

CENTRE FOR CRIME
AND JUSTICE STUDIES

Community Sentences Digest

Enver Solomon and Arianna Silvestri

SECOND EDITION

Acknowledgements

We would like to thank those who have assisted in the research and production of this report. Stephen Stanley and Geoff Dobson provided valuable comments on the first edition of this publication. Robert Stanbury and his colleagues in the Ministry of Justice commented on various sections for the first edition and assisted with data. We are also grateful to staff at the Centre for Crime and Justice Studies for their assistance, particularly Helen Mills. Any omissions or errors remain ours alone.

Finally, we would like to acknowledge the generous financial support of the Esmée Fairbairn Foundation without which this report would not have been possible.

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Published by:
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www.crimeandjustice.org.uk

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ISBN: 978-1-906003-15-9

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Introduction

Given that far more people are serving community sentences than are in custody at any one time,¹ it is surprising how little information there is about these sentences and the offenders who are serving them. As a result, the level of political and public debate is often ill-informed. This digest intends to address the gap in information and to improve the quality of debate about community sentences.

This is the second edition of a report first published in May 2007 as part of the Centre for Crime and Justice Studies' Community Sentences project, which was originally set up to investigate and monitor the new Community Order.² However, as the first report outlined, soon after the implementation of the Community Order on 4 April 2005, it became clear that the new Suspended Sentence Order (SSO), sometimes referred to as 'custody minus', was playing a significant role in sentencing and was impacting directly on the work of the Probation Service. The project's remit was therefore expanded to examine the Suspended Sentence Order. Although the Suspended Sentence Order is technically a custodial sentence, it is served in the community and has the same range of requirements as the Community Order supervised by probation staff. It was therefore felt that it was important to include information about the Suspended Sentence Order in this report.

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

Prison overcrowding is a well-known fact. What is less well known is that community sentence caseloads are also overcrowded. In 2007, 162,648 people started court orders in the community, the highest ever recorded number. It represents a 36 per cent increase in the decade since 1997. The former Chief Inspector of Probation, Professor Rod Morgan, famously described the trend as the 'silting up' of the Probation Service. As eight out of every ten offenders supervised by probation are on either community sentences or Suspended Sentence Orders, they are the key factor driving up caseloads. The effect is far less graphic than images of overcrowded jails but the impact is equally damaging. The section on staffing highlights that the ratio of offenders to qualified probation officers has risen from 31:1 to 40:1, with staff supervising caseloads which are, on average, much larger than those of practitioners in youth offending teams. There also continue to be high sickness levels amongst the probation workforce. In 2007–2008, the average number of sick days for each employee was 12.1, one of the highest across the public sector.

It is important to recognise that this digest is not in itself a piece of academic research, but is a collation of published research and official data. It is based mainly on government statistics but also draws on academic and other research. For example, the information in the section on mental health comes from the experience of voluntary sector organisations because there has been so little research looking at people on community sentences and mental health.

The report does not cover every single aspect of community sentences and there are some obvious omissions. For example, we do not include a section on ethnicity. This is partly because detailed information and analysis on

¹ For example, at the end of December 2007, there were 111,454 people on community sentences (see: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice) compared to 79,842 in prison (see: www.hmprisonservice.gov.uk/assets/documents/1000336C28122007_web_report.doc).

² The project focuses on adult offenders, as the new sentences only apply to over-18 year olds. This report does not therefore include information about children and community sentences, unless otherwise stated.

the use of the new community sentences based on ethnic breakdown have not yet been produced by the Ministry of Justice.

The digest is not intended to be a campaigning document promoting the greater use of community sentences. Instead, it offers rigorous, objective information and critical analysis about the way the sentences have been used during a period of great change in probation practice and sentencing policy. Some of the shortcomings in the implementation of the Community Order are noted, not least the fact that some requirements are rarely used and that offenders do not always complete or start requirements before their sentence expires. The section dealing with deaths of people under probation supervision draws attention to the fact that suicide rates amongst offenders on probation are extremely high. While policy and practice have focused on reducing suicides in custody, it has perhaps been an oversight not to focus similar attention and resources on probation.

Finally, the report attempts to provide a detailed overall picture of the multiple social needs of offenders on community sentences. This is not an easy task because much less data and research exist on this subject than on the social exclusion of prisoners. However, we have found that just over half have basic education and training deficits, more than half are unemployed, nearly a third have an accommodation problem, nearly half have a mental health problem, close to a quarter have some kind of drug problem and almost half have an alcohol problem.

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

A brief history of community sentences

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

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

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

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

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

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

Key facts and trends³

The number of people serving court orders in the community (a Community Order, an old style community sentence or a Suspended Sentence Order) at any one time and the number starting court orders in the course of a year have changed significantly in recent years. In fact, latest figures show that in 2007 the highest ever recorded number of people started court orders.

The most recent figures show that on 31 December 2007 there were 150,179 people serving court orders in the community in England and Wales, a rise of 2 per cent compared to the previous year. Of these, 111,454 people were serving community sentences and 42,912 were serving suspended sentences.

Although the number of people serving community sentences (Community Orders and their predecessors) in 2007 declined from 121,367 in 2006, the number of people serving suspended sentences increased significantly from 28,364 to 42,912, a rise of 51 per cent.

Overall, since 2002, the number of people serving court orders in the community has increased from 116,125 to 150,179, a rise of 29 per cent. The number serving community sentences has decreased from 116,125 to 111,454. This decline is due to increasing numbers serving a Suspended Sentence Order following its introduction in 2005. In fact, the Ministry of Justice states that 'sentencing trends show that the proportion of offenders receiving a community sentence has fallen since SSOs were introduced in April 2005, suggesting that a number of SSOs have been given to offenders who would previously have been given non-custodial sentences'.⁴

In terms of the number of people commencing court orders in the community in a particular year, 162,648 started a court order in 2007, the

highest number ever recorded. This compares to 155,614 in 2006, a rise of 5 per cent.

Of the 162,648 offenders who started a court order in the community in 2007, 125,369 started community sentences, of which the vast majority (117,860) were Community Orders, and 44,421 started Suspended Sentence Orders. Compared to the previous year, the number of community sentences which were started in 2007 decreased by 2 per cent (from 128,336 to 125,369) and the number of suspended sentences increased by 36 per cent (from 32,727 to 44,421).

In the decade between 1997 and 2007 the number of people starting community sentences increased from 119,775 to 125,369, a rise of 5 per cent (see Figure 1). However, the numbers who started a court order in the community (which includes Suspended Sentence Orders) shows an increase over the decade of 36 per cent (from 119,775 in 1997 to 162,648 in 2007).

Demographics of those serving court orders in the community

Of the 24,388 women who started a court order in the community in 2007 (a Community Order, an old style community sentence or a Suspended Sentence Order), 19,347 started community sentences, of which the vast majority (18,287) were Community Orders and 5,951 were Suspended Sentence Orders.

In the decade between 1997 and 2007 the number of women who started community sentences increased from 17,473 to 19,347, a rise of 11 per cent. The number of women who started a court order in the community shows

³ All data in this section are taken from Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice, Chapters 4 and 5, unless otherwise stated.

⁴ *ibid*, p.28.

an increase over the decade of 40 per cent (from 17,473 to 24,388).

More than half (55 per cent) of those starting community sentences in 2007 were under the age of 30. Twenty-six per cent of those commencing community sentences in 2006 were aged 30 to 39, while 19 per cent were aged 21 or under.

Only 13 per cent of offenders serving court orders in the community at the end of 2007 had no previous convictions or cautions recorded on the Police National Computer.⁵

Previous data show that between 2000 and 2005 the proportion of people with no previous convictions sentenced at all courts to a community sentence increased from 32 per cent to 42 per cent.⁶

An analysis of correctional services commissioned by the Cabinet Office and published in 2003 stated that 'of the increase in the number of offenders receiving a community sentence since 1996 two-thirds have no previous convictions'.⁷

Sentencing trends⁸

The total number of community sentences given at all courts increased steadily from 1996 to 2006, with the number of those sentenced

increasing from 132,637 to 190,837, a rise of 44 per cent. However, between 2005 and 2006, the number decreased by nearly 7 per cent, from 204,247 to 190,837.⁹

In 2006, 91 per cent of all community sentences were given at magistrates' courts, a 2 per cent increase since 2005.

Over the last decade there has been a significant increase in the numbers of community sentences issued at magistrates' courts. Between 1996 and 2006 the numbers increased from 112,805 to 173,605, a rise of 54 per cent. The proportion of those sentenced at magistrates' courts over the same period who were given community sentences rose from 8.3 per cent in 1996 to 13 per cent in 2006. However, most recently, between 2005 and 2006, there was a 5 per cent decrease in the proportion of those sentenced to community sentences at magistrates' courts.

The number of offenders issued with community sentences at the Crown Court between 1996 and 2006 declined by 15 per cent, from 19,832 to 17,232. The proportion of those sentenced at the Crown Court over the period 1996 to 2006 who were given community sentences also declined, from 27 per cent to 22.5 per cent. Between 2005 and 2006 the number of community sentences

⁵ For data for those on Community Orders and Suspended Sentence Orders see, p.15 and p.16.

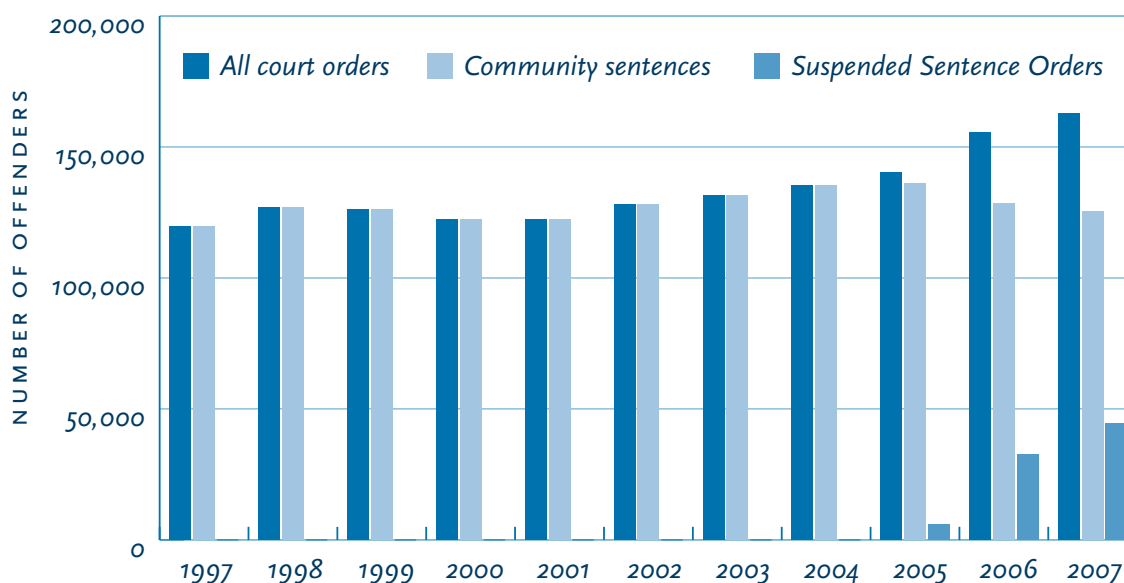
⁶ Home Office (2006), *Sentencing Statistics 2005*, London: Home Office, Table 6.6, p.149.

⁷ Carter, P (2003), *Managing Offenders, Reducing Crime*, Strategy Unit, London: Cabinet Office, p.18.

⁸ This section looks at sentencing trends for community sentences between 1996 and 2006, at the time of writing, the most recent ten-year period for which official published data are available. All data are from Ministry of Justice (2007), *Sentencing Statistics 2007*, London: Ministry of Justice, unless otherwise stated.

⁹ Note that figures quoted here include juvenile offenders aged 10 to 18 and adults.

Figure 1: Number of offenders starting community sentences, Suspended Sentence Orders and all court orders, 1997–2007 *Source: Ministry of Justice (2008), Offender Management Statistics 2007, London: Ministry of Justice, Table 3.1.*



issued at the Crown Court fell by 23 per cent, from 22,403 to 17,232.

