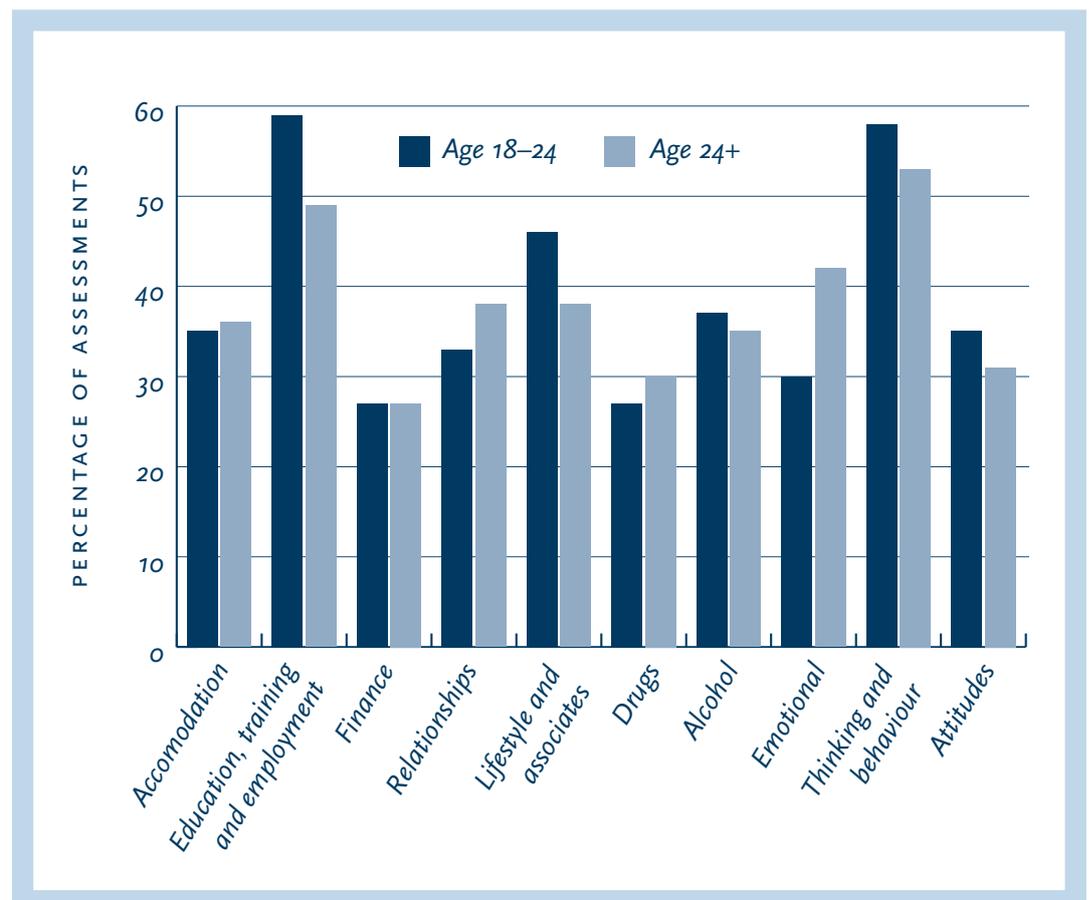
5. Dunkel also notes the sociological background to this: individuals mature and develop at different rates in a context where people generally take on the trappings of maturity (independent living, partners, families) at an older age than before.

Abram and Scholes, 2005). It found that more than three-quarters (77 per cent) had an education, training or employment need, just under half (49 per cent) had an accommodation need, nearly half (46 per cent) were misusing alcohol, nearly a third (29 per cent) were misusing drugs, and more than a third (37 per cent) had basic skills needs.

A similar picture of the greater needs of young adult offenders is shown in recent information from two probation areas based on an analysis of data from the NOMS assessment tool (OASys) (see Figure 1). In interpreting this information, it must be remembered that OASys gives a broad-brush picture. Nevertheless, the data provide an indicative snapshot of the needs and characteristics of young adults on community sentences.

Figure 1 shows that young adults are most likely to be assessed as having serious needs in the areas of education, training and employment, lifestyle and associates, and thinking and behaviour. Older offenders are more likely than young adults to be assessed as having needs in the areas of relationships and emotional well-being (including mental health). Levels of assessed drug and alcohol misuse appear to be more similar for young adults and for older offenders.

