
Report to: Housing, Health and Care Committee

Date of Meeting: 25 October 2012

**Subject: Community Payback Order(CPO) - First Year
Implementation Report**

Report by: Acting Head of Social Services/Chief Social Work Officer

1.0 Purpose

1.1

The purpose of this report is;

- a) To update committee on the implementation of Community Payback Orders (CPO) that became effective from 01.02.11 and to advise that Criminal Justice Services have met statutory legislative requirements in relation to this Act.

- b) Committee members are invited to note the positive progress made by the Criminal Justice Service in Clackmannanshire since the implementation of the Community Payback Order in February 2011. The Community Payback Order in effect replaces the Probation, Community Service and Supervised Attendance Orders that previously existed as Community Disposals.

2.0 Recommendations

2.1 The committee notes that

- a) Clackmannanshire Criminal Justice Services, Unpaid Work Service has introduced and implemented the Community Payback Order (CPO) as set out in the Criminal Justice and Licensing (Scotland) Act 2010, and which took effect on 1st February, 2011. This implementation fully complies with the legislative requirements of the Act.

- b) That the Community Payback Order is now fully operational ensuring that the local courts have access at all times to an appropriate community disposal, which offers a credible alternative to a sentence of imprisonment or detention, and is designed to offer courts a disposal for use with those who have defaulted on payment of a fine.

- c) Members are invited to note the positive progress made by Clackmannanshire Council's Criminal Justice Service in the implementation of Community Payback Orders.

3.0 Considerations

- 3.1. The Criminal Justice and Licensing (Scotland) Act 2010 runs to more than 200 sections, covering issues ranging from taxi licensing to evidence disclosure. The Act received Royal Assent in August 2010 and its provisions are now being brought into force.
- 3.2. The Community Payback Order is applied to offences committed on or after 1 February 2011. For such offences it replaced Community Service Orders, Probation Orders and Supervised Attendance Orders. Offences committed before 1 February 2011, of which there are still a few remaining, are sentenced under the previous arrangements. Other community sentences, including the Drug Treatment and Testing Order and the Restriction Of Liberty Order, have remained unchanged.
- 3.3. Within the new legislation there is a presumption against short prison sentences of less than three months unless the court has concluded that there is no other appropriate way of dealing with the offender, in which case the court must state the reasons for reaching that conclusion in the court records.
- 3.4. A Community Payback Order (CPO) consists of a number of requirements. Nine are set out in the Act, and from these, the court may select one or more in deciding on the make up of the order.
- 3.5. The requirements with brief explanation are:
- Unpaid work or other activity requirement - The punitive element is contained in the time within which offenders must devote to working for the good of the community. It must present a challenge to the offender and must be completed within 3 months (up to 100 hours) or 6 months (more than 100 hours), unless the court states otherwise at the point of sentence.
 - Offender supervision requirement - The court must impose an offender supervision requirement where the individual is aged under 18 or where the court imposes any requirement other than an unpaid work and other activity requirement.
 - Conduct requirement - A conduct requirement will be imposed when the court requires that the individual must do, or refrain from doing, specified things to secure or promote good behaviour or to prevent further offending.
 - Compensation requirement - A compensation requirement can be imposed compelling an individual to pay compensation for any personal injury or other matter incurred as a result of the individual's offending

behaviour. Compensation payments will be made to the Sheriff Clerk's office.