The ‘uptariffing’ of sentences¹⁰ is believed to be largely responsible for the greater overall use of community sentences over the last ten years in magistrates’ courts and for the decline in the use of community sentences in the Crown Court.

The government acknowledges that ‘sentencers have increased the use of community punishments, but only for those who would previously have got fines’.¹¹

In 2006, 54 per cent of all community sentences were for indictable offences. This is about the same proportion as in 2005 and the lowest proportion for ten years. In 1996, 65 per cent of all community sentences were for indictable offences. This demonstrates how custody has displaced community sentences for the more serious indictable offences.

In 2006, 46 per cent of all community sentences were for summary offences, about the same proportion as in 2005. Ten years

previously, in 1996, the proportion was 35 per cent. This demonstrates how the courts are increasingly using community sentences for less serious summary offences, which would previously have attracted fines.

Offence breakdown¹²

Nearly half (46 per cent) of those offenders given community sentences had committed ‘summary non-motoring offences’ or ‘summary motoring offences’. Around one in five (19 per cent) had committed an offence of ‘theft and handling stolen goods’, and ‘violence against the person offences’ accounted for around one in ten (9 per cent) (see Table 1).¹³

In the decade to 2006 there have been some significant changes in the type of offences committed by offenders sentenced to community sentences. Between 1996 and 2006 the number of those given community sentences for ‘summary non-motoring

¹⁰ Uptariffing has been succinctly described by former Chief Inspector of Probation, Rod Morgan: ‘Sentences have become substantially more severe, community penalties displacing financial penalties (and to a lesser extent discharges) and immediate custody displacing community penalties and suspended sentences. Furthermore, the custodial sentences being imposed are longer.’ See: Morgan, R. (2003), ‘Thinking about the demand for probation services’, *Probation Journal* 50(1), pp.7–19; Mair G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.26.

¹¹ Cabinet Office (2006), Prime Minister’s Strategy Unit, *Policy Review: Crime, Justice and Cohesion*, unpublished.

¹² This section provides sentencing data for all community sentences between 1996 and 2006, at the time of writing, the most recent decade for which published figures are available. All data are from Ministry of Justice (2007), *Sentencing Statistics 2006*, London: Ministry of Justice, unless otherwise stated. The offence breakdowns for the Community Order and Suspended Sentence Order are given on pages 14 and 15.

¹³ A ‘summary’ offence is a less serious offence, triable only ‘summarily’. It is not a more serious ‘indictable’ offence and is almost always tried in a magistrates’ court.

¹⁴ Data cover all community sentences. Offence breakdowns for the new Community Order and Suspended Sentence Order are given on pages 14 and 15.

Table 1: Number of offenders sentenced to community sentences at all courts by offence type in 1996 and 2006 (and, for each offence, the percentage of the total number of community sentences)¹⁴
Source: Ministry of Justice (2007), *Sentencing Statistics 2006*, London: Home Office, pp.10–11.

Offence type	Number of community sentenced offenders in 1996 (and percentage of total)	Number of community sentenced offenders in 2006 (and percentage of total)
Violence against the person	10,581 (8)	17,232 (9)
Sexual offences	1,116 (1)	1,347 (1)
Burglary	13,531 (10)	9,940 (5)
Robbery	1,412 (1)	2,957 (2)
Theft and handling stolen goods	35,288 (27)	36,947 (19)
Fraud and forgery	6,064 (5)	6,479 (3)
Criminal damage	3,287 (2)	6,049 (3)
Drug offences	6,106 (5)	9,127 (5)
Other (excluding motoring)	6,608 (5)	11,156 (6)
Motoring	1,778 (1)	1,737 (1)
Summary non-motoring offences	22,706 (15)	59,585 (31)
Summary motoring offences	24,160 (18)	28,281 (15)
Total	132,637	190,837

offences' nearly tripled from 22,706 (17 per cent of all orders made) to 59,585 (31 per cent of all orders made). However, the proportion of those given community sentences for 'theft and handling' declined, from 27 per cent to 19 per cent of all orders made. The proportion of those receiving community offences for burglary halved over the decade, from 10 per cent of all orders in 1996 to 5 per cent in 2006.

The offence at magistrates' courts where a community sentence was imposed most frequently in 2006 was 'common assault' (about 23,600). This was followed by 'theft from shops' (18,300), 'driving with alcohol in the blood above the prescribed limit' (about 11,700), 'criminal damage, £5,000 or less' (10,400) and 'driving while disqualified' (10,100).

At the Crown Court, community sentences were most often imposed for 'assaults occasioning actual bodily harm' (2,300). This was followed by 'affray' (1,800), 'burglary in a dwelling' (1,300) and 'wounding or inflicting grievous bodily harm' (600).

Reconvictions

The method used to measure the proportion of offenders on community sentences who are convicted of a further offence has changed in recent years. The most recent data measure the actual rate of reconviction, the predicted rate and also the frequency and severity of reconviction over a one-year period.¹⁵

The latest data show that, in 2006, 36.1 per cent of offenders serving court orders in the community (including both Community Orders and Suspended Sentence Orders) were reconvicted of a further offence within one year of starting their order. This compares to 39.5 per cent in 2000 (see Figure 2).¹⁶

In 2006 the predicted rate of reconviction for offenders serving court orders was 37.5 per cent, which is 1.4 per cent higher than the actual rate of 36.1 per cent. This means that there was a 1.4 per cent reduction in reconviction in 2006. This is only the second time since 2000 that there has been a reduction in the reconviction rates when comparing the actual rate with the predicted rate for a one-year period (see Figure 2).¹⁷

The latest data also show that, significantly, the frequency rate for those serving court orders in the community who were reconvicted reduced by 23.4 per cent between the 2000 and 2006 cohorts.¹⁸

In 2006, 36.5 per cent of offenders on Community Orders and 37.9 per cent of those on Suspended Sentence Orders were reconvicted of a further offence within one year of starting the order. This is the first year for which data are available but there are no data for the predicted rate or frequency of reconviction. The one-year reconviction rate was 31.7 for the old community sentences.¹⁹

Previous data, which measured reconviction rates for offenders serving the old community sentences over a two-year period and did not measure frequency of reconviction, showed that for those starting community sentences in 2004, 50.5 per cent were reconvicted.²⁰

This compares to a predicted rate of 54.1 per cent, which means there was a reduction in reconviction of 3.6 per cent. It also represents a decrease from the 53.4 per cent reconviction rate for those commencing a community sentence in 2003. Between 1997 and 2004, the two-year reconviction rate has remained above 50 per cent.

¹⁵ See Ministry of Justice (2008), *Re-offending of Adults: Results from the 2006 Cohort*, London: 111 Ministry of Justice for further details and a full explanation of the difference between actual and predicted rates of reconviction and severity and frequency of reconviction.

¹⁶ *ibid*, Table A5, p.24. It should be noted that only the 2006 data include Community Orders and Suspended Sentence Orders as they were introduced during the previous year. As reconviction rates are measured two years after sentence, the first set of data on reconviction rates since the implementation of Community Orders and Suspended Sentence Orders is due in 2009. National Audit Office (2008), *National Probation Service – The Supervision of Community Orders in England and Wales*, London: NAO, p.15.

¹⁷ *ibid*.

¹⁸ *ibid*, p.15.

¹⁹ *ibid*, p.24.

²⁰ Home Office (2007), *Re-offending of Adults: Results from the 2004 Cohort*, London: Home Office, Table A5, p.21.

Table 2: Actual and predicted one-year reconviction rates for court orders in the community, 2000-2006 (percentages)*
Source: Ministry of Justice (2008), *Re-offending of Adults: Results from the 2006 Cohort*, London: Ministry of Justice.

Year	Actual reconviction rate	Predicted reconviction rate
2000	39.5	37.4
2002	40.9	37.9
2003	42.1	38.7
2004	39.0	38.3
2005	37.9	37.8
2006	36.1	37.5

* Data for 2001 are unavailable

The Community Order and the Suspended Sentence Order: background and key facts²¹

The Community Order

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

On 31 December 2007 there were 101,858 people on a Community Order, 91 per cent of all people on community sentences. The remaining 9 per cent of sentences were constructed using the pre-2003 Criminal Justice Act community sentences legislation.

There were 8 per cent more people on a Community Order at the end of 2007 compared to 2006 (up from 93,895 to 101,858).

During 2007, 117,860 people started a Community Order, 94 per cent of all people

starting community sentences that year.

Compared to 2006 there was a 6 per cent increase in the number starting a Community Order (up from 111,752 to 117,860).

The most common Community Order issued by the courts in 2007 was an order made up of a stand-alone unpaid work requirement (31 per cent of all orders). The next most common was an order made up of supervision, followed by an order made up of supervision with an accredited programme.

In 2007, the average length of a Community Order was 15.7 months, a decrease from 17.6 months in 2006. The Ministry of Justice states: 'It is possible that the overall increase in SSOs has drawn in some who would previously have received longer-term Community Orders, partly explaining the fall in average length'.

Table 3: Number and proportion of offenders starting Community Orders by offence type in 2007
Source: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

Offence type	Number	Percentage
Violence against the person	10,794	9
Sexual offences	777	1
Burglary	4,916	4
Robbery	307	0.5
Theft and handling stolen goods	21,363	18
Fraud and forgery	4,844	4
Criminal damage	3,804	3
Indictable motoring offences	1,092	0.4
Other indictable offences	11,663	10
Summary motoring offences	23,083	19
Other summary offences	35,217	30
Total	117,860	

²¹ Unless otherwise stated, all data in this section are taken from: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

Around half (49 per cent) of those starting Community Orders in 2007 had committed summary motoring offences or 'other' summary offences. Nearly one in five (18 per cent) had committed an offence of 'theft and handling stolen goods'. 'Violence against the person' accounted for 9 per cent (see Table 3).

Of all those starting Community Orders in 2007, 14 per cent were from a minority ethnic group. Black or black British, the largest single minority ethnic group, accounted for 6 per cent.

Only 13 per cent of offenders on Community Orders at the end of 2007 had no previous convictions or cautions recorded on the Police National Computer. More than a quarter (27 per cent) had between three and six previous convictions and 16 per cent had 15 or more.

The Suspended Sentence Order

The Suspended Sentence Order (SSO) is technically a custodial sentence even though it is served in the community. It should only be used where the court is minded to pass a custodial sentence of less than 12 months.

It is made up of the same requirements as the Community Order and, in the absence of breach, is served wholly in the community for a maximum supervision period of two years.²²

The Suspended Sentence Order came into force alongside the Community Order in April 2005. The Home Office has noted that 'they are much more demanding than old suspended sentences and more widely available'.²³

On 31 December 2007 there were 42,912 people on a Suspended Sentence Order, 26 per cent of all people on court orders in the community. This compares to 19 per cent at the end of December 2006.

There was a 51 per cent rise in the number of people on a Suspended Sentence Order at the end of 2007 compared to 2006 (up from 28,364 to 42,912).

During 2007, 44,421 people started a Suspended Sentence Order, 25 per cent of all people starting court orders in the community that year. Compared to 2006 this is a 36 per cent increase (up from 32,727 to 44,421).

In 2006 the average length of a Suspended Sentence Order was 17.5 months, almost the same as the previous year when it was 17.4 months.

Table 4: Number and proportion of offenders starting Suspended Sentence Orders by offence type in 2007
Source: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

Offence type	Number	Percentage
Violence against the person	7,555	17
Sexual offences	378	1
Burglary	2,626	6
Robbery	436	1
Theft and handling stolen goods	6,538	15
Fraud and forgery	2,124	5
Criminal damage	836	2
Indictable motoring offences	895	2
Other indictable offences	6,447	14
Summary motoring offences	7,237	16
Other summary offences	9,349	21
Total	44,421	

²² Breach of a Suspended Sentence Order does not automatically result in a custodial sentence, although 'the court must activate the suspended sentence unless it is of the opinion it would be unjust to do so in view of all the circumstances'. Home Office (2005), *Probation Circular 25/2005: Criminal Justice Act 2003: Implementation on 4 April*, London: Home Office, p.84.

