



changing lives  
reducing crime

# Response to Punishment and Reform: Effective Community Sentences

June 2012

# Introduction

Nacro is the largest crime reduction charity in England and Wales. We help over 70,000 people each year, reducing crime and the impact of crime in over 200 communities across England and Wales.

Nacro's mission to change lives and reduce crime is predicated on the conviction that we must reduce the devastating effects crime has on individual victims and on communities, using evidence-based practice to do what works to reduce crime and reoffending. Victims of crime have to live with the experience forever, whilst those who commit crime can find it hard to break the destructive cycle of offending. At Nacro we focus our work on:

- intervening early with people at risk of becoming involved in crime and antisocial behaviour to prevent crime happening in the first place
- working with people in prison or on a community sentence so they change their behaviour, take steps to repair the damage they have caused individual victims and communities, and move on from crime and offending, and
- resettling offenders after custody helping them to find a home, a job, develop new skills, rebuild relationships and reintegrate into their community.

In our response to this consultation, Nacro has focused on the questions which are most pertinent to its work and on what will impact on our ability to reduce crime and reoffending in the future.

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## Q1. What should be the core elements of Intensive Community Punishment?

Attempts to persuade people that community sentences can compete with incarceration on the grounds of toughness is extremely challenging. Irrespective of whether or not short-term sentences work, for too many sections of the public 'locking up offenders' is a tangible method of disposing of the offence and the offender. Custody is much easier to comprehend than the ethereal notion of the community sentence. Ordinary people simply do not know what community sentences are, nor what they do. Community sentences are rarely featured in the media in comparison to the police, prisons and the courts.<sup>1</sup> Only 7% of the general public claim to know 'a lot' about what the probation service does<sup>2</sup> and this presents significant difficulties when trying to build public confidence in community sentences. Ensuring that community sentences are significantly punitive is only one way to achieve this.

But people do want the offending to stop. They do not want to be the victims of crime again. They do not want it to happen to their family, to their friends or to their neighbours either.

Securing public confidence is fundamental to the successful transformation of community sentences. This must involve a clear focus on the *community* element. By engaging the community in the delivery of these sentences, this will increase public understanding, and for that to happen community sentences should be rooted firmly in the community and clearly visible to ordinary people. This calls for radical new thinking about how we deliver community sentences: where they are delivered; what is delivered; and how they engage offenders.

Building on the collective efficacy, community sentences could be most effective when they manage to get ordinary people to collect and mobilise around the offender. This is where local people use their own resources to tackle problems within their own community, creating new opportunities in terms of leisure, jobs and social enterprise. Here community sentences become the catalyst for a sea change from an 'up in arms community' to an 'open arms community'. This is characterised by strong, positive peer and adult relationships, where interventions are based on evidence of what works, and programmes are flexible enough to deal with a multitude of offenders' problems. These programmes engage the disengaged, motivate the de-motivated and reinforce change (no matter how small), preventing attrition and guarding against relapse. These programmes must not be locked away inside city centre probation offices, hidden from the view of ordinary people.

There is a weight of evidence collected from around the world over the course of the last thirty years that some things do work, with some people, some of the time. Key features include: identifying those offenders who are most likely to reoffend; assessing the reasons for their offending; implementing tried and tested programmes which impact on attitude, thinking and behaviour; and helping offenders to change their situation through training, advice and guidance so that they are better able to deal with everyday problems, hold down a home, a job or a relationship, and overcome problems associated with alcohol and/or drugs.

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<sup>1</sup> Hough M and Roberts J (eds.) (1998) *Attitudes to Crime and Punishment: Findings from the 1996 British Crime Survey, Home Office Research Findings No. 64* London: The Stationery Office

<sup>2</sup> National Probation Service (2002) *Perceptions of the National Probation Service* London: National Probation Service

This calls for more than so-called 'offender management' where the focus is on containing offenders in the community and signposting them to services. It must involve motivating and challenging offenders to take responsibility for change, supporting them to gain new insights, try out new things, and to stop falling back on familiar (negative and ultimately unsuccessful) behaviour. It must also involve helping offenders develop awareness of, and empathy for, the victim and build a stake for themselves in their own community. Crucially, it must involve hooking offenders into programmes and holding them there through to completion.

But problems with the current generation of community sentences must be addressed as follows:

**Attrition:** Despite making massive inroads into enforcement statistics over the last 10 years, there has been much less sustained success in tackling compliance. Too few offenders start programmes in the first place and too many drop out further down the line and this affects public confidence in them.