**Figure 1:** OASys assessment of needs by age *Source: OASys reports on assessments completed in 2006 provided by two probation areas.*<sup>6</sup>



6. Data are weighted to give equal representation to each area. For further details on the weighting methodology, see footnote 10.

The sentencing framework of the Criminal Justice Act 2003 allows courts, subject to the seriousness of the offence and the need for proportionality in sentencing, to impose requirements in Community Orders or Suspended Sentence Orders to reflect the specific needs of offenders. If this is being done we should expect the types of requirements made in orders to reflect the differential levels of need in different age groups.



Given what is known about the characteristics and needs of young adult offenders, we might expect requirements for Community Orders and Suspended Sentence Orders for young adults to address problems of education, training and employment, lifestyle and thinking and behaviour. Broadly, these are likely to be requirements for specified activities, supervision and accredited programmes. In addition, a substantial minority of young adults (at least a third) appear to have problems requiring drug, alcohol or mental health treatment.

Chapter three examines the requirements that comprise Community Orders and Suspended Sentence Orders given to young adults to see if these needs are generally being met. The next chapter looks at sentencing trends in the use of community sentences for young adults.



# Sentencing trends

The total number of offenders starting community sentences has increased from 112,000 in 1995 to 136,000 in 2005 (Home Office, 2006), a rise of 21 per cent.<sup>7</sup> Over the same period, the number aged 18 to 24 grew at a much slower rate, increasing from 47,000 to 51,000, a rise of just 9 per cent.

Table 1 sets out the use of custody and community sentences by the courts for young offenders aged 18 to 20 convicted of indictable offences.<sup>8</sup> Given the way sentencing statistics have been published it is only possible to look at those aged 18 to 20.

**Table 1:** Outline sentence trends for young adults, 1992–2005 *Source: Home Office (2007), Sentencing Statistics, 2005, England and Wales, Home Office Statistical Bulletin 03/07, London: Home Office; Home Office (2001), Criminal Statistics, England and Wales, 2000, London: Home Office.*

	1991	1995	2003	2005
Custody	14%	20%	22%	24%
Suspended sentences	0%	0%	0%	1%
Community sentences	30%	31%	32%	35%
Other disposals*	56%	49%	45%	40%

\* 'Other disposals' include fines, conditional and absolute discharges

Over this period, the use of custody and the use of community sentences for young adults aged 18 to 20 have both risen at the expense of fines, conditional discharges and other disposals. The way the courts have dealt with young offenders has thus become more severe – this is known as 'up-tariffing'.

Looking at the most recent sentencing patterns for young adults, Table 2 shows that, in 2005, young adult offenders (aged 18 to 20) were more likely to receive a community sentence than offenders aged 21 and over, and they were less likely to be subject to an immediate or suspended custodial sentence. This difference appears to stem from a greater use of custody by the courts for property offences (burglary, theft and fraud) committed by offenders aged 21 and over, while those aged 18 to 20 were more likely to receive community sentences for such offences.

**Table 2:** Sentencing by age group, 2005 *Source: Home Office (2007), Sentencing Statistics, 2005, England and Wales, Home Office Statistical Bulletin 03/07, London: Home Office.*

	Age 18–20	Age 21 and over
Custody	24%	28%
Suspended Sentences	1%	2%
Community Sentences	35%	29%
Other disposals	40%	41%