²³ Home Office (2006), *Making Sentencing Clearer*, London: Home Office, p.4.

The largest offence group for those who started Suspended Sentence Orders in 2007 was 'other summary offences'. The next largest was 'violence against the person' offences, which accounted for 17 per cent, followed by 'summary motoring offences' (16 per cent) (Table 4).

The Ministry of Justice is concerned that the Suspended Sentence Order is not being used, as initially envisaged, for offenders who in the past would have been given a custodial sentence. In a policy paper published in May 2007, it stated that 'the new suspended sentences are being used in cases where a community order might previously have been used and for summary offences, rather than for more serious offences and in place of custody. Just over 40 per cent of suspended sentence orders are being used for the less serious, summary only offences.'²⁴

Plans were included in a Criminal Justice and Immigration Bill in 2007 to restrict the application of Suspended Sentence Orders to indictable offences, including either-way offences, but not to summary offences.

However, the proposals were dropped prior to the legislation receiving Royal Assent.

Of all those starting Suspended Sentence Orders in 2007, 14 per cent were from a minority ethnic group. Black or black British, the largest single minority ethnic group, accounted for 6 per cent.

Only 12 per cent of those offenders on Suspended Sentence Orders at the end of 2007 had no previous convictions or cautions recorded on the Police National Computer.

A quarter had between three and six previous convictions and 16 per cent had 15 or more.

²⁴ Ministry of Justice (2007), *Penal Policy – A Background Paper*, London: Ministry of Justice, p.9.

The requirements of the Community Order and the Suspended Sentence Order²⁵

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

Sentencers are encouraged to provide a 'tailor-made' sentence to suit the needs of individual offenders and the community. The new Community Order and Suspended Sentence Order enable judges and magistrates to create hybrid orders by combining several requirements, the number of which must be in proportion to the seriousness of the offence. The 12 requirements are available for sentencers constructing both the Community Order and the Suspended Sentence Order.²⁶

The 12 requirements are:

- **Unpaid work (40 to 300 hours)**
An unpaid work requirement must be completed within 12 months. It involves activities such as cleaning up graffiti, making public areas safer and conservation work. The work is intended to benefit the local community and in some probation areas residents are able to suggest projects for offenders with an unpaid work requirement to carry out.
- **Supervision (up to 36 months; 24 months maximum for Suspended Sentence Orders)**
An offender is required to attend appointments with an offender manager or probation officer. The focus of the supervision and the frequency of contact are specified in the sentence plan, which is based on the particular issues the offender needs to work on. The supervision requirement lasts for the period of time the 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 complete a drug rehabilitation requirement. This requirement may involve monthly court reviews of an offender's progress, drug testing and structured day care.
- **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.

²⁵ Unless otherwise stated, all data in this section are taken from Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

²⁶ The requirement descriptions are drawn from: National Probation Service (2006), *The Tailored 12 Requirements Poster*, London: Home Office; Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.9, available at www.kcl.ac.uk/ccjs.

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

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

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

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

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

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

■ **Exclusion (up to 24 months)**

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

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

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

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

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

Home Office guidance sets out the various requirements and the sentencing purposes for which they might be proposed (see Table 5).

The guidance notes that 'some requirements may also have other functions or purposes'.²⁷

²⁷ Home Office (2005), *Criminal Justice Act 2003: Implementation*, Probation Circular, 25/2005, London: Home Office, p.67.

²⁸ See Mair G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS.

²⁹ The likely reason for this combination is when an order with a single unpaid work requirement is breached and the court decides to impose a further unpaid work requirement on top of the original order.

³⁰ The number of curfew requirements is likely to represent a considerable underestimate because stand-alone curfews are not supervised by the Probation Service and therefore are not included in the data-set published by the Ministry of Justice.

³¹ *ibid.*

Table 5: Community Order requirements and main sentencing 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	+			

The use of requirements for people starting Community Orders

The average number of requirements for those starting Community Orders in 2007 was 1.7, the majority of orders imposing either one or two requirements upon an offender (84 per cent). This was the same as in 2006.

Nearly half (49 per cent) of all Community Orders starting in 2007 had just one requirement. Just over one-third (35 per cent) had two requirements, 14 per cent had three and 2 per cent had four and 0.3 per cent had five or more (see Figure 2). There was no significant change compared to 2006.

Only 351 Community Orders starting in 2007 had five or more requirements. On this basis there is no evidence to suggest that requirement overload is occurring with the Community Order, as some were concerned when it was introduced.²⁸

The most frequently used combination of requirements in Community Orders commenced in 2007 was unpaid work as a single requirement, accounting for 32 per cent (38,093) of all Community Orders. The next

Figure 2: Number of requirements for people starting Community Orders in 2007 (percentage)
Source: Ministry of Justice (2008), Offender Management Caseload Statistics 2007, London: Ministry of Justice.

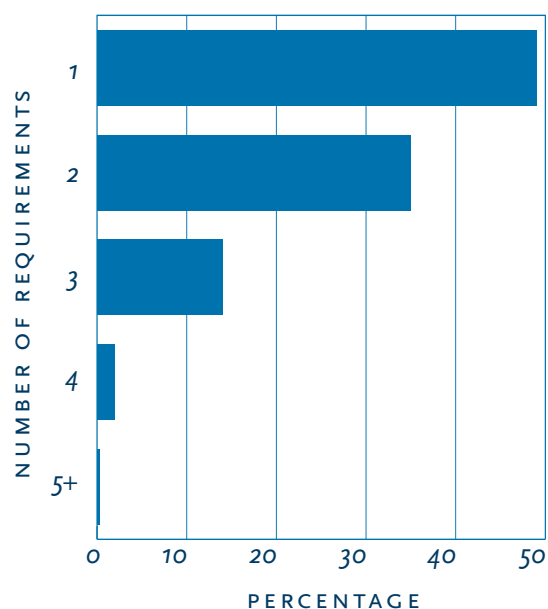


Figure 3: Common combinations of requirements for Community Orders commencing in 2007 (percentage breakdown) Source: Ministry of Justice (2008), Offender Management Caseload Statistics 2007, London: Ministry of Justice.

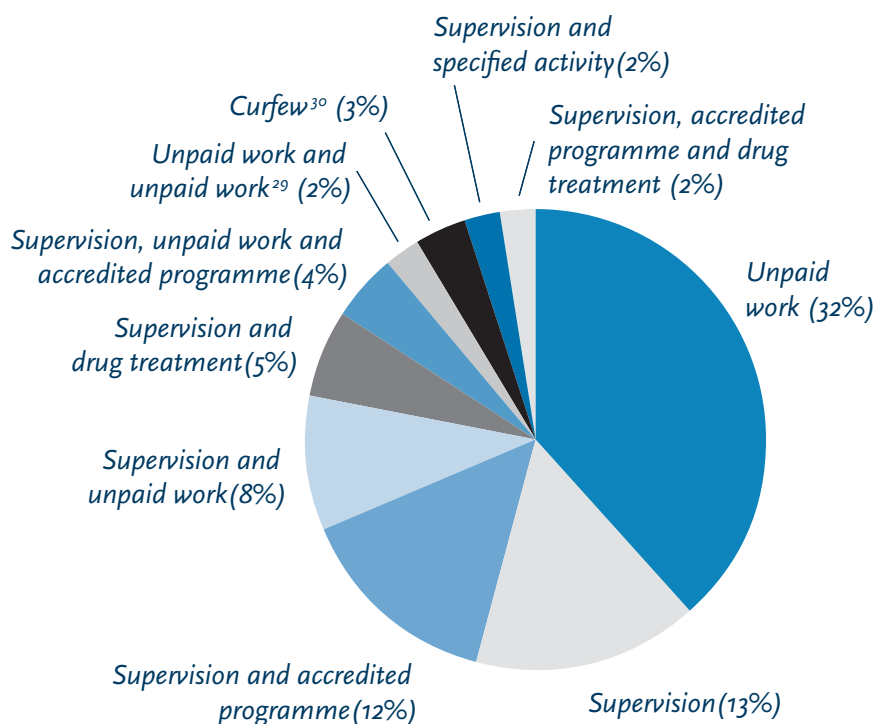
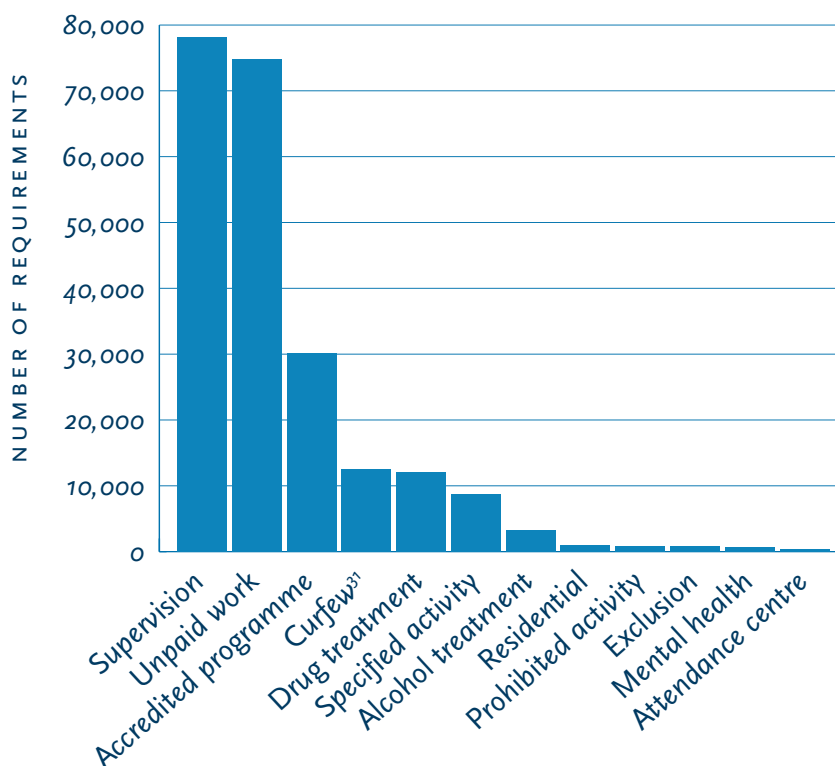


Figure 4: Number of requirements commenced with Community Orders, 2007
Source: Ministry of Justice (2008), Offender Management Caseload Statistics 2007, London: Ministry of Justice.



most common was supervision as a single requirement, accounting for 13 per cent (15,511) of orders, followed by supervision with accredited programme, which accounted for 12 per cent (see Figure 3). In 2006, there were proportionately more orders made up of the combination of supervision and accredited programme than there were orders comprising supervision on its own.

Overall, 223,511 requirements were given with Community Orders in 2007 and of all requirements issued the most frequently used, irrespective of combination, was supervision (35 per cent), followed by unpaid work (33 per cent). Five of the requirements (residential, attendance centre, mental health treatment, prohibited activity, and exclusion) made up less than 1 per cent of the total use of requirements (see Figure 4). There was no significant change compared to 2006.