- Residence requirement - A court may require that an offender live in specified accommodation recommended as appropriate in a report by a local authority officer.
 - Programme requirement - Before a programme requirement can be imposed, a specific programme must be recommended to the court, usually by means of a Criminal Justice Social Work Report, as being suitable for the offender.
 - Mental health treatment requirement - The purpose of imposing a mental health treatment requirement is to ensure that an individual who has been diagnosed with a mental health condition receives support, care and treatment.
 - Drug treatment requirement - A drug treatment requirement might be imposed where drug issues are identified, but are not the main issue driving the offending behaviour.
 - Alcohol treatment requirement - Where an individual is considered to be alcohol dependent.
- 3.6. The CPO is available to all courts although Justice of the Peace courts can only select from the first five of the requirements listed above and will only be able to impose the first requirement at level 1.
- 3.7. The CPO will be regarded as an alternative to custody, but courts will also be able to impose a CPO with a restricted range of requirements (the first three above) as an alternative to, or as well as, a fine. Where the law would previously have mandated short jail terms (or more recently Supervised Attendance Orders) for minor fine defaulters, courts will now impose a CPO with a level 1 unpaid work or other activity requirement.
- 3.8. Before imposing a CPO, a court must take account of a report on the individual from the local authority's Criminal Justice Social Work team.
- 3.9. A court must also confirm before it imposes a CPO that the offender is willing to comply with each of the proposed requirements. If the offender is not willing, the order cannot be imposed and the court will have to consider an alternative disposal, which may be a fine or a prison sentence as appropriate.
- 3.10. In Clackmannanshire we now have a full year of data 2011/12 relating to CPOs imposed by court and therefore can provide a level of comparison with last years output and, in terms our performance, with the other councils that constitute the Fife & Forth Valley Community Justice Authority.
- 3.11. In the first quarter of 2012/13, 61 CPOs were imposed by Alloa Sheriff Court, compared to 2011/12 figure of 24 orders. The total number of CPOs imposed last year was 195.
- 3.12. In terms of broader comparisons, in addition to the 195 Community Payback Orders imposed last year, 72 Community Service, 57 Probation and 45 Supervised Attendance Orders were also imposed totalling 369 community orders over the 2011/12 reporting period, compared to a total of 348 over

2010/11, prior to introduction of the CPO. A net increase in the use of community options by the courts. Clearly, transition will play a part in this increase, however these early signs indicate a continued confidence by the courts in the councils Criminal Justice Service.

- 3.13. The Unpaid Work Scheme commenced 71.8% of its offenders within 7 days of imposition of the order compared to a Fife & Forth Valley (FFV) average of 69%. The average time taken to complete a Level 1 order was 72.2 days compared to FFV of 82.2 days. At this point in time there are insufficient numbers of completed orders to give a comparison on Level 2 figures.
- 3.14. In terms of those on CPO who successfully completed their orders we had a mixed response. Overall, of those placed on an order which terminated within the reporting period 70% successfully completed this against a FFV average of 76%. However 95% of those who successfully completed were under 21 against the 89% FFV average. Research undertaken in the last 10 years on the performance of young offenders on court orders showed that younger you can successfully progress through an order the better the longer term outcome. (F.Neill, Desistance theory, applied to young offenders).
- 3.15. Community Payback Unpaid Work clients accounted for 3780 hours of work within the Clackmannanshire area, Community Service clients for 11336 hours, over the 2011/12 reporting period. In monetary terms using the national living wage (£7:20 per hour), the value of CPO Unpaid Work/Community Service in Clacks was £108,835.
- 3.16. The unpaid work team within Clackmannanshire Council comprises of two full time Community Service Officers, three full time works supervisors and three sessional supervisors, all of whom are managed by a Senior Social Worker. The staffing complement has not changed since the implementation of CPOs, however this is mainly due to the fact that two full time members of staff were recruited into existing vacancies prior to 01.02.11. Nonetheless, what has changed is the introduction of Sunday working, i.e. now a 7 day a week service, this to maximise opportunities for individuals to complete their hours within the specified timescale. The current staffing level is deemed sufficient, and indeed necessary, to support the volume of Level 1 and Level 2 orders to successfully complete within the relevant timescales. Clackmannanshire Council's Unpaid Work team is operational and productive 7 days a week for 50 weeks each year. As well as working weekends, the teams work 3-4 evenings per week, this is in order to accommodate individuals in full time employment.
- 3.17. The range and of volume of referrals has increased considerably over the past year or so. Referrals are accepted from a wide range of sources provided they meet a strict criteria that the activity will: present a challenge to the offender; benefit the community; not deprive others of paid employment. The range of internal and external partnerships have been initiated and augmented through the high quality of work that we provide. Partnership working has been enhanced via a number of local and national initiatives, including the annual Community Consultation event which is hosted by the Criminal Justice Authority.
- 3.18. External partnerships

