



Response to Ministry of Justice consultation *Punishment and Reform: Effective Community Sentences*

June 2012

About Revolving Doors Agency

Revolving Doors Agency is a charity working across England to change systems and improve services for people with multiple problems, including poor mental health, who are in repeat contact with the criminal justice system.

The multiple problems experienced by this group often include common mental health problems, drug and/or alcohol misuse, homelessness, learning difficulties, physical health problems, poor relationships with family, poverty and debt.

Each problem feeds into and exacerbates the other, and the combination of several lower level problems results in a high level of need. However on their own, each need is usually not severe enough to meet the threshold for statutory services. This creates a downward spiral that brings people into contact with the criminal justice system.

This response to *Punishment and Reform: Effective Community Sentences* combines evidence and insight from our work with partners, our research, and most importantly from members of our service user forum. All quotes are from forum members unless referenced otherwise.

Summary

Revolving Doors welcomes the opportunity to contribute to the government's review of community sentences. We strongly support the use of community sentences as they are proven

to be more effective than short prison sentences at reducing reoffending (MOJ, 2011b, p.16) and allow offenders to retain contact with the support networks and services which can help to address the factors contributing to their offending.

As recognised by the government in *Breaking the Cycle*, many offenders have multiple and complex support needs. This often results in chaotic lives and feeds into how individuals respond to sentences. For example offenders who have been living a life without routine for many years may find it hard to keep appointments, increasing the likelihood of breach.

We welcome the government's acknowledgement of the need to tailor community sentences to the individual offender. We recommend that personal circumstances of each offender are carefully considered when community sentences are being applied. In order for community sentences to be most effective in preventing persistent offending they should recognise and address the offender's full range of needs and causes of offending.

It is vital that every sentence strikes a balance between the five purposes of sentencing. The inclusion of the rehabilitative element is essential in order to effectively reduce crime, reform offenders, and protect the public. Support and treatment are essential components of rehabilitation for those with multiple needs and should be provided alongside punitive elements in order to support the offender in complying with the sentence. The nature of the support and treatment will



depend on the needs of the offender, and signposting to it will depend on the awareness of sentencers and pre-sentence report writers of available services.

Revolving Doors welcomes the government's decision to establish criminal justice liaison and diversion services across the country and we are engaged in the Offender Health Collaborative supporting this work. This consultation provides an opportunity to consider how these services will best be integrated locally in order to maximise the opportunities for the identification of all levels of mental health need by the police, by probation and at court.

Service user involvement is under-developed in criminal justice, however we are keen to emphasise its importance and benefits. The engagement of offenders in the development of treatment and care plans has been shown to increase compliance. In the longer term, service user involvement in the design of support and treatment will help ensure services are genuinely focused and effective and will play a vital role in supporting desistance. Revolving Doors was recently awarded a contract from the Ministry of Justice to test methods of service user involvement in a number of prisons and probation trusts and we look forward to applying learning from this work.

Key recommendations

1. Community sentences should be tailored to take into consideration the specific context of each individual, including mental health (of all levels), learning disability, substance misuse, housing situation and family relationships.
2. For all community sentences, including Intensive Community Punishment (ICP), consideration should be given to the need to include a core element of support and treatment to facilitate compliance and address any factors contributing to offending.
3. It is essential that sentencers fully understand the needs of offenders, especially those with mental health conditions, learning disability and multiple problems. The impact of sentencing decisions must also be considered. This will require effective communication with agencies and individuals involved in the offender's life including support staff, clinicians and support networks.
4. Any punitive element in a community order should:
 - Be tailored to take into consideration personal circumstances and ability to comply with requirements
 - Be accompanied by support and treatment to enable the offender to comply with the requirement
 - Not hinder any of the other purposes of sentencing; rehabilitation, reparation, public safety and reduction of crime
 - Be proportionate to the crime.



5. The extent to which each requirement of a community order is experienced as punitive depends on the personal circumstance of each offender. As such, all elements of the community order can be considered punitive to some offenders. Sentencers should also be given discretion in defining which elements are punitive, and should not have to choose from a set list of elements defined as punitive.

6. We recommend that people with minimal assets are exempted from the power to order the seizure and sale of assets as a punishment in its own right, and that mobile phones are never removed as a punishment.