Independent research has found that, for the most part, the Community Order mirrors the old style community sentences, as it is effectively the Community Rehabilitation Order (CRO), the Community Punishment Order (CPO) or the Community Punishment and Rehabilitation Order (CPRO) (sometimes with an additional requirement). However, the research found that there does seem to have been a shift in the balance between unpaid work and supervision. There is very little evidence of innovation and some requirements have been used very rarely indeed – notably alcohol treatment, mental health treatment, prohibited activity, residence, exclusion and attendance centre requirements.³²

The National Audit Office has raised concerns that some requirements remain uncompleted when a Community Order expires. It found that 6 per cent of offenders in a sample it examined were unable to complete a requirement before their order expired. It said that the Probation Service needed ‘to address the process and delivery issues that lead to non-completion of sentences’.³³

The National Audit Office also found that there were long waiting lists for some requirements – in particular, group domestic violence programmes – which increases the possibility of requirements not being completed before an order ends.³⁴

A survey based on responses from 35 probation areas conducted by the National Association of Probation Officers in February and March 2008 found that some requirements were not available and that there were delays in starting requirements. The survey found that 34 of the 35 areas reported a variety of problems including ‘the non-availability or restricted availability of Unpaid Work, cancellation of one-to-one programmes, major problems and delays with Domestic Violence Programmes, and the non-availability of Drink Impaired Driving Programmes, Substance Abuse Treatment, and Community and Internet Sex Offender requirements’.³⁵

The National Audit Office has raised concerns that some requirements are not being used as much as they should, stating: ‘The extent of the difference between factors which might be driving offending behaviour and the uptake of the associated requirement suggests that certain requirements are under-used.’³⁶

³² There is a variety of possible reasons why these requirements have been so little used: they are not widely available (attendance centre, alcohol treatment); they are not traditionally part of probation’s culture (the exclusion requirement and prohibited activity); there is some confusion about duplication/overlap (the exclusion requirement and prohibited activity); the National Offender Management Service (NOMS) assessment tool, the Offender Assessment System (OASys), is not picking up problems such as mental health. See: Mair, G. et al. (2007), *The Use and Impact of the Community Order and the Suspended Sentence Order*, London: CCJS, p.21, available at www.kcl.ac.uk/ccjs.

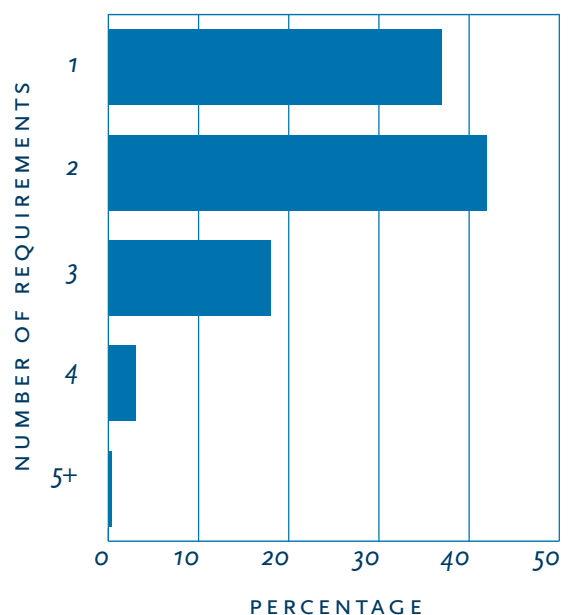
³³ National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

³⁴ *ibid.*

³⁵ Napo News, April 2008, Issue 198.

³⁶ National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

Figure 5: Number of requirements for people starting Suspended Sentence Orders in 2007 (percentage)
Source: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.



The use of requirements for people starting Suspended Sentence Orders

The average number of requirements for those starting Suspended Sentence Orders starting in 2007 was 1.9, the majority of orders imposing either one or two requirements upon an offender (79 per cent). This was the same as in 2006.

Just over a third (37 per cent) of all Suspended Sentence Orders starting in 2007 had one requirement. Nearly half (42 per cent) had two requirements, 18 per cent had three, and 3 per cent had four (see Figure 5). Only 199 Suspended Sentence Orders starting in 2007 had five or more requirements. There was no significant change compared to 2006.

Proportionately fewer Suspended Sentence Orders had just one requirement compared to Community Orders. In 2007 only 37 per cent of Suspended Sentence Orders had a single requirement attached at sentence compared to 49 per cent of Community Orders, which

Figure 6: Common combinations of requirements for Suspended Sentence Orders commencing in 2007 (percentage breakdown) *Source: Ministry of Justice (2008), Offender Management Caseload Statistics 2007, London: Ministry of Justice.*

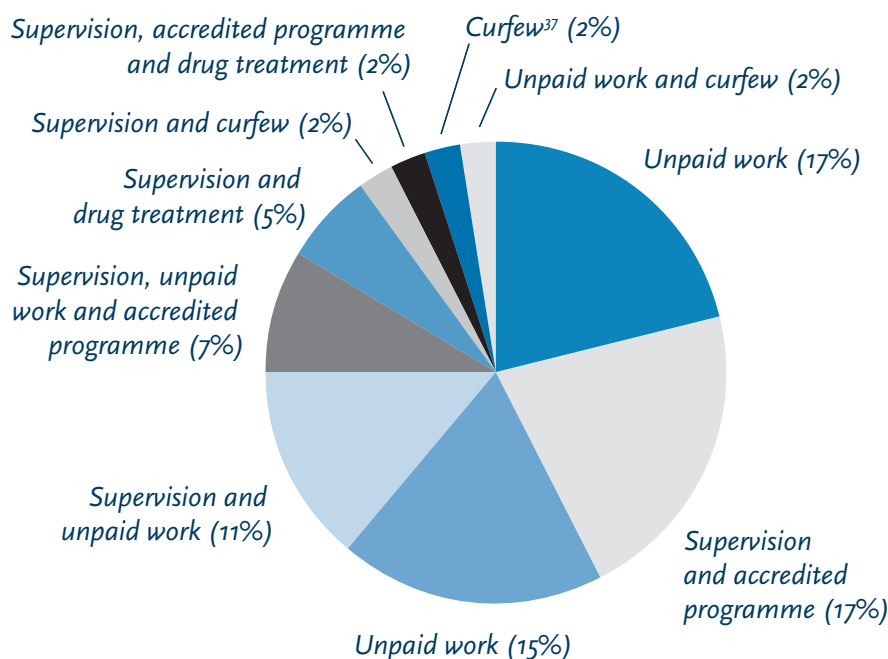
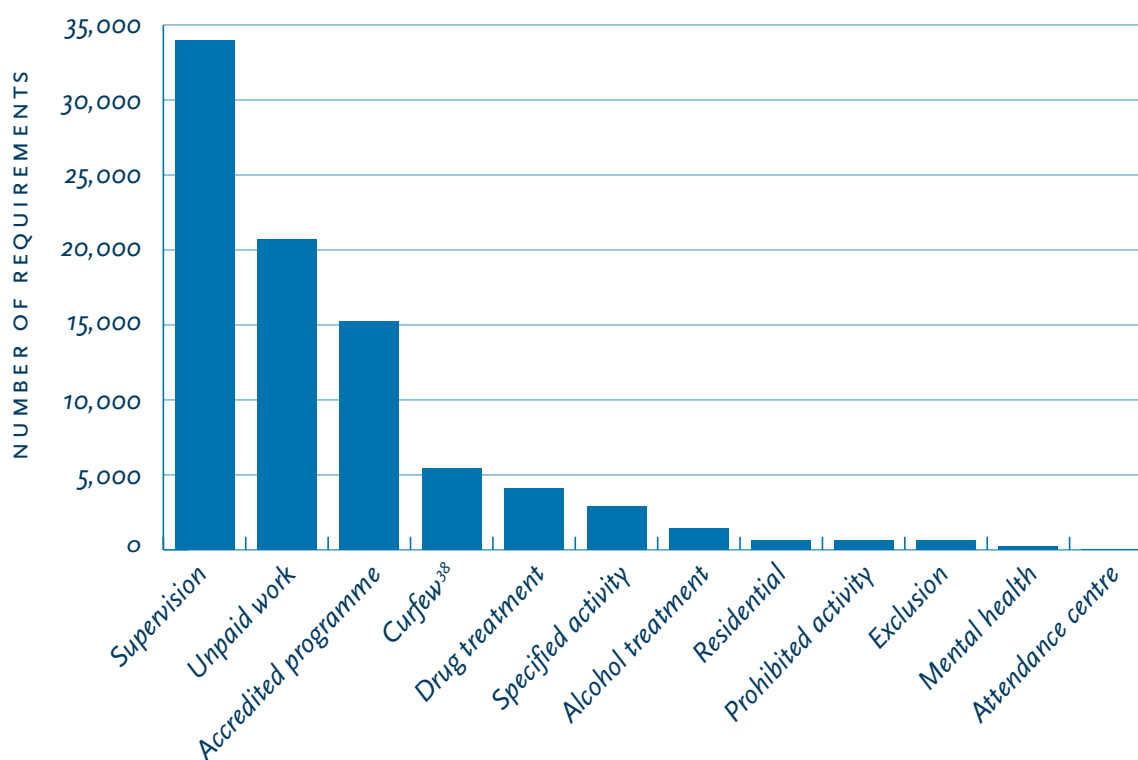


Figure 7: Number of requirements commenced with Suspended Sentence Orders, 2007 *Source: Ministry of Justice (2008), Offender Management Caseload Statistics 2007, London: Ministry of Justice.*



³⁷ See footnote 30

³⁸ See footnote 30

suggests that the Suspended Sentence Order is being used as a more punitive sentence than the Community Order. This contradicts the advice given by the Sentencing Guidelines Council on setting requirement numbers for Suspended Sentence Orders.³⁹

The most frequently used combination of requirements in Suspended Sentence Orders commenced in 2007 were unpaid work as a single requirement, accounting for 17 per cent (7,886) of all Suspended Sentence Orders, and a combination of supervision and accredited programme which also accounted for 17 per cent (7,517). The next most common was supervision as a single requirement, accounting for 15 per cent (6,744) of orders, followed by supervision and unpaid work, which accounted for 11 per cent (see Figure 6). In 2006 there were proportionately fewer orders made up of unpaid work as a single requirement.

Overall, 85,901 requirements were given with Suspended Sentence Orders in 2007. Of the total number of requirements issued, the most frequently used requirement, irrespective of combination, was supervision (40 per cent), followed by unpaid work (24 per cent). As is the case with Community Orders, five of the requirements (residential, attendance centre, mental health treatment, prohibited activity, and exclusion) made up 1 or less than 1 per cent of the total use of requirements (see Figure 7).

Supervision was used more often and unpaid work less often for Suspended Sentence Orders compared to Community Orders. In 2007 the supervision requirement represented 40 per cent of all requirements issued for Suspended Sentence Orders and unpaid work was used in 24 per cent of all requirements issued for Suspended Sentence Orders, compared to 35 and 30 per cent respectively of all requirements issued for Community Orders.

Regional variations

Data from 2006 (the most recent available) show that there was considerable regional variation across the 42 probation areas in

England and Wales in the number and different type of requirements used.⁴⁰

The use of stand-alone requirement

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

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

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

The National Audit Office also found that not all requirements were used in all probation areas, with there being considerable variation for particular requirements such as the alcohol treatment requirement.⁴¹

Regional variations were also found for the Suspended Sentence Order. In three areas, more than 50 per cent of Suspended Sentence Orders had only one requirement, while for six areas the figure was less than 30 per cent. These six areas were around two to three times more likely to have orders with three or more requirements than the former.