**Scale:** If we are going to reduce the court's reliance on short-term prison sentences, we have to prove not only that community sentences work, but that they are effective with thousands of offenders spread across all England and Wales. A 10% reducing reoffending target set by NOMS in 2001 was never reached. It is one thing to reduce reoffending with relatively small volumes of offenders over finite geographical areas; it is quite another challenge to achieve this on a larger scale.

**Community involvement:** The key here is that community sentences are far too insular and that they seldom reach their true potential in narrowing the gap between the offender and the community. It is in this gap that reoffending takes place, predicated on mutual hostility, fear and misunderstanding.

- Not enough people know about community sentences.
- Not enough people get involved.
- The work that is done on community penalties does not have sufficient impact on victims or the wider community.

In re-engineering community sentences, much more could and should be done to a) involve ordinary people (as mentors, volunteers, employee outreach schemes); b) engage employers and social enterprises (in creating work placements, apprentice schemes and real jobs); c) explore the potential to 'mainstream' restorative approaches; and d) link community payback to hard-edged community problems such as crime and community safety.

Following on from this, the core elements of an Intensive Community Punishment are as follows:

- A punitive element which restricts the offender's liberty, monitors his/her whereabouts, and helps to enforce attendance in other component parts of the programme.
- Focused cognitive behavioural interventions, undertaken individually and in groups, aimed at challenging antisocial attitudes, and changing criminal-related behaviour.
- Family and peer based work.

- Skills training aimed at improving offenders' ability to solve problems in a pro-social way.
- Intensive interventions to tackle substance misuse problems.
- Community-based reparation and, where appropriate, restorative conferencing with victims.
- Mentoring and peer mentoring by capable and credible role models.

An Intensive Community Punishment must contain core elements that make offenders face up to what they have done, take responsibility for themselves and those around them, accept the consequences of their actions and move on to live a law-abiding life. Equally important as the nature of the interventions described above is the intensity of supervision, particularly in the first six months of the order. Whilst this will have a bearing on resources for persistent offenders, the sentence must make inroads into major areas of their lives and take up large proportions of their time.

The increasing focus on punishment, as outlined in the consultation paper, is not the only answer to ensuring that our community sentences work effectively. Characterising community sentences as a 'soft' option and prison as 'hard' detracts from the serious debate about the effectiveness of sentences and their ability to reduce reoffending. We must ensure there is a better public understanding of community sentences, ensuring that there is a punitive element (this is already the case in most instances) but they also need to be quickly implemented and properly enforced. Crucially, there needs to be a concerted effort to increase offender compliance with community orders by making community sentences relevant and meaningful to the offender and the community.

## **Q2. Which offenders would Intensive Community Punishment be suitable for?**

Intensive Community Punishments should be reserved for those offenders who are at risk of imprisonment and on the cusp of the 'so serious' threshold, yet the risk of harm to the public is such that they can be suitably punished whilst remaining in the community. This includes those prisoners who are currently sentenced to short spells in custody. Respected commentators agree that even short periods of incarceration impact adversely on offenders' aspirations and achievements. It destabilises their domestic situation, interrupts productivity and employment, places a strain on personal relationships and increases the gap between the offender and their community. Attempts to make the prison experience a more productive one are often frustrated by a lack of follow-up elsewhere in the prison system or in the community. This is brought into stark relief as the offender struggles through the first few days and weeks of transition from custody to community and vice versa. All of this is borne out by the high rates of reoffending by short-term prisoners and the high cost of imprisonment compared with other, more effective forms of sentence.

It is important that the creation of Intensive Community Punishments does not generate a net-widening effect resulting in less serious offenders being given sentences which are wasteful of limited resources and ineffective at reducing reoffending. This notion is set against a backdrop of concern that over the past two decades there has been a significant increase in the use of custody and the length of prison sentences brought about, at least in part, by the use of incarceration for infringements and violations of community orders. The introduction of Intensive Community Punishments cannot be allowed to fuel this shift further, and must instead be used to reduce reoffending by those who are given short terms of

imprisonment. In the context of needing to allocate most resources to dealing with those offenders who are most likely to commit crime, the proposal to exclude higher-risk offenders from the competitive process is worrying. This could exclude voluntary providers from delivering services and interventions to significant cohorts of offenders and, in turn, miss an opportunity to capitalise on the expertise of the sector and harness the community-based aspects of the sentence.