7. Fines are not an appropriate punitive element for people who are reliant on benefits. In their place, a limited number of Community Payback days could be imposed, provided appropriate support was provided alongside

8. The imposition of a curfew should not inhibit offenders from accessing support services or treatment by overlapping with appointment times. Curfews, especially of extended length, should not be imposed on individuals with mental health conditions due to risks of isolation and a deterioration in mental health. Curfews should be fully integrated into sentence planning and be accompanied by rehabilitative and support elements.

9. Women offenders often benefit from different approaches to men, and it is therefore vital to the tailoring of community sentences takes a gendered approach and recognises women's particular needs, including childcare responsibilities, domestic violence and a higher prevalence of mental health conditions.

10. We recommend that alcohol treatment is both accompanied by other support addressing a full range of needs and that routes into follow up support are guaranteed. Sentences aimed at helping tackle substance misuse should comply with the recommended evidence-based practice on addressing addictions.

11. Involving offenders in the development of treatment and care plans serves to support positive relationships and increase offenders' motivation to comply. In the longer term, service user involvement in the design of support and treatment is a vital step to ensuring services are genuinely focused and effective.



Response to consultation questions

1. What should be the core elements of Intensive Community Punishment?

Despite their focus on punishment, Intensive Community Punishments (ICPs) should also include core elements to address factors contributing to offending, provide appropriate support to help offenders comply with punitive elements and ensure flexibility.

We welcome the government's commitment that "community orders will continue to address the problems that have caused, or contributed to offending behaviour in the first place – such as drug abuse, alcoholism and mental health problems" and praise the recognition that "in all these areas, meaningful punishment and reform go together." (Ministerial foreword to *Punishment and Reform: Effective Community Sentences*)

The consultation document proposes that Intensive Community Punishments ICPs should build on the Intensive Alternative to Custody (IAC) pilots, "but include a core of punitive elements." The IAC pilots "combined intensive probation supervision with a mix of demanding requirements and interventions, aiming to reduce further reoffending by rehabilitating offenders". (MoJ 2011a) As such, rehabilitative elements were central the orders. If ICPs are to effectively build on the IAC pilots, they must retain this core rehabilitative element. Building on the learning from IACs, ICPs should involve an intensive curriculum of activity offering rehabilitation, punishment as well as reparation delivered through partnerships between organisations from the statutory, voluntary, and private sectors.

ICPs should explicitly aim to assess, recognise and address the full range of issues contributing

to offending including housing, mental health problems, drug or/and alcohol addiction and lack of social support. The IAC evaluation (MoJ 2011a) recommended that outcomes monitoring systems should be developed to measure social outcomes such as stable accommodation, and drug and alcohol use as well as reoffending and type of offences. Such monitoring systems should be developed for ICPs.

IACs also included a core element of flexibility in order to facilitate compliance. This should also be applied to ICPs in recognition that many offenders with multiple problems may have difficulty in adhering to conditions of the sentence. Evidence from drug courts and mental health court pilots has shown that a regular review of progress was a key part of the model (MOJ 2010; MOJ 2011c)

2. Which offenders would Intensive Community Punishment be suitable for?

The consultation document proposes ICPs as suitable for "offenders who deserve a significant level of punishment; but who are better dealt with in the community to maintain ties with work and with family – which will ultimately reduce the risk of their reoffending."

Revolving Doors supports the use of ICPs in cases where an offender would otherwise be sentenced to custody, however we have concerns that ICPs may be applied to individuals for whom they are not suitable.

Stakeholders interviewed as part of our recent research into diversion services for offenders in the North East of England raised concerns that magistrates engage in the process of 'up-tariffing' offenders to short prison sentences or to higher threshold community orders to try and facilitate access to increased support (Revolving Doors Agency, 2012, p.132). We are



concerned that without clear guidance to sentencers, ICP sentences may be used inappropriately on those who are unlikely to face custody under existing systems.

Stakeholders involved in the IAC pilot programme (Moj 2011a) all suggested that the order was most suitable for those with chaotic lifestyles, multiple needs, previous custodial sentence, and the motivation to change. However, the evaluation also highlighted concerns about applying IACs to certain groups including acute drug users and offenders with mental health problems, due to the intensity and commitment required. These concerns were supported by data from Derbyshire which showed that 43% of IAC orders not completed were drug rehabilitation requirement (DRR) cases.

