
Report to: People Committee

Date of Meeting: 16 September 2021

**Subject: Community Payback Order - Response & Recovery to
COVID 19**

Report by: Stuart Landels, Service Manager

1.0 Purpose

- 1.1. To advise Committee of the statutory functions of Community Payback Orders delivered by Community Justice Social Work.
- 1.2. To advise Committee of the impact of COVID 19 for the sixteen month period of April 2020 until July 2021 on the delivery of community payback statutory functions and to outline the plans the service has put in place as part of the services response to COVID 19 recovery.

2.0 Recommendations

- 2.1. It is recommended that the Committee notes the content of this report.

3.0 Considerations

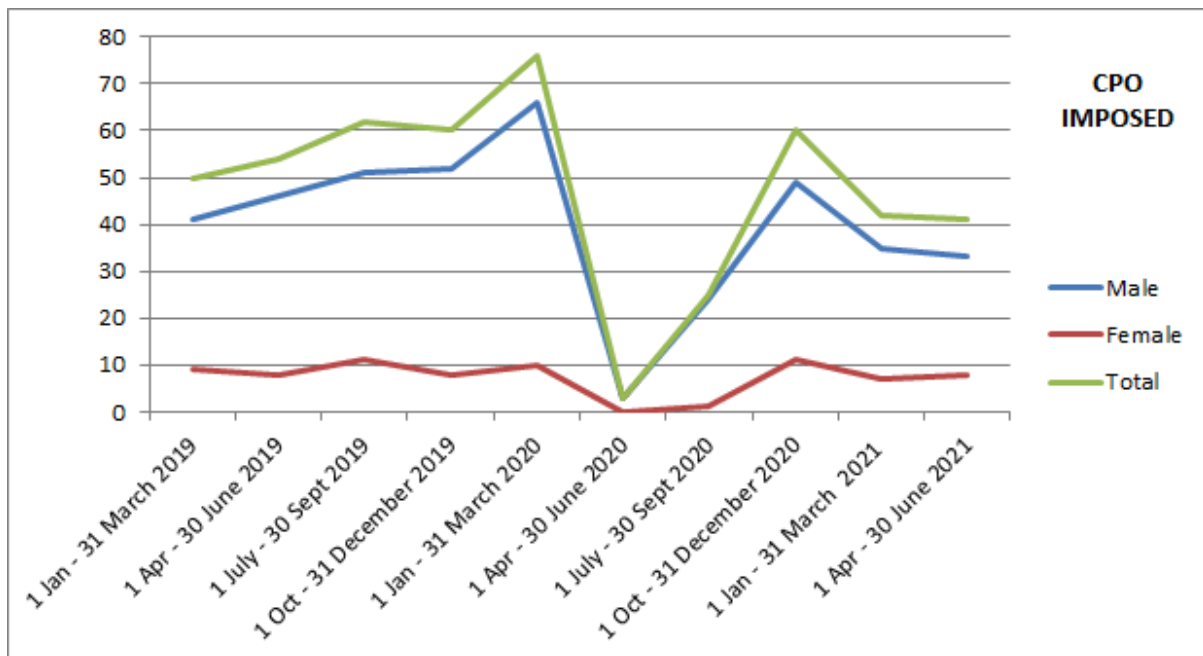
- 3.1. Community Payback Orders (CPOs) came into force in Scotland on 1 February 2011, as part of the implementation of the Criminal Justice and Licensing (Scotland) Act 2010. Community Payback Orders replaced a complex range of community sentences, i.e. Probation, Community Service and Supervised Attendance Orders, as the primary community based disposal available to Scottish Courts. The objective was to create a robust and consistently delivered community sentence which not only provided public confidence, but improved the credibility of community sentencing options as a viable alternative to custody in appropriate cases.
- 3.2. Community Payback Orders are an integral part of the Scottish Government's Reducing Reoffending Strategy. They are designed to ensure that offenders are required to address issues which have impacted upon their offending behaviour, such as drug and alcohol misuse. The Orders, however, are also designed to ensure that offenders, through a range of activities such as community based unpaid work, are seen to be making reparation for their offending to their local communities.
- 3.3. Community Payback Orders are intended to be unique and customised to the needs and risks associated with individual offenders. They also reflect the view of the Court as to the seriousness of the offending behaviour. Community Payback Orders can be imposed for periods between six months

and three years. The Unpaid Work Requirement provides a punitive element, requiring those convicted of the more serious offences to complete up to 300 hours Unpaid Work usually within a six month period.