39 The Sentencing Guidelines Council states 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.' (See Sentencing Guidelines Council (2004), *New Sentences: Criminal Justice Act 2003 Guideline*, London: Sentencing Guidelines Council, p.25)

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

41 National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

Unpaid work

The unpaid work requirement replaced 'Enhanced Community Punishment' and has been promoted to the public under the brand 'Community Payback'. The Home Office states that the offender who receives the unpaid work requirement 'will be expected to carry out work that is demanding and that will benefit other people' and that they 'will be paying back the community for the harm or damage' caused by their offending. Unpaid work is also intended to provide the offender with an opportunity to learn new skills and 'get on better' with other people.⁴² If the offender has a job during the week he or she is able to complete the unpaid work at weekends.⁴³

Many different types of unpaid work are available, ranging from removing graffiti to agricultural labour. A Probation Service audit of unpaid work carried out in March 2008 found that a quarter of hours worked were on environmental or conservation projects, 20 per cent were on painting or decorating and 14 per cent involved charity shop work. Cleaning or maintenance accounted for 8 per cent of hours worked and graffiti or litter removal 6 per cent.⁴⁴

The Probation Service audit of unpaid work carried out in March 2008 found that only 35 per cent of projects were made visible in some way to the public.⁴⁵

The Ministry of Justice is piloting a 'citizens panels' scheme in six probation areas to allow communities the opportunity to determine what work should be carried out in their area by offenders on unpaid work requirements.⁴⁶

In 2006–2007 there were over 55,514 unpaid work completions, totalling more than 6 million hours.⁴⁷

Unpaid work has increased steadily in recent years, with the number of hours spent by

offenders on community sentences doing unpaid work rising by over 26 per cent between 2002 and 2006.⁴⁸

The government aims to increase the number of unpaid work hours to 'approaching 10 million in 2011'. It hopes that offenders completing unpaid work programmes will make 'an important contribution towards the work necessary to prepare for the Olympic Games' in London in 2012.⁴⁹

A recent report by HM Inspectorate of Probation found that there were 'wide variations in the quality of case management' across the country in relation to the conduct of unpaid work programmes. The report, published in 2006, said that 'not all of the projects provided the positive benefit to the offender intended... e.g. in terms of contact with beneficiaries or skills development, but they did provide the punishment and indirect reparation that Community Service and then Community Punishment had offered'.⁵⁰

A National Audit Office analysis of Probation Inspectorate file reviews found that inspectors considered only around two-thirds (63 per cent) of unpaid work placements suitably demanding.⁵¹

There have been problems with offenders unable to carry out unpaid work due to staff shortages, lack of transport or a lack of unpaid work spaces, resulting in offenders being 'stood down'. A self-selecting survey carried out by the National Association of Probation Officers in September 2007 found that there were problems in about a third of the 42 probation areas.⁵²

Based on figures for 2005 and 2006 obtained through parliamentary questions the Conservatives claim that 40 per cent of unpaid work requirements for male offenders are not completed.⁵³

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

43 *ibid.*

44 National Probation Service (2008), *Snapshot of Unpaid Work 2008*, London: NOMS.

45 *ibid.*

46 See: <http://www.justice.gov.uk/news/newsrelease290908a.htm>.

47 See: <http://www.justice.gov.uk/news/newsrelease271207a.htm>.

48 Ministry of Justice (2008), *Prison Penal Policy*, London: Ministry of Justice, p.20.

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

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

51 National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

52 Napo News, October 2007, Issue 193.

The National Probation Service acknowledges that there has been an issue with uncompleted unpaid work programmes and states: 'Work has been done to identify good practice and management information which will assist areas to reduce stand downs to a minimum.'⁵⁴

Unpaid work and the Community Order

An offender sentenced to a Community Order with the unpaid work requirement will have to work at least six hours a week and finish the requirement within 12 months, working a total of between 40 and 300 hours.⁵⁵

Unpaid work has been one of the most frequently used requirements since the introduction of the Community Order.

Overall, out of all Community Order requirements started in 2007, there were 74,779 unpaid work requirements, 33 per cent of all requirements commenced. Only the supervision requirement was used more often (35 per cent).⁵⁶

The stand-alone unpaid work requirement was used more often than any other combination of requirements for Community Orders. The 38,093 stand-alone unpaid work requirements commenced in 2007 accounted for nearly a third (32 per cent) of all Community Orders.⁵⁷

In the six months from April 2007 the average number of unpaid work hours given nationally by the courts for a Community Order was 118.

There were considerable regional variations, ranging, for example, from 98 hours per Community Order in Surrey to 136 in Cheshire.⁵⁸

Unpaid work and the Suspended Sentence Order

Unpaid work has been one of the most frequently used requirements since the introduction of the Suspended Sentence Order.

Overall, out of all Suspended Sentence Order requirements commenced in 2007, there were 20,703 unpaid work requirements, almost a quarter (24 per cent) of all requirements started. Only the supervision requirement was used more often (40 per cent).⁵⁹

The stand-alone unpaid work requirement was used more often than any combination of requirements for Suspended Sentence Orders. The 7,746 stand-alone unpaid work requirements issued in 2007 accounted for 17 per cent of all Suspended Sentence Orders.⁶⁰

Compared to 2006 the use of the unpaid work requirement in Suspended Sentence Orders increased by 52 per cent, a substantial rise. The increase is far greater than the change in the use of unpaid work for Community Orders which rose by 12 per cent.⁶¹

⁵³ House of Commons, *Hansard*, Column 831, 5 December 2007.

⁵⁴ National Probation Service (2008), *Annual Report 2007/08*, London: Ministry of Justice.

⁵⁵ National Probation Service (2005), *Unpaid Work Requirement*, leaflet, London: Home Office.

⁵⁶ Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

⁵⁷ *ibid.*

⁵⁸ National Audit Office (2008), *National Probation Service – The Supervision of Community Orders in England and Wales*, London: NAO.

⁵⁹ Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

⁶⁰ *ibid.*

⁶¹ *ibid.*

Supervision

The Ministry of Justice states that an offender who receives a supervision requirement must meet regularly with someone from the Probation Service who will work with him or her to identify the things in their life that need to change and then help them to change them.

The supervision requirement can last for up to 36 months. The Ministry of Justice leaflet issued for offenders notes that the requirement 'might help you get started on a college course, or find somewhere to live, or manage your money, for example. They [supervising officers] might also work with you to help you with any other Requirements in your Order. The aim is that you should complete your sentence and stop committing crimes.'⁶²

The supervision requirement is the most frequently used requirement. In 2007, 78,102 supervision requirements were commenced with Community Orders, 35 per cent of all requirements started during the year.⁶³

Supervision was used in the majority of combinations of requirements for Community Orders, most commonly as a stand-alone requirement or in combination with an accredited programme requirement or an unpaid work requirement.⁶⁴

Supervision was by far the most frequently used requirement for Suspended Sentence Orders. In 2007, 34,002 supervision requirements were started, 40 per cent of all requirements commenced with Suspended Sentence Orders that year. Supervision was used in the majority of combinations of requirements for Suspended Sentence Orders, most commonly as a stand-alone requirement or in combination with an accredited programme requirement or an unpaid work requirement.⁶⁵

62 National Probation Service (2005), *Supervision Requirement*, leaflet, London: Ministry of Justice.

63 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

64 *ibid.*

65 *ibid.*

Curfew

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

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

In 2007, 12,608 curfew requirements were started as part of Community Orders, 6 per cent of all requirements for orders that commenced that year. Compared to 2006 the use of curfew requirements increased by 31 per cent, higher than the rate of increase in Community Orders.⁶⁶

For Suspended Sentence Orders in 2007, 5,434 curfew requirements were started, 6 per cent of all requirements commenced during that year. Compared to 2006 the use of curfew requirements increased by 63 per cent, a substantial rise and far higher than the rate of increase in Suspended Sentence Orders.⁶⁷

Stand-alone curfew requirement data for Community Orders and Suspended Sentence Orders are not supplied by probation areas, but are monitored by the private companies. The offender management caseload data published by the Ministry of Justice do not include data from the electronic monitoring companies and therefore underestimate the number of stand-alone curfew requirements issued with Community Orders or Suspended Sentence Orders.

Research has found that probation areas experience difficulties liaising and communicating with the companies running electronic monitoring. Probation officers say that information about breach is not always passed on and that, in general, communication can be poor.⁶⁸

Poor communication between the courts, probation staff and the electronic monitoring companies was also highlighted in a recent inspectorate review of the use of the curfew requirement. The review found that there were 'many instances' when 'communications did not take place as specified'.⁶⁹

In a review of cases conducted by the National Audit Office only 31 per cent met the requirement to inform the court of a breach of an adult curfew within five working days, or within three days if further enquiries into the breach were not needed.⁷⁰

The recent inspectorate review of curfew requirements concluded that enforcement action was 'insufficiently stringent'. The review stated: 'In this respect it differed significantly both from other community requirements and from what, we believe, the courts and the public might reasonably expect.'⁷¹

66 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

67 *ibid.*

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

69 HMI Probation, HMI Court Administration and HMI Constabulary (2008), *A Complicated Business – A joint inspection of electronically monitored curfew requirements, orders and licences*, London: Criminal Justice Joint Inspection, p.8.

70 National Audit Office (2006), *The Electronic Monitoring of Adult Offenders*, London: NAO.

71 HMI Probation, HMI Court Administration and HMI Constabulary (2008), *A Complicated Business – A joint inspection of electronically monitored curfew requirements, orders and licences*, London: Criminal Justice Joint Inspection, p.10.

Alcohol

Almost half (46 per cent) of offenders on community sentences have an alcohol problem. Research by the Ministry of Justice based on a sample of offenders found that the level of ‘criminogenic need’ in relation to alcohol misuse for those assessed in 2007–2008 serving community sentences was 46 per cent.⁷² In 2005–2006 it was 45 per cent. There is limited official information and there has been very little academic research examining the nature of these problems. However, information is available on all offenders under probation supervision in the community, including those who are on licence post-custody.

Research shows that the alcohol problems of offenders under probation supervision in the community vary in their scope and nature. Home Office research looking at a sample of offenders under probation supervision in 2004–2005 found that over one-third (37 per cent) had a current problem with alcohol use and a similar proportion (37 per cent) with binge drinking. Nearly half (47 per cent) had misused alcohol in the past and just under a third (32 per cent) exhibited violent behaviour related to their alcohol use.⁷³

The same research found that a quarter (27 per cent) of offenders had problems with motivation to tackle their alcohol misuse.⁷⁴ The government has noted that ‘social factors such as accommodation, education and employment are significantly associated with re-offending and need to be addressed in conjunction with alcohol misuse for effective outcomes’.⁷⁵

A 2006 report by HM Inspectorate of Probation looking at the National Probation Service’s substance misuse work with offenders found that alcohol treatment was ‘scarce’ in the seven areas inspected, ‘although senior

managers were aware of the level of need’. It also found that no targets existed or were planned for alcohol treatment requirements and that probation areas were therefore unlikely to prioritise their development.⁷⁶

The alcohol treatment requirement (ATR)

Under the provisions of the Community Order and the Suspended Sentence Order, the offender’s dependency on or misuse of alcohol does not need to have caused or contributed to the offence for the offender to be issued with an alcohol treatment requirement.⁷⁷

The court must be satisfied with several factors before issuing an alcohol treatment requirement. These include: the offender is dependent on alcohol and may benefit from treatment; arrangements have or can be made for the treatment to take place; the requirement is suitable for the offender; and the offender expresses willingness to comply with the requirement and work towards reducing or eliminating alcohol dependency.⁷⁸ The alcohol treatment requirement is generally targeted at dependent drinkers requiring intensive clinical treatment.

The alcohol treatment requirement can last for between six months and three years for those sentenced to a Community Order and between six months and two years for those serving a Suspended Sentence Order. During this time, only one warning may be given in any 12-month period for unacceptable failure to comply with the alcohol treatment requirement or any other requirements of the order before breach action must be initiated.⁷⁹

Alcohol interventions can also be provided to those who are not issued with an alcohol treatment requirement. Brief information,

⁷² Private correspondence with the Ministry of Justice. These data are based on a sample of offenders, using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

⁷³ NOMS (2006), *Working with Alcohol Misusing Offenders – A Strategy for Delivery*, London: Home Office, p.5. These data are based on a sample of offenders, using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys). Data include people serving community sentences and some who are under licence supervision post-custody in the community.

⁷⁴ *ibid*, p.8.

⁷⁵ *ibid*, p.10.

⁷⁶ Home Office (2006), ‘Half Full and Half Empty’: *An Inspection of the National Probation Service’s Substance Misuse Work with Offenders*, London: Home Office, p.6.

⁷⁷ National Probation Service (2005), *Alcohol Treatment Requirement*, leaflet, London: Home Office.

⁷⁸ See: www.cjsonline.gov.uk/offender/community_sen tencing/alcohol_treat ment t/index.html.

