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Community
Payback Order
Requirements



Information Pack





Contents

Introduction

- 1 Alcohol Treatment Requirement
- 2 Compensation Requiremen
- 3 Conduct Requirement
- 4 Drug Treatment Requirement
- 5 Mental Health Treatment Requirement
- 6 Offender Supervision Requirement
- 7 Programme Requirement
- 8 Residence Requirement
- 9 Unpaid Work & Other Activity Requirement

This pack was produced in partnership with Glasgow Community Justice Authority and the Unpaid Work Providers in Glasgow

Introduction

In February 2011, the
Scottish Government
introduced a 'presumption
against' ineffective short
prison sentences of three
months or less in favour of
a new Community Payback
Order (CPO). This came into
effect in Scotland as part
of the Criminal Justice and
Licensing (Scotland) Act 2010.
The CPO replaced Community
Service Orders, Probation
Orders and Supervised
Attendance Orders.

Sentencers are still able to impose a sentence of three months in jail if they wish, but there is now a general presumption that low level offenders will instead be sent out to do some tough manual labour (Unpaid Work) to pay their dues to the communities they have harmed. This is backed by action to address any underlying problems that may be fuelling the crime including; alcohol, drug or mental health problems.

Courts can impose one or more of a range of requirements as part of a CPO on the offender. These requirements are:

- 1. Alcohol Treatment Requirement
- 2. Compensation Requirement
- 3. Conduct Requirement
- 4. Drug Treatment Requirement
- 5. Mental Health Treatment Requirement
- 6. Offender Supervision Requirement
- 7. Programme Requirement
- 8. Residence Requirement
- 9. Unpaid Work & Other Activity Requirement

For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community

This pack provides focussed, key points, for each of the requirements. The pack may be of value to you if you are a:

- Criminal Justice Social Work
 Practitioner
- Justice of the Peace
- Lawyer
- Procurator Fiscal
- Sheriff
- Third Sector / Public Sector organisation supporting other representative organisations

What is an Alcohol Treatment Requirement?

- A Community Payback Order (CPO) is an alternative to custody. An Alcohol Treatment Requirement is one of nine requirements available to sentencers which is imposed as part of a CPO.
- An Alcohol Treatment Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require an offender, where there is an alcohol dependency identified as contributing to offending behaviour, to undertake alcohol treatment.
- Treatment can be delivered on a community basis, or on a residential basis (possibly with a residence requirement):



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Assess and Manage Risk/Needs and develop a Case Management Plan setting out planned interventions and goals
- Provide updates to the Court for the purpose of reviewing the Order.
- Provide the Court with a Breach Report where there is failure to comply with the Order.

Responsibilities of the Offender

- Comply with the Offender Supervision and Alcohol Treatment Requirements.
- Engage with the support being offered and contribute to the Case Management Plan.
- Inform the Case Manager of any change in circumstances.

Responsibilities of the Sentencer

- Impose an Offender Supervision Requirement.
- The legislation states that the Court must be satisfied through a report about the offender and their circumstances that:
 - the offender is dependent on alcohol;
 - the dependency requires, and may be susceptible to treatment;
 - arrangements have, or can be made, for the proposed treatment to take place; and
- that alcohol is a significant factor in the individual's life, causing problems personally, and contributing to their offending behaviour.
- To explain the requirements and seek the consent of the offender

Resources Needed (Professional Input)

These could include but is not necessarily limited to:

- Local Authority Criminal Justice Social Work Case Manager.
- Psychological care (counsellor, cognitive behaviour therapist).
- Medical care / treatment to directly address dependency.
- Support from alcohol and drug agencies, including Community Addiction Teams.

Notes

 Where the degree of problematic alcohol use does not constitute dependency, this should be addressed through the Offender Supervision Requirement within the Case Management Plan.
 An assessment can be undertaken for a Programme Requirement should an Alcohol Related
 Offending Education Programme be being considered or other activity element of an Unpaid
 Work Requirement utilised where the offender is being considered for an Unpaid Work Requirement.

Breach - Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

What is a **Compensation Requirement?**

- A Community Payback Order (CPO) is an alternative to custody. A Compensation Requirement is one of nine requirements available to sentencers which is imposed as part of a CPO.
- A Compensation Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require the offender to pay a sum of money to the victim(s) of their crime, through the Court as compensation for damage, loss or personal injury.
- The sum imposed by the Court must be paid within 18 months from the day the CPO is imposed or 2 months before the end of the CPO – whichever is first.
- A Compensation Order continues to be a disposal available to the Court independent of a CPO, and can be imposed alongside a CPO as a separate disposal at first instance.

Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Work with the offender to achieve compliance with the Order.
- Monitor compensation payments through liaison with the Court and by requiring the offender to produce receipts.
- Provide the Court with a Breach Report where there is failure to comply with the Order.
- Notify the Court of any change in circumstances leading to the offender being unable to meet the terms of the payment schedule agreed by the Court and:
- Provide a report to the Court on whether the offender can afford a reduced sum of instalment.
- Make a referral to specialist financial advice services.
- Advise on money management.

Responsibilities of the Offender

- Comply with the Supervision and Compensation requirement.
- Make timely payments to the Court, either by instalments or a single lump sum (as directed by the Court).
- Advise the Case Manager immediately if no longer able to pay instalments at the amount agreed with the Court.

Responsibilities of the Sentencer

- Obtain a report on the offender from the Local Authority.
- Impose an Offender Supervision Requirement.
- Set the sum of money to be paid.
- Provide instruction on payment schedule (instalments or a lump sum).

Resources Needed (Professional Input)

- Local Authority Criminal Justice Social Work Case Manager.
- Specialist financial advice services (as required).

Breach – Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.



What is a **Conduct Requirement?**

- A Community Payback Order (CPO) is an alternative to custody. A Conduct Requirement is one of nine requirements available to sentencers which is imposed as part of a CPO.
- A Conduct Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require an offender to do, or refrain from doing certain actions.



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Work with the offender to achieve compliance with the Order.
- Provide the Court with a Breach Report where there is failure to comply with the Order.

Responsibilities of the Offender

- Comply with the Conduct Requirement.
- Advise the Report Writer/Case
 Manager of situations that are most difficult to deal with to ensure that:
 - conditions are imposed that minimise adverse impact on pro-social day to day life; and
 - the chances of positive impacts on behaviour are maximised.

Responsibilities of the Sentencer

The legislation states that the Court must:

- Receive a report about the offender from the Local Authority.
- Impose an Offender Supervision Requirement.
- Be satisfied that a Conduct Requirement is necessary to secure or promote good behaviour, or prevent further offending by the offender.
- Ensure that the Conduct
 Requirement is as defined in
 the Criminal Procedure (Scotland)
 1995 Act.
- Be satisfied that another Requirement would not meet the objective.
- Ensure that the requirement does not exceed 3 years.

Resources Needed (Professional Input)

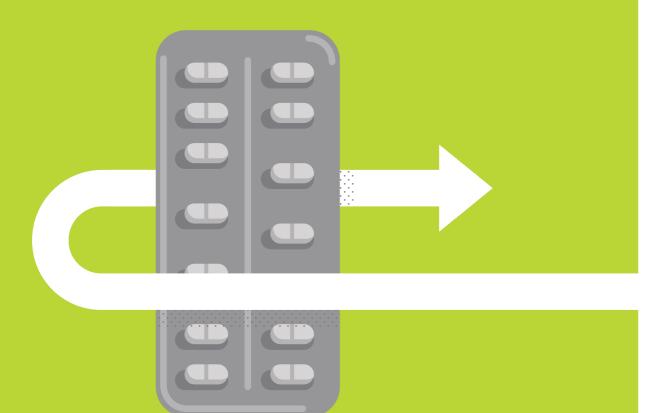
• Local Authority Criminal Justice Social Work Case Manager.

Breach - Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

What is a **Drug Treatment Requirement?**

- A Community Payback Order (CPO) is an alternative to custody. A Drug Treatment Requirement is one of nine provisions available to sentencers which is imposed as part of a CPO.
- A Drug Treatment Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- A Drug Treatment Requirement provides the court with an alternative to custody and an alternative to a DTTO, particularly for offenders whose offending history is not sufficiently high tariff and who have not established a chronic history of drug misuse.



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Assess and Manage Risk/Needs and develop a Case Management Plan setting out planned interventions and goals.
- Provide the Court with a Breach Report where there is failure to comply with the Order.

Responsibilities of the Offender

- Be honest with the Case Manager and Court about the extent of drug use in order to receive appropriate treatment.
- Inform the Case Manager where a relapse occurs.
- Comply with the Supervision and Drug Treatment Requirement.

Responsibilities of the Sentencer

- Obtain a report on the offender from the Local Authority.
- Impose an Offender Supervision Requirement.