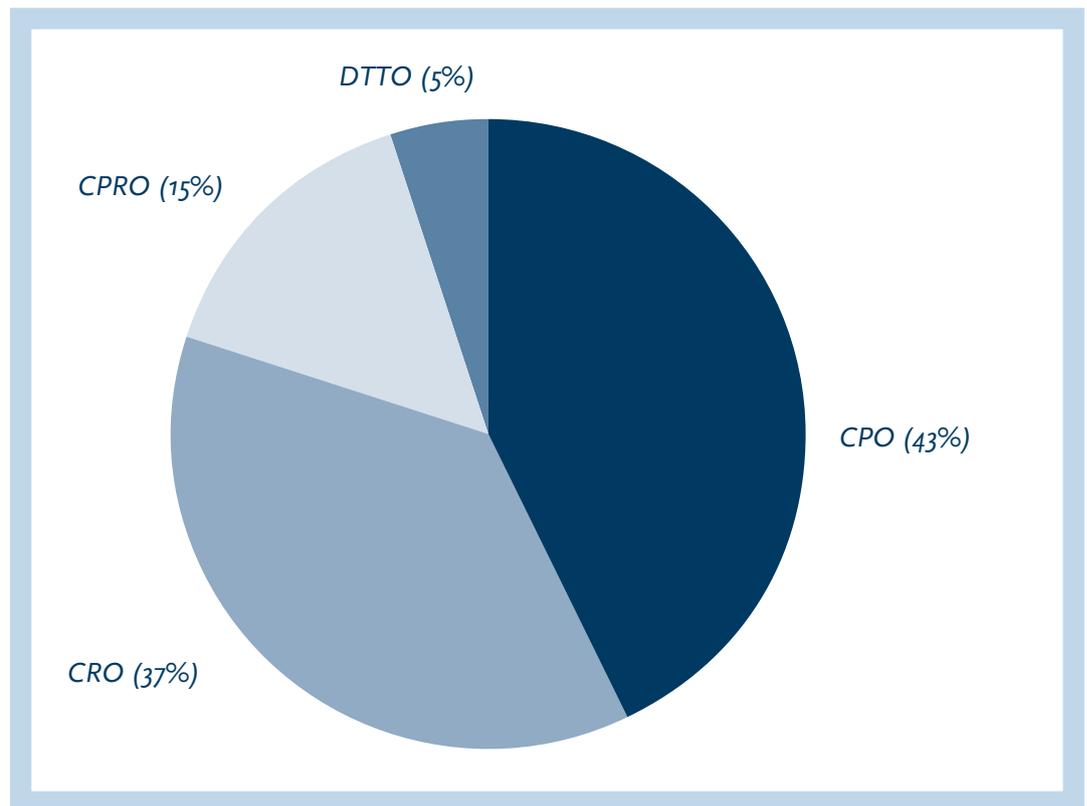
7. This figure excludes 5,000 Suspended Sentence Orders made in 2005.

8. Years are selected to reflect periods before and after the Criminal Justice Act 2003 and before and after the full effect of the Criminal Justice Acts of 1991 and 1993.

For the last full year of sentencing before the introduction of the new Community Order and Suspended Sentence Order in April 2005, the profile of community sentences for young adults supervised by the probation service was as follows: 37 per cent were subject to Community Rehabilitation Orders (CROs); 43 per cent received Community Punishment Orders (CPOs); 15 per cent received Community Punishment and Rehabilitation Orders (CPROs); and 5 per cent received Drug Treatment and Testing Orders (DTTOs).

Over half of young offenders on Community Orders (58 per cent) were therefore required to complete community punishment in the form of CPOs and CPROs – now known as unpaid work. This emphasis on unpaid work is significant. The creation of the Community Order and Suspended Sentence Order was intended to provide sentencers with a wide range of options to meet the specific needs of offenders without necessarily having to rely on one particular intervention. The next chapter will examine whether or not this in fact has been the case for young adults.

**Figure 2:** Profile of Community Orders for young adult offenders (aged 18–24), 2004  
*Source: Home Office (2006), Offender Management Caseload Statistics, 2005, England and Wales, Home Office Statistical Bulletin 18/06, London: Home Office.*



The **Community Rehabilitation Order (CRO)** was established in 2001, when it replaced the Probation Order. 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. 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 Punishment Order (CPO)**, also established in 2001, replaced the Community Service Order, 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 **Community Punishment and Rehabilitation Order (CPRO)**, created in 2001, replaced the Combination Order, with a probation element of 12 months to three years and community service element of 40 to 100 hours. 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 **Community Rehabilitation Order** and the **Community Punishment and Rehabilitation Order** 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.