We recommend that an ICP should not be applied to offenders with multiple needs and chaotic lifestyles unless appropriate support is provided alongside punitive elements, recognising the personal circumstances and capacities of each offender. As outline below, sentencers should be supported to assess suitability for ICPs.

'I think it's better to guide someone then keep sending them back into court... if you've got someone who ... has been a drinker or drug taker for 10 years, that's 10 years of their life that they have to try and get right. You're not going to do that in a week. You know, you're just not going to do it. The guidance for these people will help. And I think the only way of doing it is to get the first step in.. and then the second. You know, we call it life skills ... I think that's basically what it is.'

3. Do you agree that every offender who receives a community order should be subject to a sanction which is aimed primarily at the punishment of the offender ('a punitive element')?

"Whilst offenders must be punished for their wrongdoings, effective rehabilitation is the key to reducing crime and the number of future victims. It's in all our interests that offenders' lives are turned around so that they can make a positive social contribution." (Crispin Blunt MP, 2011)

Revolving Doors and members of our service user forum recognise and accept that punishment of offenders is justly one of the five purposes of sentencing. However, **a punitive element should only be included in a community order when it:**

- Is tailored to take into consideration personal circumstances and ability to comply with requirements
- Is accompanied by support and treatment to enable the offender to comply with the requirement. This should include treatment for mental health and substance misuse problems alongside support for skills such as time management (see section on compliance below).
- Does not hinder any of the other purposes of sentencing; rehabilitation, reparation, public safety and reduction of crime
- Is proportionate to the crime

Sentencers should also be given flexibility in defining which elements are punitive



and should not have to choose from a set list of elements defined as punitive. We are concerned this would result in pre-sentence report authors and sentencers being forced to recommend and hand down requirements which they do not believe should be imposed.

We are also concerned that the proposed strong focus on punishment may be at the expense of other purposes, in particular rehabilitation and reparation. This is a view supported by the House of Commons Justice Committee who in their 2010 report on justice reinvestment stated:

“We are concerned that an assumption has been created that punishment is the paramount purpose of sentencing. There is an understandable public concern that offenders should suffer serious consequences for the crimes they have committed, but if other purposes, including reform and rehabilitation and reparation to victims, were given higher priority, then we believe sentencing could make a much more significant contribution to reducing re-offending and to improving the safety of communities.” (House of Commons Justice Committee 2010, paragraph 138)

4. Which requirements of the community order do you regard as punitive?

The extent to which each requirement of a community order is punitive depends on the personal circumstance of each offender. As such, all elements of the community order can be considered punitive to some offenders.

For offenders facing multiple problems, community sentence requirements are often extremely demanding and challenging. They can be experienced as at least, if not more, demanding as a short custodial sentence.

Requirements which mandate attendance at supervision sessions, mandatory drug testing or a specified activity can be regarded as a deprivation of liberty by the nature of having to attend.

The decision of which requirement should be considered as punitive should be taken on a case-by-case basis, according to the personal circumstances of the offender. As we outline below, sentencers and pre-sentence report authors must be provided with sufficient information to support this individual assessment.

5. Are there some classes of offenders for whom (or particular circumstances in which) a punitive element of a sentence would not be suitable?

We welcome the government’s recognition that an explicitly punitive requirement would not be “suitable or even possible” for certain groups of offender, such as some offenders with mental health issues who may not be capable of undertaking unpaid work. As outlined above the decision as to whether an offender should receive a punitive requirement, and what may be considered as such should be taken on a case-by-case basis, taking into consideration the personal circumstances of each offender.

Purely punitive elements should not be applied to offenders with multiple problems unless appropriate support is provided alongside to support compliance and address the full range of the offender’s needs.

We welcome the government’s recognition that “we must avoid undermining our efforts to reform offenders and cut crime and so need to ensure that any mandatory provision to include a punitive element in all community orders contains exceptions that can cater for such offenders [as those with



mental health problems].” (Paragraph 41) **We recommend that particular consideration should be given to offenders with multiple problems including those with learning and communication disabilities and mental health conditions (including co-morbid mental health and drug or alcohol dependency).** It is vital that this includes people with a wide range of mental health conditions, not just those with the most severe mental illnesses, and offenders who experience a combination of many ‘low level’ problems which add up to a complex picture of vulnerability.