-  Barnardos - Individual Placements; Task Squads
-  Salvation Army - Multiple Individual Placements; Task Squad
-  Devon Vale Hall Company Ltd - Task Squad
-  Cochrane Foundation - Task Squad
-  Cochrane Hall - Task Squad - Alva games
-  Centenary Hall - Task Squad Janitorial duties
-  Forestry Commission

3.19 Internal partnerships

-  Performance & Service Quality Officer - Fly tipping
-  Access & Country Side Projects Officer - Council's Core Paths Plan
-  Land Service & Burial Grounds - restore benches, joinery work
-  Estates & Property Management - void gardening, janitorial work
-  Community Tenant Participation Officer - environmental maintenance
-  Waste Management
-  Roads & Transport - snow clearing, gritting etc
-  Community Education - transferring equipment/materials
-  Clacks BIDS - Multiple Environmental & Regeneration Project

3.20 Types of Community Work covered by the Unpaid Work scheme:

-  Ground clearance work and landscaping;
 -  Environmental projects;
 -  Recycling projects;
 -  Building maintenance, renovation & restoration
 -  Improvements to park and community facilities;
 -  General gardening projects;
 -  Painting and decorating in community centres and people's homes;
- and,
-  Making and repairing goods for sale in charity shops.

- 3.21 Clackmannanshire unpaid work team were also successful in securing funds from the Scottish Government, i.e. Project Initiation funds and Payback Sports Facilities funds. The latter of these two projects is an excellent example of partnership working between the local authority, a local business and the unpaid work team and involves improving a number of buildings which are extensively used by the local community and, because of their locations are occasionally subject to anti social behaviour and vandalism. It is envisaged that by improving the upgrading of these facilities incidences of vandalism etc will desist.
- 3.22 Much of the work undertaken by the unpaid work team takes place outwith our workshop premises. That said, the workshop is well used mainly in the winter months and/or during periods of inclement weather. Workshop projects include: restoration of memorial benches throughout parks and cemeteries in the county; renovation of garden furniture for residential homes and respite care facilities. The workshop is also used as an area for preparing equipment and materials for a variety of council services.
- 3.23 In an attempt to increase our visibility through a variety of methods the unpaid work team contacted the Communications Unit to enquire about the Council's Facebook page. The first submission was subsequently posted on Facebook on 11.05.12. Thereafter we discovered that our concerns about negative feedback were somewhat unjustified. Over the next few weeks the style of the post changed, i.e. instead of providing large chunks of information, the posts were shortened to factual snippets of 'who, what, when, where and why'. It quickly became apparent that Facebook was an effective means of informing the local community about the different projects we are involved in. Moreover, Facebook makes it very easy for individuals to contact us to request work and/or to highlight areas of concerns. Many of the Facebook referrals from the general public have been one-off tasks, i.e. removing a supermarket trolley out of the Black Devon or clearing up camping equipment abandoned at Cambus Pools. However, other requests have developed into long term projects such as helping with the re-opening of Alva Swimming Pool and supporting Hawkhill Community Association with work in and around the Hawkhill area.

We regularly update our Facebook profile with posts of the work carried out, photographs etc as well as detailing the number of unpaid work hours carried out each week and who the main beneficiaries are.

4.0 Sustainability Implications

- 4.1. none

5.0 Resource Implications

- 5.1. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate.

Yes

5.2. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.3. *Staffing No staffing implications within this report*

6.0 Exempt Reports

6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities** (Please double click on the check box)

The area has a positive image and attracts people and businesses	X
Our communities are more cohesive and inclusive	X
People are better skilled, trained and ready for learning and employment	X
Our communities are safer	X
Vulnerable people and families are supported	X
Substance misuse and its effects are reduced	X
Health is improving and health inequalities are reducing	<input type="checkbox"/>
The environment is protected and enhanced for all	X
The Council is effective, efficient and recognised for excellence	X

(2) **Council Policies** (Please detail) none

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?
Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

None

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

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Approved by

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