

## **Annex A: Imposition of Community Orders Section**

### **1. Imposition of community orders**

A community order can only be imposed if the offence committed is punishable by imprisonment. The maximum term that a community order can be imposed is 3 years.

Community orders can fulfil all the purposes of sentencing. They can have the effect of restricting the offender's liberty while providing punishment in the community, rehabilitation for the offender, and/or ensuring that the offender engages in reparative activities.

The court must ensure that the restriction on the offender's liberty is commensurate with the seriousness of the offence and that the requirements imposed are the most suitable for the offender.

#### **Determining the length of a Community Order**

In general, courts should impose the shortest term commensurate with the seriousness of the offence. The court imposing a community order must specify the length of that order by specifying the end date by which all requirements in it must have been complied with. This end date must not be more than 3 years after the date of the order.

The court should specify a length of an order which reflects both the seriousness of the offence and the length of time the requirements being imposed necessitate (within which a consideration of the offender's individual circumstances will be necessary).

#### **Time remanded in custody or on qualifying curfew before imposing a community order**

The court imposing a community order should determine the end date without reference to any time spent in custody on remand or on a qualifying curfew.

*Additional text TBC*

### **Requirements**

Community orders must consist of one or more requirements.

**The court must ensure that requirements imposed are the most suitable for the offender. This means that requirements should be suitable according to:**

- the purpose(s) of the sentence;
- the risk of re-offending;
- the needs and rehabilitation of the offender, including any mental health or addiction issues,
- the ability of the offender to comply taking into account the offender's accommodation, employment and family situation including any dependants;
- the availability of the requirements in the local area.

At least one requirement must be imposed for the purpose of punishment and/or a fine imposed must be imposed, unless there are exceptional circumstances which relate to the offence or the offender that would make it unjust in all the circumstances to do so.

**It is a matter for the court to decide which requirements amount to a punishment in each case.**

The court must ensure that where two or more requirements are included, they are compatible with one another and are not excessive when taken together. So far as practicable, any requirements imposed should not conflict or interfere with:

- an offender's religious beliefs;
- the requirements of any other court order to which they may be subject;
- an offender's attendance at work or educational establishment.

### *List of requirements*

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### **Community order levels**

Offence-specific guidelines refer to three sentencing levels within the community order band based on offence seriousness (low, medium and high).

The culpability and harm present in the offence(s) should be considered to identify which of the three sentencing levels within the community order band (low, medium and high) is appropriate.

Courts have the power to flexibly impose a custom community order for each offender according to their specific circumstances, including consideration of their risks and needs.

The seriousness of the offence should be the initial factor in determining the requirement (and/or fine) imposed for the purpose of punishment. Any requirement/s imposed for the purpose of rehabilitation should be determined by and align with the offender's needs.

In determining the requirement or combination of requirements, consideration should be given to the broad variety of sentences a community order can offer to be most effective for a particular offender, including the different lengths of the order. Guidance on determining the length of a community order is given below the table.

The levels table below offers non-exhaustive examples of the intensity of requirements that might be appropriate in each level of community order.

Low	Medium	High
Offences only just cross the community order threshold, where the seriousness of the offence or the nature of the	Offences that obviously fall within the community order band	Offences only just below the custody threshold, or where the custody threshold is crossed but a community order is more

offender's record means that a discharge or fine is inappropriate.

appropriate in the circumstances

If imposing for the purposes of punishment, suitable requirement ranges might include:

- |  |   |  |
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| <ul style="list-style-type: none"><li>• 40 – 80 hours of unpaid work</li><li>• Curfew up to 16 hours per day for up to 4 weeks*</li><li>• Exclusion requirement for a few months</li><li>• Prohibited activity requirement</li></ul> | <ul style="list-style-type: none"><li>• 80 – 150 hours of unpaid work</li><li>• Curfew up to 16 hours per day for up to 6 months*</li><li>• Exclusion requirement lasting in the region of 6 months</li><li>• Prohibited activity requirement</li></ul> | <ul style="list-style-type: none"><li>• 150 – 300 hours of unpaid work</li><li>• Curfew up to 20 hours per day for up to 24 months*</li><li>• Exclusion requirement lasting in the region of 12 months</li></ul> |
|--|---|--|

\*Maximum of 112 hours curfew in any period of 7 days

Any requirement/s imposed for the purpose of rehabilitation should be determined by and aligned with the offender's needs. The court may benefit from Probation's assessment of the offender's needs and recommendation of appropriate rehabilitative interventions.

If order does not contain a punitive requirement, suggested fine levels are indicated below:

**BAND A FINE**

**BAND B FINE**

**BAND C FINE**

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