It is imperative that vulnerable offenders are not simply being set up to fail in any new sentencing arrangements by being subject to onerous and unrealistic requirements. Decisions as to whether to impose a punitive element should also recognise that imposing requirements which are overly demanding may lead an offender to deliberately breach so as to end the community order in favour of a custodial sentence which is regarded as less difficult to complete.

As recognised in the impact assessment for this consultation, people with mental health issues and/or learning disabilities may have extra support needs in complying with community orders. Research by the Prison Reform Trust has demonstrated that many community order requirements are inaccessible to offenders with learning disabilities due to the complexity of the programmes involved and the level of participation necessary to comply. (Prison Reform Trust, 2009) This is likely to increase non-compliance with community orders, resulting in further punitive action and ultimately prison. The inappropriate application of punitive elements as part of a sentence could also have a detrimental effect on the offender’s health given the distress and anxiety these conditions could cause. This could undermine a person’s engagement with other reformatory and rehabilitative elements of the sentence.

In order to assess suitability of different requirements, it is essential that sentencers fully understand the needs of these each offender and, crucially, the impact of sentencing decisions. This will require effective communication with agencies and individuals involved in the offender’s life including key workers, clinicians and support networks.

Learning can be drawn from the Mental Health Court pilot evaluation (MOJ, 2010, p.8-9). The Mental Health professional at both courts (Stratford and Brighton) worked closely with a probation officer in the court providing advice around the mental health needs of defendants. They informed pre-sentence reports as well as providing mental health information to the courts to support case management. This was seen to be a key success factor in facilitating appropriate sentences.

Assessment should take into consideration all levels of mental health need. The current roll out of criminal justice liaison and diversion services across police custody suites and courts and the transfer of police custody health care to the NHS provides an opportunity to improve this assessment.

Revolving Doors research in the North East of England suggested that, for the most part, magistrates and their legal advisors had received no or very limited training on mental health awareness (Revolving Doors Agency, 2012, p.131/2). Interviewees suggested that magistrates needed to have sufficient understanding of the impact of how health conditions, offending and sentencing were likely to interplay so they could sentence appropriately. This is supported by research on Mental Health Treatment Requirements (Khanom et al, 2009) which found that “mental health is rarely considered a priority by the courts or probation services. In most cases, unless an offender’s mental health problems are so severe or noticeable that they suggest



compulsory admission to a psychiatric hospital is required, the courts will generally view mental health as 'someone else's business'."

across public services including mental health services, social care, and drug treatment may compound this risk.

6. How should such offenders be sentenced?

Where an offender is deemed to be unsuitable for a purely punitive requirement, sentencers should be encouraged to make use of existing sentencing arrangements such as Specified Activity Requirements and Mental Health Treatment Requirements to facilitate the offender's engagement in treatment. Just as with punitive requirements, the offenders' challenges in complying should be recognised and support provided alongside to increase capacity to adhere to conditions.

If rehabilitative elements are not sufficiently prioritised, or punitive elements are applied inappropriately or without support alongside, there will be an increased likelihood of breach and consequent custodial sentences. This will serve to impede the purposes of reducing crime and protecting the public.

7. How can we best ensure that sentences in the community achieve a balance between all five purposes of sentencing?

"The starting point—not just for sentencing, but for the work of the police, prison, probation service and the contribution of third sector organisations—must be to analyse how and why criminal activity takes place, the factors that influence the seriousness of offending and "what works" in reducing both the frequency and the seriousness of offending." (House of Commons Justice Committee 2010, paragraph 139)

In order to achieve a balance between the five purposes of sentencing, each sentence must address the underlying causes of offending and be tailored to achieve each purpose in a way that is appropriate to that offender. A focus on punishment should not exclude rehabilitative or reparative elements.

We are concerned that a focus on punitive elements could mean fewer resources will be available for elements primarily aimed to rehabilitate and reform. Current budget cuts

8. Should we, if new technologies were available and affordable, encourage the use of electronically monitored technology to monitor compliance with community order requirements (in addition to curfew requirements)?

9. Which community order requirements, in addition to curfews, could be most effectively electronically monitored?

10. Are there other ways we could use electronically monitored curfews more imaginatively?

The following takes an overview of relevant issues relating to electronic monitoring, in particular curfews.