# Trends in the use of Community Orders and Suspended Sentence Orders

The gradual phasing in of the new orders has meant that it has taken a number of months for the ‘old style’ community sentences to be completely replaced. By the end of 2006, however, 89 per cent of all community sentences being made by the courts were the new Community Orders. At this time, Suspended Sentence Orders accounted for 19 per cent of the total of community sentences and Suspended Sentence Orders made. This is higher than predicted by the Home Office, which had estimated closer to half of that figure (Home Office, 2006a). The Suspended Sentence Order is technically a custodial sentence and, as highlighted in *The Use and Impact of the Community Order and Suspended Sentence Order*, ‘its popularity so far would suggest – other things being equal – increasing levels of punitiveness’ (Mair et al., 2007).<sup>9</sup>

Published Home Office data do not provide a detailed analysis of the use of the new sentences for different age groups. This chapter therefore analyses data from two probation areas on young adults starting community sentences in 2006.<sup>10</sup> To simplify presentation, the data have been combined and weighted to give equal influence to each probation area. The analysis shown here should therefore not be seen as necessarily representative of the national picture. However, it does provide a valuable illustration of how the new Community Orders and Suspended Sentence Orders are being used for young adults.

## Number of requirements<sup>11</sup>

Tables 3 and 4 set out the number of requirements given to young adults aged 18 to 24 and adults aged 25 and over for Community Orders and Suspended Sentence Orders respectively.

**Table 3:** Number of requirements in Community Orders by age group and order type

Source: Probation area data: orders commencing in 2006.

	Community Order	
	Age 18–24	Age 25 and over
One	50%	48%
Two	31%	37%
Three	16%	13%
Four	3%	3%
Five	0%	0%
Number of cases (weighted) = 100%	855	1,289
Mean number of requirements	1.7	1.7

9. In recognition of this, the Ministry of Justice has set out proposals to introduce legislation to provide that Suspended Sentences ‘apply to indictable offences including either way offences, but not to summary (less serious) offences’ (Ministry of Justice, 2007).

10. The two areas selected were chosen from different parts of the country and had different characteristics (a shire county and a metropolitan area). The two data sets used were weighted. Only Community Orders and Suspended Sentence Orders where the age at sentence was 18 or over were given a weighting. A total of 1,364 such cases commencing in 2006 recorded by Warwickshire probation area were each given a weighting of 1. A total of 12,957 such cases commencing in 2006 provided by the London probation area were each given a weighting of 0.1. The final effective sample size was therefore 2,660 weighted cases, of which 1,364 were provided by Warwickshire and 1,296 by London. Community Orders made up 2,144 weighted cases (81 per cent of the total) and Suspended Sentence Orders 516 (19 per cent of the total). This procedure was adopted to give roughly equal influence in the combined data set to each area. This meant that, for illustrative purposes, data from the larger area did not outweigh data from the smaller area.

11. For an explanation of each of the 12 requirements that make up the Community Order and the Suspended Sentence Order, see the Appendix.

For Community Orders, half (50 per cent) of new orders for young adults had a single requirement, just under a third (31 per cent) had two requirements and just under one in five (19 per cent) had three or more requirements. Very few had four requirements and only a handful had five requirements. There is therefore no evidence to suggest that requirement overload is occurring for young adults offenders as was feared might be the case for all offenders before the new sentence was introduced (Mair et al., 2007).

In comparison with older offenders, Community Orders for young adults are less likely to have two requirements and more likely to have three requirements. It appears that the courts are adding a third requirement to the standard combination of a supervision requirement and an accredited programme. Typically, this additional requirement is either unpaid work, a specified activity or a curfew. This highlights the punitive elements in orders for young adults.

Overall, the mean number of requirements for Community Orders given to young adults is 1.7, the same as for older offenders.

Suspended Sentence Orders were more likely to contain multiple requirements (see Table 4). About two-fifths (39 per cent) of Suspended Sentence Orders for young adults had a single requirement, over a third (35 per cent) had two requirements, and nearly a quarter (23 per cent) had three. As with the Community Order, only a small proportion (4 per cent) had four requirements. While 47 per cent of Community Orders for young adults had two or three requirements, the figure for Suspended Sentence Orders was 58 per cent.

**Table 4:** Number of requirements in Suspended Sentence Orders by age group and order type *Source: Probation area data: orders commencing in 2006.*

	Suspended Sentence Order	
	Age 18–24	Age 25 and over
One	39%	38%
Two	35%	43%
Three	23%	16%
Four	4%	2%
Five	0%	0%
Number of cases (weighted) = 100%	195	321
Mean number of requirements	1.9	1.8

Compared with older offenders, young adults subject to Suspended Sentence Orders were more likely to have orders with three or more requirements but less likely to have orders with two requirements. The mean number of requirements was slightly higher for young adults (1.9) than for older offenders (1.8).