- 3.4. A Community Payback Order consists of nine Requirements from which the Court may select one or more when imposing a CPO as an alternative to custody. There is no limit on the number of requirements which can be imposed however their inclusion on a CPO is determined by an assessment of the offender's needs, risk of reoffending and harm posed. The options available to Courts are: Unpaid Work or Other Activity Requirement; Supervision Requirement; Alcohol Treatment Requirement; Drug Treatment Requirement; Mental Health Treatment Requirement; (attendance at) Programme Requirement; Compensation Requirement; Conduct Requirement; and Residence Requirement.
- 3.5. In most cases, the submission of a Criminal Justice Social Work Report (CJSWR) to Court is required before a Community Payback Order is imposed. In compiling these reports, Clackmannanshire Criminal Justice Social Workers undertake an assessment to inform the Court as to appropriate requirements which could be included, having regard to the individual's circumstances and assessment of the likelihood and impact of offending. The only Community Payback Orders which do not require the Court to have had a CJSWR completed are Orders containing Unpaid Work Requirements for between 10 and 100 Hours imposed on offenders following the non-payment of a monetary penalty or as result of a Fiscal disposal order.
- 3.6. During the COVID pandemic the Scottish legal justice system, including the Scottish Court & Tribunal Service, significantly was required to reduce its activity. Within the Court system for a period of 10 months Courts only prioritised hearing cases from custody and all new and existing court summary cases were deferred for extended periods of time. This has had the implication of a large backlog of cases that the Court system is required to still respond to. It is envisaged that the Court system will commence dealing with its backlog of cases from September 2021. This slowing down of court activity has had an impact on the number of new cases being dealt with by justice social work and will have implication of service requiring to deal with the backlog during 21/22 and 22/23
- 3.7. The Service as a result of large amount of new business, having been suspended, has focussed on managing its existing statutory community payback orders and MAPPA business and ensuring that high risk offenders were managed robustly to ensure sound public protection.
- 3.8. The backlog in deferred court activity will translate in a spike in criminal justice court report requests as well as the subsequent impact of an increased demand for justice social work to meet community justice payback order disposals imposed by the court system on individuals. From discussions with the Scottish Court & Tribunal Service it is estimated that the justice social work service will see an increase in activity from September in the region of 35%.
- 3.9. During the period April 2020 until August 2021 Clackmannanshire Criminal Justice Social Work Service submitted to Courts 394 Criminal Justice Social Work Reports on individuals resident within the Clackmannanshire Council

area. This compared with a previous period pre COVID 19, where 780 reports were prepared over a similar timescale. This comparison shows a significant reduction of a total of 386 Community Payback Orders. This reduction of 50.5% in new reports requested is a direct result of Courts closing and deferring activity. It should be noted that these deferred cases still require to be dealt with by the Scottish Court Service and that a number of these individuals will be disposed of by means of a Community Payback Order.

The table below shows the reduction impact of COVID 19 on new orders imposed by Alloa Sheriff Court



- 3.10. During the pandemic period unpaid work activity for individuals subject to an unpaid work requirement were suspended nationally in April 2020 and did not recommence in Clackmannanshire until September 2020. The service was further suspended in November 2020 until February 2021 as a result of the second national lockdown. This had the impact that 16000 outstanding hours of unpaid work activity were not reduced.
- 3.11. The Scottish Government, in order to assist with reducing the hours, approved legislation in March 2021 that applied a discount of 35% to individuals outstanding hours relating to an unpaid work requirement. This equated to a reduction of 5500 hours locally, leaving an outstanding unpaid work total balance of 10500 hours.
- 3.12. The Service has projected that a minimum of 6000 new hours will be applied as from September 2021 to March 2022 when Court business commences fully.
- 3.13. In order to deal with the impact of deferred activity, increased demand, as well as meeting the needs of the pre covid client base, the Scottish government have provided Clackmannanshire Council with £175,000 of COVID contingency money. This allocation is initially for the financial year 2021-22 and the service is hopeful that Scottish Government will continue this funding into 2022-23. The funding is being strategically utilised to increase unpaid work capacity through the recruitment of temporary staff as well as a

contractual arrangement with the third sector organisation. In addition the service has recruited an additional temporary number of social workers to deal with the projected increase in criminal justice social work reports and the associated case management of community payback orders. The Service has also enhanced its staffing numbers within the area of domestic abuse to respond to the projected increase in this form of offending as a result of the COVID pandemic.

4.0 Sustainability Implications

4.1 None

5.0 Resource Implications

5.1. Financial Details

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

Not applicable

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

Not applicable

5.4. Staffing

Staffing appointments met from additional Scottish Government funding

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)

Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all

Our families; children and young people will have the best possible start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so

that they can thrive and flourish



(2) **Council Policies** (Please detail)

Not applicable

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

Author(s)

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Approved by

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