Curfews

Revolving Doors welcomes the proposal to use curfews more imaginatively. Members of our service user forum were of the opinion that curfews like the example in the consultation document which required an offender to be home “in the afternoons when they habitually engaged in shoplifting. In the morning their community order required them to attend drug rehabilitation sessions.” (paragraph 46) may be an opportunity to support rehabilitation.

“I think it’s a great idea if they can use it like that...if you’re a drug addict or an alcoholic, you’ve a very chaotic life. And if...instead of sending you to prison, they’re trying to get you help, which you probably can’t see that they’re trying to help you...and if they can force you to be there and get the help and talk about your problems...it can only help.”

However, we do have some concerns regarding the proposals for curfew arrangements. Firstly, **it will be vital to ensure that the imposition of a curfew does not inhibit offenders from accessing support services or treatment by overlapping with appointment times.**

Secondly, the consultation document proposes longer curfew arrangements of up to sixteen hours per day. We are concerned that requiring offenders with mental health problems to remain at home for long periods of time may have a negative impact on the maintenance of positive social networks, which have been recognised as clearly linked to wellbeing. (Pinto 2006) Social interaction has also been found to be also crucial in predicting whether an individual can successfully complete important life tasks (Eklund & Hannsson, 2007), suggesting a longer curfew may impede the offender’s ability to complete other requirements of the sentence. **We recommend that longer**

curfews are not imposed on offenders with mental health problems.

Case Study: The partner of one of our service user forum was subject to an electronically monitored curfew, which required him to stay at the hostel he was living in. Many residents of the hostel were active crack users, which he found very hard to cope with. In an effort to get away from the other residents, he repeatedly breached his curfew, resulting in the order being repeatedly extended. The situation had a direct impact on his mental health, and he ended up ‘on pills he had never took before.’

Thirdly, recent evidence from the HMI Probation follow-up inspection of electronically monitored (EM) curfews suggests there may be a risk of curfews not being sufficiently integrated with offender management. The NOMS offender management model specifies that curfews should be included as an integral part of a sentence plan drawn up in discussion with the offender. It can be used to support other objectives in the plan including to help the offender address factors contributing to offending and break long established patterns of behaviour. However, the recent inspection (HMI Probation 2012) found that very few curfews were integrated into the sentence plan, and even fewer were fully integrated in the management of the offender.

Although the same responsible officer was often overseeing the curfews and unpaid work requirements, there “was no clear framework within which ‘offender management’ could operate and responsible officers were often inexperienced in dealing with other requirements. “Without a supervision requirement focusing on the broader sentencing aims of rehabilitation as well as punishment, it



was difficult for the offender manager to engage constructively with the EM requirement.”

We support HM Probation’s recommendation that **probation trusts should “ensure effective offender management by the integration of curfews into sentence planning** where they act as the responsible officer.” This reflects our recommendation above that punitive requirements must be accompanied by robust rehabilitative elements.

‘I think there needs to be more than ‘have a tag’ and tell the person they can’t access a certain area or a pub. There needs to more than just leaving that person down to will power.

15. Which offenders or offences could a new power to order the confiscation of assets most usefully be focused on?

16. How could the power to order the confiscation of assets be framed in order to ensure it applied equitably both to offenders with low-value assets and those with high-value assets?

The consultation document proposes a “new sentencing power that would allow courts to order the seizure and sale of assets, as a punishment in its own right ... regardless of whether [the assets] was connected to the offence.” (Paragraph 69) Revolving Doors is concerned that this new power may be inappropriately applied to people who are facing multiple problems and living very chaotic lives are likely to have very few assets. The few assets they do have are likely to be relied upon, for example a mobile phone. For those with a mobile phone, this is likely to be a lifeline to

support services. Removal of it could seriously impede rehabilitative efforts.

“[By taking away your phone] they’re taking your doctor’s appointments, they’re taking your hospital appointments, they’re taking your meetings, they’re taking everything away from you.”

We recommend that people with minimal assets are exempted from this power and that mobile phones are never removed as a punishment.

19. How can compliance with community sentences be improved?

In order to improve compliance with community sentences, it is essential to understand the reasons underlying non-compliance.