The Suspended Sentence Order appears to be used as a more punitive sentence for young adults than the Community Order. Although this is the case in the overall use of the orders for all offenders (see Mair et al., 2007), the increase in punitiveness is more marked for young adults. It is also important to note that this trend contradicts the Sentencing Guidelines Council proposals, which state that the requirements for the Suspended Sentence Order should be:

*‘... less onerous than those imposed as part of a community sentence. A court wishing to impose onerous or intensive requirements on an offender should reconsider its decision to suspend sentence and consider whether a community sentence might be more appropriate.’*

(Sentencing Guidelines Council, 2004: 25)

Significantly, for both Community Orders and Suspended Sentence Orders, the major difference in the sentencing of young adults arises from the greater use of orders with three or more requirements. This indicates a greater readiness by courts to add a third requirement to a combination of supervision and accredited programme requirements. The result is often an order similar to the former Intensive Control and Change Programme but, unlike the ICCP, it is not being targeted at those young adults who have committed more serious offences.

## Length of orders

The average length of a Community Order for young adults was 13 months, slightly shorter than an average Community Order for older offenders (14 months). The average for Community Orders with only one requirement was 12 months; where there were three requirements, it was 15 months. For older offenders, Community Orders showed a similar pattern, rising from 12 months for one requirement to 16 months for three requirements. The average length of the Suspended Sentence Order was 17 months for both young adults and older offenders.

These figures are similar to the use of orders for all offenders (see Mair et al., 2007). The tendency towards shorter sentences for Community Orders given to young adults is noteworthy, given that these orders are more likely to have three or more requirements. This suggests that courts believe it is appropriate to give young adults less time to complete an order, even if it is more onerous.

## Types of requirements<sup>12</sup>

Table 5 summarises the use of different types of requirements for Community Orders for young adults aged between 18 and 24 and for adults of 25 and over.

**Table 5:** Requirements used in Community Orders by age group *Source: Probation area data: orders commencing in 2006.*

Type of requirement	Age group	
	18 to 24	25 and over
Supervision	33%	39%
Unpaid work	35%	26%
Accredited programme	19%	19%
Drug treatment	2%	6%
Curfew	4%	2%
Specified activity	5%	4%
Alcohol treatment	1%	3%
Mental health	0%	1%
Residential	0%	1%
Exclusion	0%	0%
Prohibited activity	0%	0%
Attendance centre	0%	0%
Weighted number of requirements	1,469	2,209

The most common requirement for young adults was unpaid work (35 per cent), followed by supervision (33 per cent) and accredited programmes (19 per cent). Only 5 per cent of requirements were for a specified activity (usually expected to be for education, training or

12. An explanation of the 12 requirements and the purpose of each requirement is set out in the Appendix.

employment issues) and only 4 per cent were for a curfew.<sup>13</sup> Drug treatment accounted for only 2 per cent of requirements, while alcohol treatment was used even more rarely. Five requirements (mental health, residential, exclusion, prohibited activity and attendance centre) were very rarely used, although relevant facilities were evidently available. This reflects the fact that, for all offenders, while 12 requirements are theoretically available, many are rarely used (see Mair et al., 2007).

In contrast, for older offenders, supervision was used more often (39 per cent of requirements) and unpaid work less often (26 per cent). One in five (19 per cent) of requirements were for accredited programmes. Significantly, treatment requirements were more common for older offenders than for young adults.

The clear trend that emerges is the high use of the unpaid work requirement for young adults and the relatively low use of supervision and treatment requirements. *The Use and Impact of the Community Order and Suspended Sentence Order* noted that the general preference for unpaid work is ‘not surprising given the government’s emphasis on its significance’ (Mair et al., 2007). However, it is noticeable just how much it is being used for young adults compared to older adults. It would appear that the punitive and reparative elements of the unpaid work requirement are seen by the courts as particularly appropriate when sentencing young adults, even though unpaid work does not normally include the substantial ‘training’ elements previously available in Community Punishment Orders. Home Office guidance states that these elements should now be addressed by using a specified activity requirement (Home Office, 2005a).