⁷⁹ National Probation Service (2006), *New Sentences for Offences Committed on or after 4 April 2005: Alcohol Treatment Requirement*, NPS; *Working with Alcohol Misusing Offenders – A Strategy for Delivery*, London: Home Office, p.10.

advice and support, generally delivered by non-specialists, is available for those offenders with less serious alcohol problems, i.e. hazardous and harmful drinkers. This is delivered through a supervision or activity requirement.⁸⁰

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

There were 5,145 alcohol treatment requirements made in 2007–2008, a 49 per cent increase on 2006–2007. The Probation Service states that ‘the number of ATRs... has risen year on year since their introduction in 2005 despite a lack of alcohol treatment in many parts of the country’. An alcohol requirement completion target is to be introduced in 2008–2009.⁸¹

The use of the alcohol treatment requirement with the Community Order and with the Suspended Sentence Order

There were 3,267 alcohol treatment requirements started as part of a Community Order in 2007, just 2 per cent of all requirements that began during the year.

However, compared to 2006, the number of requirements increased by 34 per cent.⁸²

There were 1,441 alcohol requirements started as part of a Suspended Sentence Order in 2007, just 2 per cent of all requirements that began that year. However, compared to 2006 the number of requirements increased by 76 per cent, a substantial rise and far higher than the rate of increase in Suspended Sentence Orders.⁸³

The alcohol requirement is nearly always used in combination with other requirements, particularly in conjunction with the supervision requirement.

According to the National Audit Office, the availability of the alcohol treatment requirement varies greatly across the 42 probation areas.⁸⁴ It found that in nearly half the areas (19) the alcohol requirement was not available or rarely used.

80 *ibid.*

81 National Probation Service (2008), *Annual Report 2007/08*, London: Ministry of Justice.

82 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

83 *ibid.*

84 National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

Drugs

The government estimates that there are between 250,000 and 280,000 problematic drug users in England and Wales, and about a third are serving a community or custodial sentence at any one time.⁸⁵

Nearly a quarter of offenders serving community sentences have a drug misuse problem. Home Office research looking at a sample of adult offenders in England and Wales found that the level of 'criminogenic need' in relation to drug misuse for those assessed in 2007–2008 serving community sentences was 22 per cent.⁸⁶ In 2005–2006 it was 23 per cent. There is limited official information and there has been very little research examining the nature of these drug misuse problems.

A report by the Probation Inspectorate found that provision of treatment programmes for offenders with drug misuse problems was 'generally readily available' if the courts wished to issue them as part of community sentences.⁸⁷

There is a structure in place for the 'aftercare' of offenders who complete drug treatment programmes as part of their sentences. According to the National Offender Management Service (NOMS), on completion of a Community Order with a drug rehabilitation requirement, the offender manager will refer the offender to the local criminal justice integrated team (CJIT) to address ongoing treatment and housing needs where appropriate.⁸⁸ It is unclear how effective this 'aftercare' support is.

An increasing number and proportion of community sentences are issued to offenders convicted of drug offences. Nearly a quarter (23 per cent) of all offenders convicted of drug offences received a community sentence in 2006, compared to 15 per cent per cent in 1996.⁸⁹

The drug rehabilitation requirement

The drug rehabilitation requirement (DRR) replaced the Drug Treatment and Testing Order (DTTO) in April 2005 as part of the new Community Order and Suspended Sentence Order implemented by the Criminal Justice Act 2003.

The drug rehabilitation requirement of the Community Order lasts for between six months and three years, and has minimum contact hours, depending on the seriousness of the offence. This ranges from a minimum of one contact per week to eight hours or 15 hours per week. Breach of the requirement, or not meeting the terms set by the court, will result in the offender being returned to court. For the Suspended Sentence Order, the requirement can last for up to 24 months. Unlike the alcohol requirement, the drug rehabilitation requirement targets all levels of drug misuse and offending.

There were 16,607 DRR or DTTO commencements in 2007–2008, well above the Probation Service's target of 15,301.⁹⁰

There has been a rise in the number of completions of DRRs and DTTOs, from 5,939 in 2006–2007 to 6,253 in 2007–2008, which is more than the Probation Service's target of 5,000 completions. However, in 2007–2008, the proportion of all requirements or orders completed was just 43 per cent.⁹¹

A high proportion of offenders are retained on the DRR or DTTO for at least 12 weeks, which is the minimum treatment period reported by the National Treatment Agency as having some impact on drug use and offending. In 2007–2008, 85 per cent were retained for this period, exceeding the 75 per cent target.⁹²

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

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

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

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

89 Ministry of Justice (2007), *Sentencing Statistics 2006*, London: Home Office, Table 1.2.

90 National Probation Service (2008), *Annual Report 2007/08*, London: Ministry of Justice.

91 *ibid.*

92 *ibid.*

The total number of DRRs started as part of a Community Order in 2007 was 12,145, 5 per cent of all requirements started.⁹³ Prior to April 2005, the DTTO accounted for only around 4 per cent of community sentences.

The DRR is most commonly used in combination with one or two additional requirements as part of a Community Order.

Where it is used in combination with one other requirement it is most often used with a supervision requirement. When used in combination with two other requirements it is most often used with a supervision requirement and an accredited programme.⁹⁴

The total number of DRRs started as part of a Suspended Sentence Order in 2007 was 4,087, 5 per cent of all requirements started.⁹⁵

The DRR is most commonly used in combination with one or two additional requirements as part of a Suspended Sentence Order.

Where it is used in combination with one other requirement it is most often used with a supervision requirement. When used in combination with two other requirements it is most often used with a supervision requirement and an accredited programme.⁹⁶

93 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

94 *ibid.*, Table 3.

95 *ibid.*

96 *ibid.*

Mental health

There has been extensive research looking at the mental health needs of prisoners,⁹⁷ and the government has acknowledged that ‘we continue to imprison too many people with mental health problems’.⁹⁸ However, there is relatively little information about the mental health needs of the tens of thousands of people on community sentences.

Four out of ten offenders serving community sentences have mental health problems.

Ministry of Justice research looking at a sample of adult offenders in England and Wales found that the level of ‘criminogenic need’ in relation to ‘emotional wellbeing’ for those assessed in 2007–2008 serving community sentences was 42 per cent.⁹⁹ In 2005–2006 it was 43 per cent. There is limited official information and there has been very little research examining the nature of these mental health problems. However, data are available relating to all offenders under probation supervision in the community, including those who are on licence post-custody.

A significant number of offenders under probation supervision in the community suffer from a personality disorder. Research carried out by the London probation area has found that a third experience some form of personality disorder.¹⁰⁰

Women on probation appear to have higher levels of mental health need than men. A national study in 1997 found that one in five men compared to a third of women under the supervision of the Probation Service said they had a mental disorder.¹⁰¹ Further research is required to establish if this continues to be the case and to what degree.

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

with the Probation Service showed evidence of a mental disorder. This compares to research conducted in 2006 which showed that 48 per cent had mental health concerns.¹⁰²

Research shows that many offenders under supervision in the community self-harm.

A study in West Yorkshire found a very high incidence of deliberate self-harm among offenders supervised by the Probation Service. Almost one-third of the 238 people involved reported one or more incidents of self-harm, 72 per cent of which were believed to be serious attempts at suicide.¹⁰³

Mental health problems are often combined with multiple needs. Work carried out by the Revolving Doors Agency, which runs services for offenders with mental health problems in the community, including people under probation supervision, shows that just under half of their clients required support to address at least two significant problems, such as housing difficulties, drug issues and alcohol dependency.¹⁰⁴

The work of the Revolving Doors Agency shows that offenders on community sentences who have mental health problems have been slipping through the net of support services with their needs unidentified. Research carried out by the Agency looking at its clients, many of whom had spent several periods on community sentences and often also in custody, found that a third had some unmet needs.¹⁰⁵

The mental health treatment requirement

The Community Order and Suspended Sentence Order introduced in April 2005 includes a mental health treatment requirement. Official guidance states: ‘The

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

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

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

100 Personal communication with the London Probation Service.

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

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

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

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

105 *ibid.*

court must be satisfied that, on the evidence of a registered medical practitioner, the mental condition for the offender is such as requires and may be susceptible to treatment, but does not warrant the making of a Hospital or Guardianship Order; the offender is willing to comply and treatment can be arranged.¹¹⁰⁶

Since the introduction of the Community Order very few mental health treatment requirements have been issued. In 2007 only 652 mental health treatment requirements were started with Community Orders, 0.3 per cent of all requirements. This compares to 12,145 drug treatment requirements.¹¹⁰⁷

For Suspended Sentence Orders there were also very few mental health treatment requirements issued. In 2007 only 253 mental health treatment requirements were started, 0.3 per cent of all Suspended Sentence Order requirements.¹¹⁰⁸

A case review by the National Audit Office found that the small number of offenders given a mental health treatment requirement as part of their Community Order were already in receipt of treatment before the order began and the treatment was incorporated into the order. The National Audit Office found no instances in its sample where mental health treatment was initiated as part of the Community Order.¹¹⁰⁹

Several barriers to mental health requirements have been identified. Not all offenders who have severe or enduring mental health problems are given a mental health treatment requirement because these needs are not always identified. Before imposing a mental health requirement, a psychiatric report is needed with a named consultant and the treatment needs to be available. If either of these is not in place, the mental health requirement will not be used and the offender will miss out on the treatment they may need. Anecdotal evidence from probation officers suggests that this is often the case.¹¹¹⁰

Offenders given a community sentence may not be eligible for the mental health treatment requirement because of the nature of their mental health problems. Research looking at offenders who had been assessed by a criminal justice mental health team found that most of

the team's clients had had previous contact with mental health services but they had been diagnosed as having either a minor or an untreatable mental illness. Only a small proportion therefore fulfilled the criteria for eligibility for services – i.e. a diagnosis of a severe and enduring mental health problem. Their pattern of service use was sporadic or precipitated by a crisis and was dominated by non-attendance.¹¹¹¹

The Sainsbury Centre for Mental Health says that the necessity for consent by the offender, linked to the stigma and discrimination associated with mental illness, may constitute a barrier to mental health requirements being issued by the courts.¹¹¹²

Offenders on community sentences who have both mental health and drug problems face particular difficulties accessing services and treatment. The voluntary sector service provider Turning Point has found that 'support is not offered for mental health needs until after drug treatment has ended or may not be offered in cases in which mental health needs are only identified once treatment has started. Some areas don't take people with mental illness because these clients are assessed as not being able to cope with the available treatment.'¹¹¹³

There is a lack of mental health provision for offenders given community sentences. A report commissioned by the Home Office and the Department of Health published at the end of last year looked at community provision for offenders. It concluded that 'there is a particular dearth of mental health provision for offenders in the community. Whilst the Offender Mental Health Care Pathway published in January 2005 by the Department of Health provides some examples of good practice, this primarily relates to the provision of mental health services to ex-prisoners discharged into the community.'¹¹¹⁴

1106 Home Office (2005), *Criminal Justice Act 2003: Implementation on 4 April*, Probation Circular, London: Home Office, p.44.

1107 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

1108 *ibid.*

1109 National Audit Office (2008), *National Probation Service – The Supervision of Community Orders in England and Wales*, London: NAO.

1110 Personal communication with probation officers.

1111 Green, G. (2003), 'A follow-up study of individuals assessed by a Criminal Justice Mental Health Team', *The Research Findings Register*, Summary 1086, available at: www.ReFeR.nhs.uk/ViewRecord.asp?ID=1086.

1112 Seymour, L. and Rutherford, M. (2008), *The Community Order and the Mental Health Treatment Requirement*, London: The Sainsbury Centre for Mental Health.

1113 www.turning-point.co.uk/NR/rdonlyres/A99F485D-EE0B-4029-AB0739AB5D374D6F/34166/TheBigConversation.doc.

1114 Offender Health Care Strategies (2005), *Improving Health Services for Offenders in the Community*, www.ohcs.co.uk/pdf/guides/000101_hop_report.pdf.