Firstly, as outlined above, offenders with multiple problems often have ineffective contact with support and treatment services and as a result are likely to lead chaotic lives, where combining problems make it difficult to engage fully and keep appointments. Non-compliance can also be caused by a failure to cope with existing problems, such as drug or alcohol misuse or deteriorating mental health. Learning difficulties and disabilities, can also contribute to breach where the offender has difficulty understanding the terms of their order.

“If you’ve got all these different appointments, you’re doing drug treatment in the afternoon and you are at probation in the morning and you’re here there and everywhere, it is really hard to get from one to the other... you need a personal assistant to plan all your appointments!

“A lot of people [like us], in crisis and crime are by nature disorganised ... All they need



is someone to sit down and tell them about time management. If they are told how to do it, they will find it a lot easier.”

In recognition of this, **support services should be provided alongside community sentences in order to address these barriers and enable compliance, for example support to attend appointments on time.** Approaches that understand and work to develop motivation have been found to play an important role in addressing problem behaviours, e.g. drug use and reducing reoffending (Allen, 2008; Lundahl et al, 2010). Providing this support will require investment but will save resources in the medium to long term, as demonstrated by Revolving Doors' Financial Analysis Model.¹ Achieving these savings will require action beyond the current reviews of sentencing and probation as part of the government's wider reform agenda. The recent social justice strategy *Social Justice Strategy: Transforming Lives* (HM Government, 2012) recognises the need to improve responses to excluded adults and may be a basis on which to build cross-government working.

In order to assess **the support needs of offenders, sentencers must be provided with adequate information on offenders' needs in pre-sentence reports (see above), and offender managers must have an awareness of available support services.** It is important that any support occurs *alongside* a community order, and is not another mandated condition within it that provides a further opportunity for breach.

Secondly, the structure of the community order itself can provide a barrier to successful completion, with too many or overly strenuous requirements increasing the likelihood of

breach. Increasing the intensiveness of community sentences could build in more opportunities for breach, rather than promote compliance. Gyateng, McSweeney, and Hough (2010) conducted a study on key predictors of compliance with community supervision in London. The findings showed the likelihood of an individual breaching the community order would increase in line with the imposed number of requirements. Those with drug needs, previous history of breach as well as a longer length of the order are also more likely to breach the community supervision.

To address this, **the situation and coping skills of offenders should be considered when community sentences are being applied.** As noted in the response to question 5, it is imperative that vulnerable offenders are not simply set up to fail in any new sentencing arrangements by being subject to onerous and unrealistic requirements. If more punitive requirements are to be included in community orders, more support may need to be provided to enable people to meet them.

Thirdly, **it is vital that community sentences support individuals to reach a point of being ready to engage and change rather than prevent them from reaching it. This is particularly important for offenders who are dependent on drugs or alcohol.** The evaluation of the Intensive Alternative to Custody (IAC) pilots (Moj 2011) found that being psychologically ready to change, or ready to engage, had a considerable bearing on offender's compliance with the order.

Fourthly, a positive relationship with the offender manager is crucial to compliance, as demonstrated by research showing effective

¹ Revolving Doors' Financial Analysis Model assesses the potential savings resulting from partnership projects providing holistic support to people with multiple needs at different points of the

criminal justice system. See <http://www.revolving-doors.org.uk/policy--research/policy-projects/economic-model/> for more detail.



relationships between offender managers and offenders can prevent breach and reoffending. (Neill 2008) Storer (2003) also found that women's compliance with the probation supervision order is dependent on the quality of relationship with their probation officers.

Instilling confidence in the offender is key to this relationship. Members of our service user forum suggested that greater encouragement and recognition of progress is key to improving motivation:

“Being sentenced and all that, it's always punishing the bad and never rewarding the good... bettering yourself. You're doing a lot for the community [through unpaid work], and it never gets through to the actual offender that they're doing good... So instead of [just] punishing the bad, somehow we [need to] reward the good... recognizing the good that you're doing”.