**Table 6:** Requirements used in Suspended Sentence Orders by age group *Source: Probation area data: orders commencing in 2006.*

Type of requirement	Age group	
	18 to 24	25 and over
Supervision	38%	42%
Unpaid work	25%	21%
Accredited programme	20%	21%
Drug treatment	2%	4%
Curfew	6%	4%
Specified activity	4%	3%
Alcohol treatment	1%	3%
Mental health	0%	0%
Residential	0%	1%
Exclusion	2%	1%
Prohibited activity	1%	1%
Attendance centre	0%	0%
Weighted number of requirements	371	576

For young adults on Suspended Sentence Orders there is not such a clear emphasis on unpaid work. The most commonly used requirement was supervision (38 per cent), followed by unpaid work (25 per cent) and accredited programmes (20 per cent). These three requirements together made up over four-fifths of all requirements imposed. Curfew requirements made up 6 per cent of requirements. Treatment requirements, specified activity requirements and other restrictive requirements together made up just over a tenth of all requirements imposed on young adults.

13. As is noted in Mair et al. (2007), the number of curfew requirements recorded in offender management statistics is presumed to be an understatement because orders with stand-alone curfew requirements are not managed by probation areas and are therefore not included in these figures. As of July 2006, the Home Office estimate for stand-alone curfew requirements (covering the Community Order and the Suspended Sentence Order) was 17,600 – a substantial number. This caveat should be taken into account throughout this chapter

As the Suspended Sentence Order is technically a custodial sentence and therefore a severe punishment, the greater use of supervision and relatively less use of unpaid work, compared to requirements used in Community Orders, indicate that courts were more often using requirements for Suspended Sentence Orders to address young offenders' needs rather than for the purpose of punishment. There was therefore less reliance on using unpaid work requirements to reflect the seriousness of the offence.

The difference between young adults and older offenders is less marked for Suspended Sentence Orders than for Community Orders. A young adult is slightly less likely to be given a supervision requirement and slightly more likely to be given unpaid work. Curfew and other restrictive requirements are slightly more common for young adults, while treatment requirements are less frequently imposed.

### Combinations of requirements

For those Community Orders given to young adults with a single requirement, three-quarters (76 per cent) involved unpaid work, while one in five involved supervision (20 per cent). Three per cent of orders for young adults with one requirement involved a curfew. For older offenders there were slightly fewer single requirement Community Orders, but the great majority (64 per cent) involved unpaid work and a third (32 per cent) involved supervision. Once again, there is a clear emphasis on unpaid work for young adults.

Suspended Sentence Orders with single requirements given to young adults also usually involved unpaid work (56 per cent), followed by supervision (38 per cent). Four per cent involved curfew requirements. By contrast, older offenders were less likely to be given unpaid work as the single requirement (46 per cent) and more likely to be given supervision (46 per cent). Six per cent of orders with a single requirement for older offenders involved a curfew.

Where Community Orders for young adults comprised two requirements, the most common combination was supervision and an accredited programme (53 per cent), followed by a combination of supervision and unpaid work (21 per cent). In effect, this equates with the old Community Punishment and Rehabilitation Order. Supervision was used alongside a range of other requirements in 17 per cent of cases. These included specified activities (7 per cent), drug treatment (5 per cent) and alcohol treatment (2 per cent).

For older offenders, a supervision requirement and programme requirement was the combination most frequently used (50 per cent). Unpaid work and supervision was used less often for older offenders (16 per cent), while other combinations with a supervision requirement were more frequent (30 per cent). Other requirements used alongside supervision for this group were drug treatment (13 per cent), alcohol treatment (7 per cent), specified activities (7 per cent) and mental health treatment (2 per cent).

Thus, Community Orders with two requirements for young adults were more likely to involve unpaid work and less likely to involve drug, alcohol or mental health treatment. Unpaid work was rarely combined with a specified activities requirement, and the latter was used in conjunction with supervision no more often for young adults than for older offenders.

Suspended Sentence Orders with two requirements for young adults also predominately involved supervision and accredited programme requirements (45 per cent), followed by a combination of supervision and unpaid work (32 per cent). Older offenders were more likely to receive the combination of supervision and accredited programme requirements (49 per cent) and less likely to have supervision and unpaid work (22 per cent). Only 14

per cent of Suspended Sentence Orders with two requirements had supervision with a requirement other than an accredited programme or unpaid work; these were mainly for drug treatment (4 per cent), curfew (4 per cent) and specified activities (3 per cent). It would appear, therefore, that Suspended Sentence Orders with two requirements are more likely to include supervision and accredited programme requirements and less likely to include supervision and drug treatment combinations.