Accommodation

Nearly a third of those serving a community sentence have an ‘accommodation problem’. Home Office research looking at a sample of adult offenders in England and Wales found that one in three offenders serving community sentences (32 per cent) assessed in 2007–2008 had an ‘accommodation need’ of some kind.¹¹⁵

A significant proportion of offenders serving community sentences are without stable accommodation. Official data show that around 14 per cent are either homeless or in transient accommodation.¹¹⁶

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

The Probation Inspectorate found that housing assessments failed to take account of race and diversity issues. The research found that ‘in 41 per cent of cases there was no evidence that a consideration of race or other diversity requirements was included in the assessment of the accommodation needs’.¹¹⁷

A lack of stable accommodation for offenders on probation increases the likelihood of reconviction. The Home Office has found that ‘the reconviction rates for those offenders who had an accommodation need, and had not accessed an Approved Premises place, was 36.3 per cent. The reoffending [sic] rate of offenders not identified as having an accommodation need was 19.6 per cent.’ However, it was also found that ‘for offenders in Approved Premises the figure for non-reconviction was 96.9 per cent’.¹¹⁸

The residential requirement

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

Since the Community Order was introduced, very few residential requirements have been issued. In 2007, only 930 residential requirements were started out of a total of 223,511 requirements, less than 1 per cent of all Community Order requirements.¹¹⁹

For Suspended Sentence Orders, 636 residential requirements were commenced out of a total of 85,901 requirements in 2007, just 1 per cent of the total issued during the year.¹²⁰

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

116 *ibid.*

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

118 *ibid.*, pp.6, 35.

119 Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

120 *ibid.*

Education and employment

¹²¹ Personal communication with the Ministry of Justice. These data are based on a sample of offenders, using information from the national risk/needs assessment tool for adult offenders in England and Wales, the Offender Assessment System (OASys).

¹²² Home Office (2004), *Reducing Re-offending National Action Plan*, London: Home Office, p.33.

¹²³ Home Office (2005), *The Impact of Corrections on Re-offending: A Review of 'What Works'*, Home Office Research Study 291, Third edition, London: Home Office, p.20.

¹²⁴ Home Office (2004), *Reducing Re-offending National Action Plan*, London: Home Office, p.33.

¹²⁵ Home Office (1999), *Explaining Reconviction following a Community Sentence: the Role of Social Factors*, Home Office Research Study 192, London: Home Office, p.17.

¹²⁶ Home Office (2004), *Basic Skills Programmes in the Probation Service: An Evaluation of the Basic Skills Pathfinder*, Findings 203, London: Home Office, p.3.

¹²⁷ National Probation Service (2008), *Annual Report 2007/08*, London: Ministry of Justice.

¹²⁸ *ibid.*

¹²⁹ It should be noted that it can also be used for other purposes like drugs awareness and reparation to victims.

¹³⁰ Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

¹³¹ *ibid.*

More than half (53 per cent) of those serving a community sentence have an 'education, training and employability' problem. Home Office research looking at a sample of adult offenders in England and Wales found that level of 'criminogenic need' in relation to 'education, training and employability' for those assessed in 2007–2008 serving community sentences was 53 per cent.¹²¹ In 2005–2006, it was 54 per cent. There is limited official information and there has been very little research examining the nature of these problems. However, data are available relating to all offenders under probation supervision in the community, including those who are on licence post-custody.

Nearly two-thirds of offenders under probation supervision in the community have numeracy and literacy ability below that expected of an 11 year old (level 1). Just over one-third of offenders supervised in the community are below level 1 for speaking and listening.¹²²

Young adults serving community sentences are particularly in need of support to address basic skills problems. According to the Home Office, a quarter of 18 to 20 year olds serving community sentences have 'basic skills' deficits. This is a higher prevalence rate compared with older offenders.¹²³ **More than half (55 per cent) of offenders serving community sentences are unemployed at the start of their sentence.**¹²⁴

There is a greater chance of reconviction for those who are unemployed after completing their community sentence than for those who are employed.¹²⁵ In addition, the unemployed are much more likely to have basic skills needs, a risk of reconviction and substance abuse problems than the employed. All are factors strongly associated with offending.¹²⁶

In 2007–2008, 68,117 offenders were referred by probation to learning and skills provision, 13 per cent more than in the previous year and the highest achieved.¹²⁷

A new target for the numbers of offenders referred by probation who stay in employment for at least four weeks was met. In 2007–2008, 16,823 offenders sustained employment for that period, 27 per cent more than the target of 13,200.¹²⁸

The specified activity requirement

The specified activity requirement available for the Community Order and the Suspended Sentence Order is intended to help offenders find secure employment, improve their skills and engage them in learning.¹²⁹ It can last for up to 60 days. The requirement might involve assistance to help the offender in various ways: to read and write better; to solve problems at work; to learn interview skills; to write a good job application; or to get on a suitable training course.

There have been a relatively small number of specified activity requirements issued with the Community Order. In 2007, 8,763 specified activity requirements were commenced, 4 per cent of the total number of requirements started.¹³⁰ The specified activity requirement is nearly always used in combination with other requirements, in particular the supervision requirement and the accredited programme.

A relatively small number of activity requirements were commenced with the Suspended Sentence Order. In 2007, 2,869 were started, 3 per cent of the total number of requirements commenced.¹³¹ It can also be used for other purposes like drugs awareness and reparation to victims.

Deaths of people under probation supervision¹³²

Most studies on deaths in the criminal justice system tend to focus on prisoners. This is in large part due to concern about suicides in prison. There is no available evidence relating to deaths under probation supervision since the Community Order and Suspended Sentence Order were introduced. However, research prior to their introduction suggests that offenders under community supervision may be at least as vulnerable as prisoners.

Suicide rates amongst offenders on probation are extremely high. Research has found that rates of suicide were nine times higher among male offenders supervised by the Probation Service than among men in the local population. Suicides amongst men under probation supervision were found to be higher than amongst prison populations.¹³³

Offenders under probation supervision in the community have twice the death rate of those serving a custodial sentence. This is four times higher than the general population. According to research, a possible explanation could be that in the community there is greater opportunity to engage in anti-social and potentially life-threatening behaviour such as excessive drug-taking, physical assaults and drink-driving-related traffic accidents.¹³⁴

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

Drugs and/or alcohol as a main or contributing factor accounted for a greater proportion of deaths, both self-inflicted and by natural causes, among community-supervised offenders (46 per cent) than among prisoners

(3 per cent). Almost two-thirds of accidental deaths and around one-third of suicide/self-inflicted deaths among community offenders could be traced to drugs and/or alcohol.

¹³² Unless otherwise stated, data are drawn from Home Office (2001), *Deaths of Offenders in Prison and under Community Supervision*, Findings 153, London: Home Office. It is important to note that the data in this section refer to offenders under probation supervision, not just those serving community sentences. When referring to 'deaths', unless otherwise specified, this includes deaths by natural causes, accidental deaths and self-inflicted deaths.

¹³³ Pritchard, C., Cox, M. and Dawson, A. (1997), 'Suicide and violent death in a six-year cohort of male probationers compared with patterns of mortality in the general population: evidence of a cumulative socio-psychiatric vulnerability', *Journal of the Royal Society of Health*, 117, pp.180–185. It is important to note that these data related to all offenders on probation, not just those serving community sentences.

¹³⁴ Home Office (2001), *Deaths of Offenders in Prison and under Community Supervision*, Findings 153, London: Home Office.

Termination and breach¹³⁵

Terminations can occur for a variety of positive and negative reasons. For example, a positive termination can occur when an offender successfully completes an order or when the order is terminated early for good progress. A negative termination occurs when an offender either fails to comply with the requirements of an order or commits a further offence while under probation supervision, which means they breach their order. If an offender breaches the terms of their order they can be returned to court, where the court may decide to impose more requirements or send them to prison.

Breach of a Suspended Sentence Order does not automatically result in a custodial sentence, although 'the court must activate the suspended sentence unless it is of the opinion it would be unjust to do so in view of all the circumstances'.¹³⁶

The majority of offenders comply with their orders and complete them within the required time. In 2007 more than half of all community sentences ran their full course or were terminated for good progress.

Of the 113,830 Community Orders terminated in 2007, 56 per cent had run their full course or were completed early for good progress.

Just over a third (34 per cent) of Community Orders were terminated for negative reasons, that is, they were breached. One in five (22 per cent) were terminated for failing to comply with requirements and 12 per cent for conviction for a further offence.

The breach rate was lowest for Community Orders of 12 months or less (31 per cent) and highest for orders of two years (45 per cent).

Compared to the old community sentences the breach rate for Community Orders appears to be higher. For example, for Community

Rehabilitation Orders in 2004, prior to the introduction of the Community Order, 28 per cent were terminated for negative reasons and 65 per cent ran their full course or were completed early.

Of the 28,270 Suspended Sentence Orders terminated in 2007, 51 per cent ran their full course or were completed early for good progress.

Four out of ten (40 per cent) Suspended Sentence Orders were breached. One in five (22 per cent) were terminated for failing to comply with requirements and 18 per cent for conviction for a further offence.

The breach rate was lowest (35 per cent) for Suspended Sentence Orders of 12 months or less and highest (45 per cent) for orders of two years.

¹³⁵ Unless otherwise stated, all data in this section are from Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

¹³⁶ Home Office (2005), *Probation Circular 25/2005: Criminal Justice Act 2003: Implementation on 4 April*, London: Home Office, p.84.

Women¹³⁷

On 31 December 2007 there were 16,289 women serving community sentences in England and Wales, about one in seven (15 per cent) of the total number. There were 5,821 serving Suspended Sentence Orders.

In terms of the numbers commencing a community sentence in a particular year, in 2007, 19,347 women started a community sentence, about one in seven (15 per cent) of the total number. In addition, 5,951 women commenced a Suspended Sentence Order.

Trends in the use of community sentences for women

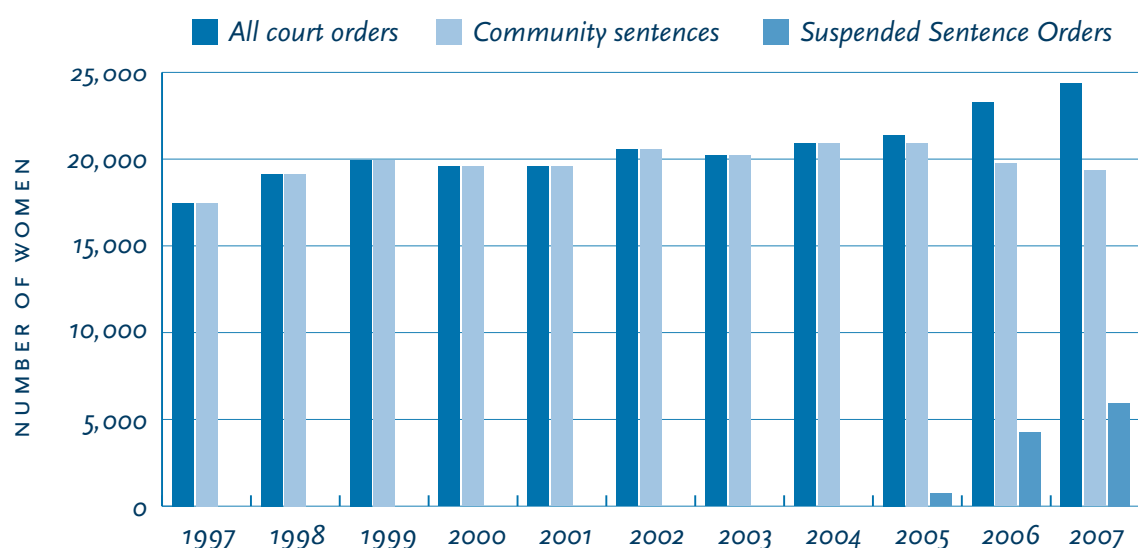
The number of women starting community sentences has increased over a ten-year period (see Figure 8). In the decade between 1997 and 2007, the number increased from 17,473 to 19,347, a rise of 11 per cent. For all court orders (community sentences and Suspended

Sentence Orders), there has been a more significant increase, from 17,473 in 1997 to 24,388 in 2007, a rise of 40 per cent.

The number of women serving community sentences has declined in recent years, from 19,075 in 2002 to 16,289 in 2007, a fall of 15 per cent. This is primarily 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 old types of community sentences, in 2007 the new Suspended Sentence Order accounted for 27 per cent of all women serving court orders in the community. Overall, the number of women serving court orders increased from 19,075 in 2002 to 21,618 in 2007.