Resources Needed (Professional Input)

These could include but is not limited to:

- Local Authority Criminal Justice Social Work Case Manager.
- Psychological care (counsellor, cognitive behaviour therapist).
- Medical care / treatment to directly address dependency.
- Specialist financial advice services.
- Support from alcohol and drug support agencies, including the local Community Addiction Team.

Notes

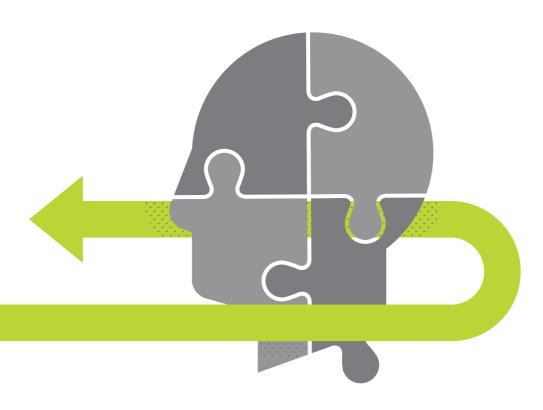
 Where treatment as a resident is required as part of a Drug Treatment Requirement, such resources would require funding and advance agreement in accordance with the Local Authorities' procedures.

Breach - Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

What is a Mental Health Treatment Requirement?

- A Community Payback Order (CPO) is an alternative to custody. A Mental Health Treatment Requirement is one of nine provisions available to sentencers which can be imposed as part of a CPO.
- A Mental Health Treatment Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require an offender, who
 has been diagnosed by a registered
 medical practitioner as having a mental
 health condition and/or learning disability
 contributing to their offending to undertake
 treatment (including care and support) to
 improve their mental health.
- Where a medical practitioner considers the offender in need of compulsory treatment, different legislation is involved.



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Consult and liaise with the medical practitioner and offender to access assessment and appropriate treatment.
- Discuss and facilitate treatment beyond the Supervision period with the offender when required.
- Review and agree any variations to the treatment originally authorised by the Court (type of treatment, location of treatment) with the offender and registered medical practitioner as appropriate.
- Notify the Court of the new arrangements.
- Work with the offender to achieve compliance.
- Provide the Court with a Breach Report where there is failure to comply with the Order.

Responsibilities of the Registered Medical Practitioner

- Provide evidence to the Court around the mental health condition of the offender.
- Consult and liaise with the Criminal Justice Social Work Case Manager and offender on accessing assessment and appropriate treatment.
- Agree any variations to the treatment originally authorised by the Court with the offender and Case Manager as appropriate.

Responsibilities of the Offender

 Agree to comply with the Supervision and Mental Health Treatment Requirement.

Responsibilities of the Sentencer

- Obtain a report from the Local Authority regarding the offender.
- Ensure that an Offender Supervision Requirement is imposed.
- Ensure that the evidence provided by a registered medical practitioner satisfies the Court that:
- the individual has a mental health condition;
- the condition requires and may be susceptible to treatment;
- that the condition does not require compulsory treatment; and
- that arrangements are in place to give the treatment.

Resources Needed (Professional Input)

- Local Authority Criminal Justice Social Work Case Manager.
- Registered Medical Practitioner.
- Specialist treatment as in patient, out patient or day patient.

Notes

- Mental Health disorder in regard to a CPO can be defined as mental illness, personality disorder or learning disability.
- Where the condition itself cannot be treated, the 'treatment' will be for the offender's behaviour connected with the mental disorder e.g. learning disability.

Breach - Potential Consequences for Offenders

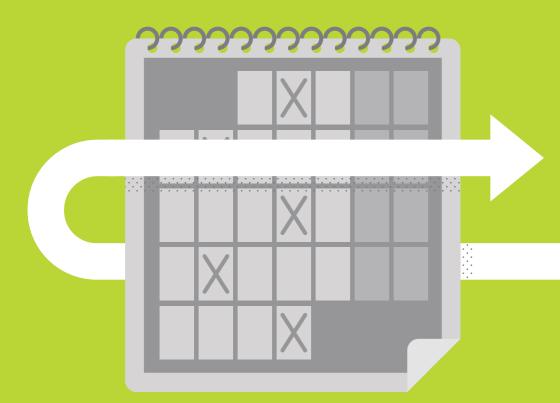
- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

Supervision Requirement?