Involving offenders in the development of treatment and care plans serves to support positive relationships and increase offenders' motivation to comply. The IAC evaluation suggested it is important to ensure to consider the views of offenders in determining their support and welfare options. If there is a conflict between the view of the offender and that of the professionals, staff need to fully explain the rationale for their decision, so that the offender remains engaged with the order. Furthermore, the evaluation of the Mental Health Court Pilots at Brighton and Stratford found that “high involvement of service users... promoted engagement and compliance from this hard-to-reach group” (MOJ, 2010, p. 28). **In the longer term, service user involvement in the design of support and treatment will help ensure services are genuinely focused and effective and will play a vital role in supporting desistance.** These points are supported by the experience of our service user forum:

“I've found the best way of not reoffending is getting involved ... It gives me a lot of focus in life, things to do... I enjoy doing what I do ... I get involved as much as I can, and I think by doing that it certainly doesn't leave me any time to dwell on what happened in the past... Getting involved is the best way of keeping people away from reoffending and I'd encourage anyone ... to get involved.”

Finally, it is also important that rehabilitative and treatment elements of the community order commence quickly. Research by Revolving Doors Agency in the North East found that the motivation of offenders is likely to fluctuate if there are long delays in, for example, arranging treatment for a Mental Health Treatment Requirements (MHTRs), and this is likely to reduce compliance (Revolving Doors Agency, 2012, p. 135).

20. Would a fixed penalty-type scheme for dealing with failure to comply with the requirements of a community order be likely to promote greater compliance?

Revolving Doors supports the motivations behind the introduction of a fixed penalty fine aiming to reduce the need to return to court and potentially receiving a custodial sentence. We also welcome efforts to improve the proportionality of fines to individuals' means. However we have significant concerns on how these fines will be implemented and whether they are suitable for offenders with multiple needs who are likely to have very little income or assets and be wholly reliant on benefits.

Our research paper *Hand to Mouth* (Pratt and Jones, 2009) found that the lives of adults with multiple needs are often defined by poverty, and they can have difficulty managing their finances.



Unexpected costs like fines can lead to stress and anxiety because of an inability to pay.

Members of our services user forum were clear that the imposition of fines on people who rely on benefits would be ineffective and detrimental. Payments of as little as £5 or £10 per week taken out of benefit payments can mean individuals have to go without basics like food or electricity. This can be particularly detrimental for people who have recently moved out of supported accommodation such as a hostel into more independent living.

'I work with people coming out of hostels [as a peer support worker]... people are finding hard to budget themselves, when we are moving them into places to pay domestic bills, to pay their side of the rent. You're going to fine them and they are going to end up back on the street. It's a vicious circle. The unpaid work would be a much better scheme.'

Fines may also encourage further offending, either by offending to pay off the fine, or through intentional non-payment when returning to prison appears a better option.

"If you haven't got money then I think it's totally pointless. Because either people go out...and recommit to get the money to pay the fines, or they'd rather go to jail because they can't pay them"

We therefore recommend that fines are not an appropriate punitive element for people who are reliant on benefits.

Members of our services user forum agreed that in place of fines, a limited number of Community Payback days could be imposed, provided appropriate support was provided alongside, and that the work was meaningful. Where Community Payback included training elements and recognised and praised good

performance, it was seen as a positive step towards desistance and rehabilitation.

'This ... community pay back... I can see where they are coming from there. I would prefer it myself to go to work. Pay back to the community and work seven days a week...than paying a fine which I couldn't afford to do.'

'If it is going to be a lead onto employment and give you that enthusiasm to find work, then it is a valid punishment.'

23. How can pre-sentence report writers be supported to advice courts on the use of fines and other non-community order disposals?

As mentioned above, pre-sentence report writers need access to information on offenders' health and social care needs, as well as their financial and family situation in order to advise courts on the appropriate use of fines and other proposals. In particular, they will need time to determine the ability of the offender to pay any fines imposed.

Our research for the Big Diversion Project (BDP) in the North East found that an increasing move towards fast-delivery reports could create barriers for those with multiple needs, by reducing the time available for pre-sentence report writers to gain access to this vital information (Revolving Doors Agency, 2012, p.123).

Pre-sentence report writers would be better supported if given adequate time to complete their reports. Where fast-delivery reports are required, close links with a criminal justice liaison and diversion (CJLD) service operating in court could enable quick access to information about an offender's needs, and improve the quality of advice in the pre-sentence report.



36. How else could our proposals on community sentences help the particular needs of women offenders?

Revolving Doors welcomes the recognition that “women offenders tend to have multiple and therefore more complex problems related to their offending”, as well as the government’s commitment to take into account the different profile of women’s offending (p. 39). Women offenders often benefit from different approaches to men, and it is therefore vital to tailor community sentences in relation to women’s particular needs.