**Q3. 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?**

The primary focus of a community order should be to reduce reoffending, balancing the need for punishment, reparation and rehabilitation. The act of imposing a community sentence must be seen as a punishment by the sentencer, the defendant and the public at large. Proper, consistent enforcement of the order and its requirements is a crucial part of the offender management process in ensuring accountability back to the court for failures to comply and in setting appropriate boundaries within which any interventions designed to reduce reoffending can take place. Applied in this way, there is an opportunity to lay the foundations for addressing reoffending rates and building public confidence. Indeed, change will only be effective if community orders are shaped to make offenders face up to what they have done, take responsibility for their actions and move on from their offending. This cannot be achieved by focusing solely on punishment.

**Q4. Which requirements of the community order do you regard as punitive?**

There are already a number of elements of community sentences which restrict liberty, including curfews, exclusions and prohibited activities. But by balancing the measures of public protection, reparation to victims and targeted interventions which change attitudes and behaviour, community sentences could be made to be much more intensive, placing further restrictions and intrusions on offenders' lives. It is important that these elements are quickly implemented and properly enforced so that they have the greatest impact on challenging and changing behaviour and subsequently reducing reoffending. Increasing compliance is key, and this is synonymous with offenders taking responsibility for their actions and this must be encouraged and enforced as far as possible.

**Q5. Are there some classes of offenders for whom (or particular circumstances in which) a punitive element of a sentence would not be suitable?**

There are some instances when an overtly punitive element to a sentence may not be appropriate. These are likely to be cases where the offender is very vulnerable or less able to understand the consequences of their actions. Evidence from the Criminal Justice Alliance suggests that 'people whose problems could be addressed more effectively in health and social care settings are instead processed through prosecution, conviction and sentencing.'<sup>3</sup> For offenders with specific health needs which are contributing to their offending behaviour, it may be more beneficial to take a different approach. Studies have shown that mental health treatment requirements and community orders with a mental health component have not always been successful, not because of the orders per se, but because there is a lack of knowledge among mental health and criminal justice practitioners on how they can be

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<sup>3</sup> Allen R (2012) *Reducing the Use of Imprisonment: What can we learn from Europe?* London: Criminal Justice Alliance

applied, what the various agency roles are, and how to jointly manage cases. Nacro welcomes the government's commitment to address some of these concerns and has been commissioned by the Department of Health to work with the NHS Confederation, the Centre for Mental Health, Revolving Doors Agency, and Nottingham University to develop a national network of liaison and diversion schemes under the auspices of the Offender Health Collaborative. This will help to provide much needed clarity on demarcations between punishment and treatment, and to improve policy, practice and processes for diversion away from, or to, different parts of the criminal justice system so as to reduce the risk of reoffending and safeguard the health and well-being of the offender.

#### **Q6. How should such offenders be sentenced?**

The priority for these offenders should be diverting them from the criminal justice system or to parts of the system that can intervene effectively to reduce their risk of reoffending whilst safeguarding their health and well-being. But as things stand at present, there is no clear definition of liaison and diversion and no clear line of demarcation between what is liaison and diversion and what might be described as intervention. There is much to be done to clarify definitions, systems and processes and to move from a disparate and inconsistent patchwork of services to a consistent set of quality standards, practices and interventions, and workforce requirements. Nacro and its partners will be working with government and with local schemes to develop a consistent and coherent network of schemes to drive forward improvements between now and 2015.

#### **Q7. How can we best ensure that sentences in the community achieve a balance between all five purposes of sentencing?**

Throughout the consultation paper, there is a clear focus on making community sentences more punitive, but we need to ensure that this does not come at the expense of the other purposes of sentencing. Punishment for punishment's sake is rarely conducive to achieving the other aims of sentencing. As previously outlined, it is clear that there must be a punitive element in most community sentences, yet this must also be balanced against the need for long-term successful outcomes, as opposed to focusing on a short-term desire for retribution. Ensuring that offenders do not go on to reoffend is key to reducing crime and protecting the public. Many victims of crime are clear that the priority should be making sure that the offending behaviour stops.<sup>4</sup>

Where prison punishes, it also removes offenders from society and takes away responsibility from the offender. Community sentences allow offenders to maintain essential links that prevent reoffending, such as links with family, a house or a job. A prison sentence threatens the continuity of these ties. But these bonds will only work if they are combined with targeted interventions which change attitudes and behaviour, teach offenders to solve problems in a different way, tackle substance misuse problems, provide positive and credible role models, and reinforce community and victim awareness. The success of this is reflected by Ministry of Justice statistics which have consistently demonstrated that community orders are more

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<sup>4</sup> Victim Support (2010) *Victims' Justice? What victims and witnesses really want from sentencing* London: Victim Support

effective than short prison sentences at reducing reoffending by approximately eight percentage points.<sup>5</sup>

A key weakness with community sentences, as currently configured, is that the general public are not as familiar with them as they are with other forms of punishment such as imprisonment. This lack of familiarity can lead to a lack of understanding and a subsequent lack of confidence in the sentence. This lack of confidence is also reflected in the latest statistics which suggest a decrease of 8.4% from 2010 to 2011.<sup>6</sup> It is clear that this needs to be rectified, as the public and sentencers must have confidence in the community elements of the criminal justice system, and community orders have significant benefits in terms of achieving a balance between the purposes of sentencing.