Where three requirements were made in Community Orders for young adults the most common combination was supervision with an accredited programme and unpaid work (51 per cent). Supervision and accredited programmes in combination with a range of other requirements (usually for treatment) were used in 32 per cent of these orders. These included supervision with an accredited programme and drug treatment (7 per cent), supervision with an accredited programme and a specified activity (effectively the old Intensive Control and Change Programme) (15 per cent), and supervision with unpaid work and a specified activity (8 per cent).

For older offenders, half of Community Orders with three requirements included supervision with an accredited programme and unpaid work, and a third had supervision and an accredited programme in combination with a range of other requirements. These included supervision with an accredited programme and drug treatment (10 per cent), supervision with an accredited programme and a specified activity (9 per cent) and supervision with an accredited programme and alcohol treatment (7 per cent).

The picture for Suspended Sentence Orders with three requirements is similar: 46 per cent of young adults had orders involving supervision, an accredited programme and unpaid work; 14 per cent had supervision, an accredited programme and a curfew; and 12 per cent had supervision with an accredited programme and a specified activity. For older adults the main difference was greater use of drug treatment (8 per cent) and alcohol treatment (8 per cent) alongside supervision and accredited programme requirements.

For cases with four requirements or more, Community Orders for young adults were most likely to be based on a combination of supervision, accredited programme and unpaid work (62 per cent) while orders for older offenders were more likely to be based around a combination of supervision and drug treatment (79 per cent). There are too few Suspended Sentence Orders in this category to give a clear picture, but the emphasis on accredited programmes for young adults and drug treatment for older offenders appears to be the case here too.

The overall picture is that both Community Orders and Suspended Sentence Orders for young adults are more likely to contain a requirement for unpaid work in comparison with orders for older offenders. Requirements for older offenders are more likely to involve supervision where there is just one requirement, or drug treatment where there are two or more requirements. The use of accredited programmes in requirement combinations is similar for both groups but, for young adults, these are more likely to be used in conjunction with unpaid work and less likely to be used with drug treatment.

As is the case in the use of the new orders for all offenders (see Mair et al., 2007), it is important to note that most of the combinations used for young adults reflect 'old' order types. However, it is not clear at this stage how far this reflects conservatism and caution in proposing and making requirements, lack of suitable resources or issues related to assessment.

The evidence for a match between requirements and needs is perhaps less positive than it might be. The greater use of unpaid work for young adults may help address employment and training needs but provides no assistance with basic skills. Within the sentencing

framework of the Criminal Justice Act 2003, this is more likely to be provided through specified activity or supervision requirements.

As highlighted in chapter 1, data from probation assessments suggests that young adults have significant problems with attitudes and thinking and behaviour. These are best addressed through accredited programmes, but the analysis in this report shows that young adults are not significantly more likely to be subject to these requirements. Furthermore, despite the fact that substance misuse is a problem for many young adults, drug and alcohol treatment requirements are used relatively rarely.

There are clearly questions to be raised about the responsiveness of sentencing to the needs and circumstances of young adults. The Criminal Justice Act 2003 allows courts a great deal of flexibility and discretion in non-custodial sentencing to enable them to address both the seriousness and the causes of offending. Young adults have particular needs, but these do not appear to be being addressed through an innovative use of the different requirements of the Community Order and Suspended Sentence Order. Given deficits in education, training and employment, one might wish to see more recorded use of specified activity requirements linked to a supervision or unpaid work requirement.

## Termination and breach

The enforcement of community sentences has been of major concern in recent years and continues to be a key priority for NOMS. High breach rates were a particular worry prior to the introduction of the new orders. It was feared that many offenders would not be able to cope with the variety and number of requirements and would therefore inevitably breach their orders (Mair et al., 2007).

Breach is a particular issue for young adult offenders. Statistics on the outcome of Community Orders show a consistent tendency for young adult offenders (defined in these data as 18 to 20 year olds) to be likely to breach Community Orders. As Figure 3 shows, the percentage of 'satisfactory' terminations for all order types (defined as completing the order, or the order being discharged early for good progress) rises with age, while the percentage of 'unsatisfactory' terminations (breached for failing to comply with the order, or on reconviction for a further offence) is greater for young adults offenders aged 18 to 20 years old than for all older offenders.