What is an

Offender

- A Community Payback Order (CPO) is an alternative to custody. An Offender Supervision Requirement is one of nine provisions available to sentencers which can be imposed as part of a CPO.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require the offender to attend appointments with a Criminal Justice Social Work Case Manager (responsible officer) or another person determined by the responsible officer for a specified period of time.
- With the exception of Unpaid Work for individuals aged 18 and over, none of the CPO requirements can be imposed without the addition of a Supervision Requirement.



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Work with the offender and relevant others to achieve change in the individual's behaviour and reduce the risk of re-offending.
- Decide the intensity of contact in accordance with assessed risks and needs.
- Work with the offender to identify and implement a Case Management Plan, regularly assess the pattern, nature, seriousness and likelihood of offending and risk of serious harm to others.
- Work with the offender to achieve compliance with the Order.
- Report individual to the Court where there is failure to comply with the Order.

Responsibilities of the Offender

- Comply with the Supervision Requirement.
- Attend appointments in a location specified by the case manager (this can include offender's own home).
- Work with the case manager to address offending behaviour and reduce risk of re-offending.
- Comply with the Case Management Plan agreed with the case manager.
- Keep all appointments unless discussed and agreed with case manager.

Responsibilities of the Sentencer

- Legislation states that the Court must obtain a report on the individual's circumstances and offending from the Local Authority.
- Ensure that an Offender Supervision Requirement is imposed where other requirements specify that this is a necessary addition or as a stand alone requirement.

Exceptions

 Unpaid Work Orders or Other Activity Requirements can be imposed alone where the offender is aged 18 years or over.

Resources Needed (Professional Input)

 Local Authority Criminal Justice Social Work Case Manager.

Breach - Potential Consequences for Offenders

If a Court finds an offender guilty of breaching the CPO it can:

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

Offender
Supervision
Requirement

What is a **Programme Requirement?**

- A Community Payback Order (CPO) is an alternative to custody. A Programme Requirement is one of nine provisions available to sentencers which can be imposed as part of a CPO.
- A Programme Requirement is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require an offender to undertake a course or other planned set of activities, over a period of time, provided to individuals or groups of individuals for the purpose of addressing offending behavioural needs (i.e. accredited or non accredited programme).



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from offender and other agencies in accordance with the Data Protection Act to inform the Criminal Justice Social Work Report, and subsequent case and risk management.
- Provide updates to Court for the purpose of reviewing the Order.
- Provide the offender with regular support and guidance for the duration of the Programme.
- Participate in reviews and ensure that the Programme meets the needs of the offender.
- Work with the offender to achieve compliance.
- Provide the Court with a Breach Report where there is failure to comply with the Order.

Responsibilities of the Offender

- Comply with the Programme and Offender Supervision Requirements
- Attend all Programme sessions as instructed.
- Co-operate with Programme staff.
- Participate to the best of their ability.
- Agree to and sign an agreement outlining obligations in terms of behaviour and attendance, where applicable.

Responsibilities of the Sentencer

- Obtain a report on the offender from the Local Authority.
- Ensure that an Offender Supervision Requirement is imposed.
- Review information provided by the Case Manager to:
 - ensure that the individual is eligible and suitable for the Programme;
 - ensure that the Programme is available; and
 - ensure that the Programme provider has agreed to the offender's participation.

Resources Needed (Professional Input)

- Local Authority Criminal Justice Social Work Case Manager.
- Suitable accredited or non-accredited Programme.

Notes

- It is possible for the Case Manager to apply to the Court to have a CPO varied by the addition of a Programme Requirement postsentence.
- This would occur in instances where the Case Manager, after working with the offender, considers that participation in a Programme would be beneficial.
- Agreement of the offender is required.

Breach - Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

What is a **Residence Requirement?**

- A Community Payback Order (CPO) is an alternative to custody. A Residence Requirement is one of nine provisions available to sentencers which can be imposed as part of a CPO.
- A **Residence Requirement** is imposed in conjunction with a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community
- The Court will require the offender to live at a certain address to reduce the likelihood of re-offending.



Responsibilities of the Local Authority (Criminal Justice Social Work Case Manager)

- Collect and share information from the offender and other agencies in accordance with Data Protection Law to inform development of the Social Work Court Report.
- Provide updates to Court for the purpose of reviewing the Order.
- Identify and agree funding in advance in accordance with the Local Authority's procedures.
- Family member addresses ascertain that the imposition will not have a detrimental impact on other residents at that address.
- Hostels & Institutions when the Case Manager regards as being a suitable residence for the offender, this must be recommended to the Court and the Court must specify this in requirement.
- Work with individual to ensure compliance with the order, and report any Breach to the Court.