Specific issues faced by women offenders include childcare issues and a higher prevalence of depression, anxiety and self-harm once in contact with the criminal justice system. Women are also more likely to be victims of domestic violence and abuse in the community. These problems interact with other needs, including drug and alcohol misuse. As shown in the Anawim case study, many women require holistic, person-centred support addressing all their needs in order to engage fully in both the punitive and rehabilitative elements of their community order. As such, we welcome the continued funding of Women’s Community Services, and support the emphasis on promoting links between probation and the voluntary sector to meet the varied needs of women offenders.

We also support the view that decent non-penal options should be made available for women with caring responsibilities to avoid a negative influence on their children. Consideration should be given to these issues when community sentences are being constructed. Women who have childcare responsibilities may face particular challenges in complying with community sentences, due to lateness or even absence from their supervision appointments (Malloch & Mclvor, 2011).

Breaching, and ending up in custody, will cause further disruption to family life, as there are fewer women’s prisons and women will often be placed a long way from their home and family. Many women with multiple problems are in a situation of serious financial hardship, and as such proposals to add a financial penalty to deal with breach will not necessarily solve these issues, and may also have a negative impact on their family (see q.20 above). Rather, greater flexibility around appointments and supervisions, as well as the provision of personalized support and childcare arrangements, is likely to improve compliance in community sentences among women.

We support the emphasis on rehabilitation as a particularly key part of community sentences for female offenders, however it must be recognized that there are further women-specific issues in the enforcement of these. Regarding Drug Treatment and Testing Orders (DTTOs), for example, Malloch and Mclvor (2011) found that the influence of drug taking male partners could be one of the main barriers on women to remain drug-free (Mclvor et al., 2006, cited in Malloch & Mclvor, 2011, pp.334). Furthermore, whilst the consultation suggests that curfew may enable the “tailoring of requirements to deal with an offender’s mental health issues” (p.39), this requirement must be handled with care. As mentioned above, social interaction plays a great part in improving mental well-being.

Finally, we also support the intention to explore how women can complete community payback orders in appropriate settings. This could create a more positive environment for women to successfully complete their order and address their needs, whilst preventing the stigmatisation that women offenders can suffer in male dominated groups (Malloch & Mclvor, 2011). While these women-specific approaches are important, however, we also urge the government to show similar recognition of



multiple needs among the male offender population.

Alcohol Treatment Requirements

We welcome the government's steps to make it easier for courts to make use of alcohol treatment requirements and to remove limits on their minimum length. We recommend that alcohol treatment is both accompanied by other support and treatment addressing a full range of needs and that routes into follow up support are guaranteed.

such a way as to support multiple needs, or co-occurring substance misuse and mental health conditions. People with dual diagnosis are often excluded from mental health and substance misuse services, and end up falling through the gaps. Given the prevalence of dual diagnosis in the criminal justice system, it is important that effective community services are designed for this group.

Conclusion

Revolving Doors strongly welcomes the government's efforts to improve the effectiveness of community sentences. For the many offenders who experience multiple problems, the increased availability of balanced community sentences provides a valuable opportunity to address reasons underlying offending while remaining in the community.

However, the strong focus on punishment risks undermining efforts to improve effectiveness. As we have outlined in this consultation, the provision of support and treatment alongside punishment is vital to both compliance and desistance. Without these vital elements, offenders with multiple problems are likely to be set up to fail.

42. What do you consider to be the positive or negative equality impacts of the proposals?

It is a concern that there is no mention of the needs of offenders from black and minority ethnic (BME) backgrounds. As acknowledged in the equalities impact assessment, this group could be affected disproportionately by the proposals. They also face a particular set of issues in commencing and completing community sentences. (Moj 2012b) Mental health services and learning disability services already struggle to address the needs of people from BME communities.² It is crucial that any services involved in the delivery of treatment requirements or other elements of the community sentence are able to support the specific needs of offenders from BME communities.

The consultation paper also fails to address the needs of offenders with dual diagnosis in its discussion of alcohol requirements. The Bradley Report recognised this group of offenders as being at a particular disadvantage, because as noted above services are rarely configured in

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² See Faculty of the Psychiatry of Learning Disability of the Royal College of Psychiatrists (2011) and National Mental Health Development Unit (2009)



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