There are no published data as yet relating to the breach of Community Orders and Suspended Sentence Orders, but it would not be unreasonable to assume that breach will continue to be an important issue for young adults and that numbers being sent to custody as a result of enforcement could be high. The continuing focus on strict national standards encourages a rigorous approach to breach by probation officers. Moreover, as highlighted in *The Use and Impact of the Community Order and Suspended Sentence Order*, 'the courts can no longer deal with breach of a Community Order by taking no action, issuing a warning, or imposing a fine and allowing the order to continue unchanged' (Mair et al., 2007). For the Suspended Sentence Order, guidance is clearer: '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, 2005a: 84).

**Figure 3:** Terminations of Community Orders by age, 2005 Source: Home Office (2006), *Offender Management Caseload Statistics, 2005, England and Wales, Home Office Statistical Bulletin 18/06*, London: Home Office.



### Uptariffing and the use of custody

One of the key intentions behind the introduction of the new sentences was to divert offenders from short custodial sentences of less than 12 months. A substantial proportion of those serving these sentences have been young adult offenders. However, the latest prison population figures suggest that this is not occurring – the use of custody for 18 to 20 year olds is not abating.

According to the latest statistics, the number of young adults aged 18 to 20 in custody increased from 8,747 in March 2006 to 9,311 in March 2007. This rise includes increases in the numbers serving sentences of six months or more; there was a slight fall (from 1,009 to 931) in the number serving sentences of less than six months (Home Office, 2007c). There is therefore little, if any, evidence so far that the use of the new orders is diverting young adults who would previously been given short sentences from custody.

# Conclusions

This report is mainly based on illustrative data from two probation areas. Given the high level of inter-area variation in the use of requirements for all offenders (Mair et al., 2007), these figures must be interpreted with caution. Nevertheless, in general, these data bear comparison with Mair's findings. The contrast between the sentencing of young adults and older offenders therefore seems well grounded.

The key findings from this report are:

- There has been a continued increase in the number of young adults subject to community sentences.
- Young adults are more likely than older offenders to have needs linked to conviction related to employment, training and education, lifestyle, attitude, thinking and behaviour. A significant number have needs related to drug or alcohol abuse or emotional well-being (including mental health).
- So far, there seems to have been little innovation in the practical application of the new sentencing arrangements for young adults, with the Community Order appearing to mirror the old community sentences.
- Suspended Sentence Orders tended to have more requirements and to be made for longer than Community Orders.
- Unpaid work was used more frequently as a requirement, on its own or in combination with other requirements, for young adults than for older offenders. This was most marked for Community Orders.
- By contrast, treatment requirements were more rarely used for young adults.
- Specified activity requirements were used less frequently than might be expected given the prominence of problems with education, training and employment for young adults.
- The pattern of requirements in orders for young adults raises questions about the extent to which sentencing is responsive to the needs of young adults, as well as matching the seriousness of the offence.
- There is as yet no information on breach and enforcement; this will need monitoring in the future.
- There is no evidence that orders are diverting young adults from custody or impacting on up-tariffing.

It is still early days for the new sentences. However, it would appear that the overall pattern of use of the Community Order and the Suspended Sentence Order tends to work against what is known about young adults' needs and the factors associated with their offending. There is therefore a case for reviewing the responsiveness in sentencing for young adults. At present, courts tend to be using 'more of the same' and constructing requirements packages in community sentences that mirror the pre-Criminal Justice Act 2003 sentences. There is clearly scope for more innovation – from probation officers when making proposals and from courts when passing sentence.

This report provides a snapshot of how the new sentences are being used for young adults. It has highlighted some important issues that need to be considered in more detail. In particular, it has drawn attention to the need to look more closely at how effectively community sentences are being used for this important group of offenders.



# Appendix

## The requirements of the Community Order and the Suspended Sentence Order

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.

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 Order)** 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.
- **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.
- **Exclusion (up to 24 month)** 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 A). The guidance notes that ‘some requirements may also have other functions or purposes’.

**Table A:** 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	+			

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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 one in a series of publications looking at how the sentences are being used for specific groups of offenders.

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