

COMMUNITY ORDERS

SENTENCING EXPLAINED

This note explains when courts in England and Wales might consider it appropriate to impose a Community Order, and the number and types of requirements that might be attached to it. Community sentences have a long history in England and Wales and can be traced back to the creation of Probation Orders by the Probation of Persons Act 1907.

The Community Order was introduced by the Criminal Justice Act 2003 and came into existence in April 2005. The maximum duration of a Community Order is three years (there is no minimum duration) and there must be at least one requirement attached to the Order. If a person fails to comply with the terms of a Community Order, the Order can be revoked, and the person can be re-sentenced. Failure to comply with a Community Order can result in a custodial sentence.

When can a Community Order be imposed?

A Community Order should generally be imposed in cases too serious to be dealt with by either a fine or a discharge, but not serious enough to merit a custodial sentence. It can only be imposed when a person is being sentenced for an imprisonable offence.¹ Under section 204 of the Sentencing Act 2020, a Community Order should only be imposed where the court is of the opinion that the offence – or the combination of the offence and one or more offences associated with it – is serious enough to warrant such a sentence.

This provision ensures that Community Orders are not used for minor offences, for which a discharge or a fine are more likely to be appropriate. The Sentencing Council's Imposition of Community and Custodial Sentences guideline, which came into force on 1 April 2025, states that: 'Even where the seriousness of the offence indicates that the threshold for a community order has been passed, sentencers must consider all available disposals at the time of sentence. A fine or discharge can achieve the purposes of sentencing (with, if relevant, any appropriate ancillary orders).'²

The recently revised guideline on the imposition of community sentences, which came into force on 1 April, 2025, states that 'the court should 'step back' and review whether its provisional sentence fulfils the purposes of sentencing'. In particular, 'the court should ensure that a rehabilitative sentence has been fully considered'.³

¹ Section 202 of the Sentencing Act 2020.

² Sentencing Council (2025) *Imposition of Community and Custodial Sentences Definitive Guideline*, Part 2.

³ Sentencing Council (2025) *Imposition of Community and Custodial Sentences Definitive Guideline*, Part 4

What requirements can be attached to a Community Order?

At least one requirement must be attached to a Community Order. Under section 201 of the Sentencing Act 2020, the potential requirements are:

- An unpaid work requirement (this requires the undertaking of between 40 and 300 hours of unpaid work to be completed within 12 months).
- A rehabilitation activity requirement (this requires a person to participate in activity which reduces the prospect of reoffending. The court does not specify the nature of the activity to be undertaken, but must specify the maximum number of days of activity. Introduced in 2015, this requirement superseded the supervision and the specified activity requirements).
- A programme requirement (a person is required to attend a particular programme that looks to address their offending behaviour – for example, individuals convicted of sexual offences may be required to attend a sex offending programme).
- A prohibited activity requirement (a person is prohibited from certain activities related to their offending – for example, attending football matches – for a period of up to three years).
- A curfew requirement (a person must stay within a specified place – usually their own home – for certain periods, up to 16 hours per day, for up to 12 months. The curfew is electronically monitored).
- An exclusion requirement (a person is excluded from entering a specified place or area for a period of up to two years).
- A residence requirement (a person must reside at a specified place for a period of up to three years).
- A foreign travel prohibition requirement (a person is prohibited from travelling abroad for up to 12 months. The prohibition can apply to named countries, to specific days or dates, can allow travel to some destinations but not others, or can ban foreign travel altogether).
- A mental health treatment requirement (a person may be required to undergo treatment for a mental health problem, but must consent to doing so. The maximum duration of this requirement is three years).
- A drug rehabilitation requirement (a person is required to have treatment to address their drug misuse and must provide samples for testing when requested. The person must consent to the order, and the duration of this requirement is between six months and three years).
- An alcohol treatment requirement (a person must attend treatment to reduce or eliminate dependency on alcohol. The person must consent to the order).
- In a case where a person is aged under 25, an attendance centre requirement (the person must attend at an attendance centre for between 12 and 36 hours and they undertake a programme of activities designed to reduce re-offending).
- Electronic compliance monitoring requirement (a person is electronically tagged to ensure that they comply with restrictions imposed on their movements – for example, a requirement to stay away from a particular area).
- Electronic whereabouts monitoring requirement (a person is electronically tagged so that their whereabouts can be monitored and recorded)

At least one requirement must be imposed for the purpose of punishment and/or a fine imposed in addition to the Community Order, save in exceptional circumstances. Sentencers are reminded by section 208 (12) of the Sentencing Act 2020 that when making a Community Order imposing two or more different requirements, they must consider whether the requirements are compatible with each other.

There are three different levels of Community Order, and their imposition depends on the seriousness of the offence. For low level Community Orders, defined by the Sentencing Council as for when ‘offences only just cross [the] Community Order threshold, where the seriousness of the offence or the nature of the person’s record means that a discharge or fine is inappropriate’, in general, only one requirement will be appropriate and the examples given include any appropriate rehabilitative requirement(s), 40-80 hours of unpaid work, a curfew requirement within the lowest range (for example up to 16 hours per day for a few weeks), or an exclusion requirement (for a few months).

Medium level Community Orders, for ‘offences that obviously fall within the Community Order band’, might include any appropriate rehabilitative requirement(s), a greater number of hours of unpaid work (for example 80-150 hours), a curfew requirement within the middle range (for example up to 16 hours per day for up to 6 months), or an exclusion requirement lasting around six months.

High level Community Orders, to be imposed when ‘offences only just fall below the custody threshold or the custody threshold is crossed but a Community Order is more appropriate in the circumstances’ might require the combination of two or more requirements. The suitable requirements for high level Community Orders might include any appropriate rehabilitative requirement(s), between 150 and 300 hours of unpaid work, a curfew requirement of up to 20 hours per day for up to 24 months, or an exclusion order lasting around 12 months.⁴

What type of requirements are most commonly used?

Two requirements in particular are used much more frequently than others, with a rehabilitation activity requirement and unpaid work being by far the most commonly used requirements. In the year to September 2024, 44.5% of Community Orders imposed had a rehabilitation activity requirement attached, and 30.3% had an unpaid work requirement attached; the next most commonly used requirement was an accredited programme requirement, which was used in 5.9% of Community Orders.⁵

How frequently are Community Orders imposed?

The number of Community Orders imposed has fallen in recent years; in the year to September 2024, there were 74,107 Community Orders imposed, compared to 113,153 in the year to September 2014.⁶

⁴ Sentencing Council (2025) *Imposition of Community and Custodial Sentences Definitive Guideline*, Part 6.

⁵ Ministry of Justice (2025) *Person Management Statistics quarterly: July to September 2024* Probation, Table 6.3a.

⁶ Ministry of Justice (2025) *Criminal Justice System statistics quarterly: September 2024*, Table Q5.1a.

What happens if a person fails to comply with the requirements of a Community Order?

On the first failure without reasonable excuse to comply with any of the requirements of a Community Order, the supervising officer must give a warning that another failure to comply within the next 12 months will result in the person being returned to court for breach of the Community Order. However, if the supervising officer considers a first breach to be serious, they have the power to refer the matter back to court. When a person is returned to court for the breach of a Community Order, the court has the power to amend the terms of the Order so as to impose more onerous requirements, impose a fine of up to £2,500, or revoke the Order and re-sentence the person to any sentence available to the court for the offence(s) (including a custodial sentence).

When considering which approach to adopt in response to the breach of a Community Order, the court will take into account the extent to which the Order has been complied with before the breach. The greater the degree of compliance up to the point of the breach, the less severely the court is likely to respond to it.