Responsibilities of the Offender

 Comply with the Offender Supervision and Residence Requirements.

Responsibilities of the Sentencer

- Hostels & Institutions must specify this as part of the requirement along with the duration – this must be the same duration as the supervision requirement.
- A Justice of the Peace can impose a Residence Requirement.

Offenders who Require Additional Supervision Linked to level of Risk of Serious Harm in their Communities

- Case Manager will demonstrate in the Court Report, the feasibility of arranging a package consisting of designated accommodation, supervision and support related to the offending behaviour within the community setting prior to recommendation.
- In some cases the Case Manager may also recommend the provision of varying degrees of support/ education, control with the provision of learning support for life skills and independent living to support stability.

Notes

- Most cases will not require direct intervention with regard to accommodation needed.
- Case Managers as part of their normal duties should assist individuals to secure settled accommodation to stabilise their life and reduce the risk of re-offending.
- Homelessness alone should not suggest imposition of this requirement.
- In a small number of cases a residential placement may be appropriate to deal with an addiction issue.
- A Residence Requirement may be applied in conjunction with a drug or alcohol treatment – funding would need to be approved.

Resources Needed (Professional Input)

- Local Authority Criminal Justice Social Work Case Manager.
- In some cases, specialist housing input and/or access to hostel or supported accommodation and funding for this.

Breach – Potential Consequences for Offenders

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- Impose a fine in addition to the existing CPO.

What is an **Unpaid Work** & Other Activity Requirement?

- A Community Payback Order (CPO) is an alternative to custody. An Unpaid Work & Other Activity Requirement is one of nine provisions available to sentencers which can be imposed as part of a CPO.
- Other Activity can be described as anything that promotes dissidence from offending and is agreed with a supervising Officer.
- For 16 & 17 year olds an Unpaid Work & Other Activity Requirement is imposed in conjunction with a **Supervision** Requirement.
- For individuals ages 18 and over an **Unpaid Work & Other Activity Requirement** can be imposed without a Supervision Requirement.
- For more information on CPOs see: www.scotland.gov.uk/Topics/Justice/ public-safety/offender-management/ offender/community

• The Court will require an offender (aged 16 years and over) to undertake practical work such as ground clearance, planting, general forestry work, fence building and maintenance, laying paths, woodwork (making chairs, benches, planters etc.) or to undertake a personal placement such as assisting in a charity shop for a specified number of hours:

Level 1 Order

- 20-100 hours to be completed within 3 months otherwise)
- This is the only order available to Justice of the Peace Courts / Stipendiary Magistrates

Level 2 Order

101-300 hours - to be completed within 6 months otherwise)

Responsibilities of the Local **Authority (Unpaid Work Case** Manager)

- Collect and share information from accordance with Data Protection Law to inform development of the Social Work Court Report.
- Provide updates to Court for the purpose of reviewing the Order.
- Provide the court with an assessment from a G.P. re unpaid work for those considered unfit for paid work.
- Work with the offender to plan, manage and monitor performance.
- Provide the Court with a Breach comply with the Order.
- · Facilitate and support Other Activity.

Responsibilities of the Offender

- Comply with the Unpaid Work & Other Activity Requirement.
- · Report for work as directed by the Court / Case Manager.
- Provide evidence to support reasons
- Be available for interview on request Impose a fine in addition to including at home or other
- Inform the Case Manager of any change of address or to the days/ times of employment.

Responsibilities of the Sentencer

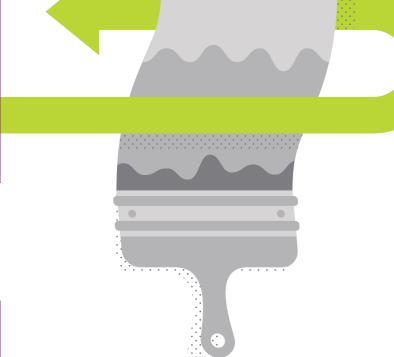
- Ensure that a Supervision Requirement is imposed -16 and 17 year olds only.
- Provide instruction on the number of hours to be completed and advise where additional timescales apply.

Resources Needed (Professional Input)

- Local Authority Unpaid Work Case Manager.
- Unpaid Work Placement.
- Other Activity Resource.

Breach - Potential **Consequences for Offenders**

- Discharge the Order.
- Impose a custodial sentence.
- Vary the requirements within the CPO, including imposing a Restricted Movement Requirement.
- the existing CPO.



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