The overall increase in the number of women serving community sentences and Suspended Sentence Orders has been matched by a significant decline in the use of the fine for all offences. There has been an uptariffing through courts' greater readiness to impose community sentences.¹³⁸

Figure 8: Number of women starting community sentences, Suspended Sentence Orders and all court orders, 2007 Source: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.



¹³⁷ Unless otherwise stated, all data in this section are derived from: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

¹³⁸ See: Patel, S. and Stanley, S. (2008), *The Use of the Community Order and the Suspended Sentence Order for Women*, London: CCJS.

The use of the Community Order and the Suspended Sentence Order

For women on Community Orders the most common offence in 2007 was 'other summary offences' (28 per cent), followed by 'theft and handling' (27 per cent) (see Table 5). Only 8 per cent were for 'violence against the person' offences.

For women on Suspended Sentence Orders in 2007 the pattern is similar, with the most frequent offence being 'theft and handling' (24 per cent), followed by 'other summary offences' (19 per cent). 'Violence against the person' offences (14 per cent) were more common for Suspended Sentence Orders than for Community Orders as were 'other

indictable offences' (15 per cent), while 'summary motoring offences' (10 per cent) were less common.

The main difference in the use of orders for women compared to men is that they are more likely to be given orders for 'theft and handling' and for 'fraud and forgery' and less likely for summary offences, particularly 'summary motoring offences' (see Table 6).

The average length of a Community Order for women in 2007 was 14.3 months. This is lower than in 2006 when it was 17.1 months and is possibly due to the overall increase in Suspended Sentence Orders drawing in women who would have previously received longer Community Orders. By contrast, the average length of an order for men in 2007 was 15.9 months.

Table 6: Offence types for orders made by sex, 2007

Source: Ministry of Justice (2008), *Offender Management Caseload Statistics 2007*, London: Ministry of Justice.

	Community Order				Suspended Sentence Order			
	Men		Women		Men		Women	
	Number	%	Number	%	Number	%	Number	%
Violence against the person	9,296	9	1,498	8	6,722	18	833	14
Sexual offences	754	1	23	0	360	1	18	0
Robbery	263	0.3	44	0	362	1	74	1
Burglary	4,626	5	290	2	2,485	7	141	2
Theft and handling	16,502	17	4,861	27	5,109	13	1,429	24
Fraud and forgery	2,903	2	1,941	11	1,359	4	765	13
Criminal damage	3,488	4	316	2	752	2	84	1
Indictable motoring offences	1,022	1	70	0	841	2	54	1
Other indictable offences	10,172	10	1,491	8	5,560	15	887	15
Summary motoring offences	20,496	21	2,587	14	6,720	18	517	10
Other summary offences	30,051	30	5,166	28	8,200	21	1,149	19
Total	99,573	100	18,287	100	38,470	100	5,951	100

The average length of a Suspended Sentence Order for women in 2007 was 17.5 months, almost the same as 2006 when it was 17.5 months.

There is some evidence that men's and women's orders are made up of different types and numbers of requirements. For both the Community Order and the Suspended Sentence Order, women are more likely to have a supervision requirement and less likely to be required to carry out unpaid work than men. For both orders women are more likely to be issued with one requirement and less likely to be issued with three or more requirements.¹³⁹

Research has found that there are significant regional variations in the number and type of requirements for women for both Community Orders and Suspended Sentence Orders.¹⁴⁰

Research has also found that 'although the new orders offer the courts the opportunity to make sentences that are more innovative and responsive to the circumstances of women offenders, and so potentially more effective, there is limited evidence that this is happening in practice', as they appear to mirror the old community sentences.¹⁴¹

Females are more likely to be older than males starting both Community Orders and Suspended Sentence Orders. In 2007 52 per cent of females starting Community Orders were 30 and over compared to 44 per cent of males. For Suspended Sentence Orders the figures were 55 and 45 per cent respectively.

Women are marginally more likely than men to have a Community Order terminated early for positive reasons, such as completion or because of good progress, and are less likely to breach an order. In 2007 60 per cent of females had their Community Orders terminated for positive reasons, compared to 56 per cent of males, and 31 per cent breached their orders compared to 34 per cent of males.

For Suspended Sentence Orders women are much more likely to have an order terminated for positive reasons and are less likely to breach an order. In 2007 57 per cent of females had their Suspended Sentence Orders terminated for positive reasons, compared to 51 per cent of males, and 32 per cent breached their orders compared to 41 per cent of males.

The Corston Report recommended that there should be flexibility in dealing with breach and enforcement of orders to distinguish between 'serious breach... and poor timekeeping'.

However, the government did not accept the proposal, stating that the current arrangements provide for sufficient flexibility.¹⁴²

¹³⁹ For a more detailed analysis and an explanation of these differences, see: Patel, S. and Stanley, S. (2008), *The Use of the Community Order and the Suspended Sentence Order for Women*, London: CCJS.

¹⁴⁰ *ibid.*

¹⁴¹ *ibid.*

¹⁴² Corston, J. (2007), *The Corston Report: A Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London: Home Office; Ministry of Justice (2007), *The Government's Response to the Report by Baroness Corston of a Review of Women with Particular Vulnerabilities in the Criminal Justice System*, London: Ministry of Justice.

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¹⁴³ Ministry of Justice (2008), *Ministry of Justice Resource Accounts 2007–08*, London: Ministry of Justice; Ministry of Justice (2008), *Departmental Report 2007–08*, London: Ministry of Justice.

¹⁴⁴ This figure is based on 2006–2007 prices., For further information, see: Oldfield, M. and Grimshaw, R. (2008), *Probation Resources, Staffing and Workload, 2001–2008*, London: CCJS.

¹⁴⁵ Speech by Justice Minister David Hanson at the National Association of Probation Officers Annual Conference, 17 October 2008.

¹⁴⁶ House of Lords, *Hansard*, Written Answer, Column WA20821, March 2007. The Home Office adds: 'As 2005–2006 was a transitional year, with sentences running under both the pre-CJA 2003 regulations and the CJA 2003 regulations, this estimated cost should be treated with caution.' Furthermore, the cost does not include 'the custodial cost arising from breach of a suspended sentence order'.

¹⁴⁷ National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

¹⁴⁸ Oldfield, M. and Grimshaw, R. (2008), *Probation Resources, Staffing and Workload, 2001–2008*, London: CCJS.

¹⁴⁹ *ibid.*

¹⁵⁰ *ibid.*

¹⁵¹ *ibid.*

¹⁵² National Probation Service (2008), *Annual Report 2007/08*, London: Ministry of Justice.

¹⁵³ Oldfield, M. and Grimshaw, R. (2008), *Probation Resources, Staffing and Workload, 2001–2008*, London: CCJS.

¹⁵⁴ National Audit Office (2008), *The Supervision of Community Orders in England and Wales*, London: NAO.

Expenditure on the Probation Service by the Ministry of Justice totalled £844.5million in 2007–2008. The Ministry of Justice's budget for probation areas for 2008–2009 is £865.9m.¹⁴³ In 2008 a one-off additional investment of £40 million was made to facilitate the greater use of Community Orders.

Since the creation of the National Probation Service in April 2001, expenditure on the Probation Service has increased by 21 per cent in real terms in the five years to 2006–2007.¹⁴⁴

The government states that it has increased 'annual spending on probation by two-thirds in real terms during the past decade'.¹⁴⁵

The Home Office estimates that in 2005–2006 the average cost of an individual Community Order or an individual Suspended Sentence Order was £2,400.¹⁴⁶ However, the National Audit Office found that estimates for the cost of implementing Community Orders 'vary within and between areas because of the variations in the staff grades responsible for certain tasks and local procedures. For example... a drug rehabilitation requirement ranges from £1,000 to £2,900 across the five Areas we visited'.¹⁴⁷

There are over 18,000 operational staff working for the Probation Service. In 2006 there were 18,011 staff employed by the Probation Service engaged in posts involving work with offenders. This is a 37 per cent increase compared to 2002 when there were 13,181 operational staff.¹⁴⁸

Between 2002 and 2006 the number of senior probation officers increased by 63 per cent but the number of qualified probation officers declined by 4 per cent. Trainee posts reached a peak in 2003 but have subsequently fallen, and by 2006 the number of trainees was 30 per cent lower than it had been in 2002. The

number of main grade probation officers – that is, both qualified and trainee officers – fell by 9 per cent between 2002 and 2006.¹⁴⁹

Between 2002 and 2006 the ratio of offenders to qualified probation officers rose from 31:1 to 40:1, an increase of 28 per cent. Probation officers supervise caseloads that are, on average, much larger than those of practitioners in youth offending teams.¹⁵⁰

Research has found that probation officers are voluntarily committing additional hours in order to meet the demands made on them.¹⁵¹

The Probation Service has high sickness levels amongst its workforce. The average number of days lost to sickness per employee per year in 2007–2008 was 12.1 days. This is almost the same as the 12.0 days recorded in 2006–2007 and is well above the target of nine days.¹⁵²

An independent examination of probation resources, staffing and workloads concluded: 'There is no satisfactory means for evaluating the relationship between changes in budget allocation and the increase in workload within the probation service. The formula which has been used to allocate budgets is considered 'not fit for purpose' by many probation boards.¹⁵³

Following its investigation into the supervision of Community Orders, the National Audit Office concluded: 'The Probation Service does not know with any certainty how many community orders it has the potential capacity to deliver within its resources, nor has it determined the full cost of delivering community orders. Since the potential capacity of the Service and local Areas is undetermined, the impact of any future changes in, for example, policy or sentencing trends is difficult to estimate and therefore manage.'¹⁵⁴

National Standards

In 2007–2008 the Probation Service achieved or exceeded 11 of its 16 national targets (see Table 7).

The National Audit Office has found that ‘performance targets do not focus sufficiently on outcomes, and in some instances targets

can have the potential for unintended consequences. Central demands for data are perceived to be burdensome especially by smaller Probation Areas, and the information returned by the centre lacks sufficient analysis and detail for it to be as useful locally as it could be.’¹⁵⁵

Table 7: Probation Service performance targets, 2007-2008, and achievements

Source: *National Probation Service (2008), Annual Report 2007/08, London: Ministry of Justice.*

Performance target	Achievement
95% of race and ethnic monitoring data on staff and offenders returned on time and using the correct classifications	Met 98%
90% of OASys assessments completed or updated within appropriate timescales (five days following sentence or release on licence for all PPO cases)	Met 96%
90% of OASys assessments (assessment, screening and full risk of harm analysis and sentence plan) completed or updated within five days following sentence or release on licence for all Tier 4 risk of harm cases (excluding PPOs)	Met 96%
90% of OASys assessments (assessment, screening and, if appropriate, full risk of harm analysis and sentence plan) completed or updated within 15 days following sentence or release on licence for all Tier 1, 2 and 3 cases (excluding PPOs)	Missed 69%
13,940 accredited offending behaviour programmes completed by offenders (excluding sex offender treatment and domestic violence programmes)	Met 104% (14,531)
1,300 accredited sex offender treatment programmes completed by offenders	Met 105% (1360)
2,560 accredited programmes for domestic violence completed by offenders	Met 123% (2,079)
75% of offenders retained in DRR/DTTO for 12 weeks	Met 85%
13,200 offenders under supervision achieve and sustain employment for four weeks	Met 127% (16,823 offenders)
46,300 completions of unpaid work requirements	Met 120% (55,771 completed)

Performance target	Achievement
35 working days from the relevant unacceptable failure to comply to resolution of the case; and 60% of breaches of community penalties resolved within 25 working days of the relevant unacceptable failure to comply	Missed 43 days and 54%
70% of orders and licences successfully completed	Missed 68%
85% of victims contacted within eight weeks of an offender receiving 12 months or more for a serious sexual or violent offence	Met 96%
90% of pre-sentence reports (PSRs) completed to agreed timescales	Met 95%
Days lost due to sickness not to exceed nine days per annum	Missed 12.1 days

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

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

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