**Q8. 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)?**

Yes. Electronic monitoring could be an effective way to ensure that there is a punitive element to community sentences. Electronic monitoring restricts an offender's liberty but also allows offenders to maintain aspects of their lives that reduce the likelihood of reoffending. Advancing technology will mean that electronic monitoring can be used in a more sophisticated way, allowing sentencers to more innovatively target offending behaviour, home in on enforcement and strengthen compliance. However, the recent report from Her Majesty's Inspectorate of Probation indicates that more than 50% of offenders who are required to wear a tag currently breach the conditions of their curfew. This confirms that, as with other community sentences, a more sustained and strategic approach is needed to increase compliance.

**Q9. Which community order requirements, in addition to curfews could be most effectively electronically monitored?**

Electronic monitoring could be effectively used for most types of attendance orders, particularly drug and alcohol treatment orders. It could be used to enforce prohibited activity, to ensure that offenders were caught if they attempted to enter places or participate in activities they had been prohibited from. There is also the potential to deploy electronic monitoring in cases of stalking or harassment, where there is a clear indication that an offender may pursue one particular person.

**Q10. Are there other ways we could use electronically monitored curfews more imaginatively?**

There are a number of potential ways in which electronic monitoring could be used more imaginatively. As the National Audit Office has previously established,<sup>7</sup> electronic monitoring is a significantly cheaper alternative to custody and could be used more frequently in cases of remand. There is also the potential to build on the interaction between the person who fits the monitoring device and the offender. This relationship could be developed and extended

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<sup>5</sup> Ministry of Justice (2011) *2011 Compendium of Re-offending Statistics and Analysis* London: Ministry of Justice

<sup>6</sup> Ministry of Justice (2012) *Criminal Justice Statistics Quarterly Update to December 2011* London: Ministry of Justice

<sup>7</sup> National Audit Office (2006) *The Electronic Monitoring of Adult Offenders* London: The Stationery Office

to incorporate an element of support, advice and/or signposting. This interaction could move beyond simply visiting an offender to fit the tag, to being part of the intervention process aimed at avoiding infringements or reoffending. Nacro's experience of running a national helpline for offenders and ex-offenders has shown that there is huge demand for this sort of advice and information. If the provision of this advice could be incorporated into the delivery of curfew orders, more could be done to tackle the problems that can lead to reoffending and to support offenders through their community orders in order to maximise compliance and reduce attrition.

**Q11. Would tracking certain offenders (as part of a non-custodial sentence) be effective at preventing future offending?**

Tracking offenders as a stand-alone measure is unlikely to have a significant impact on reoffending. There may be some instances when the process of tracking an offender acts as a deterrent because the chance of being caught will be increased. However, for the majority of offenders given non-custodial sentences, tracking should be used to complement other community interventions that are designed to challenge behaviour and address the underlying issues behind offending. Simply restricting an offender's liberty is unlikely to be successful at reducing reoffending in the longer term once tracking has ceased. Incapacitation is only effective for a finite period of time, as is seen with those offenders who are given short-term prison sentences.

**Q12. Which types of offenders would be suitable for tracking? For example those at high risk of reoffending or harm, including sex and violent offenders?**

Electronic monitoring would be suitable for use with offenders who are at high risk of reoffending, including those whose offending history is of a violent or sexual nature. The use of tracking in these instances could be an important tool for increasing public protection. The tracking device can be used to alert police or monitoring companies when someone is at high risk of reoffending, for example if they enter a specific area, and responsive action can be taken to avert this behaviour. However, in the case of high-risk offenders it is imperative that intensive and targeted interventions are also delivered that will specifically challenge attitudes and behaviour, and subsequently lower the risk of offending.

**Q13. For what purposes could electronic monitoring best be used?**

There is evidence to suggest that electronic monitoring can be used to help people complete rehabilitation programmes more successfully than they would have done if they were not being tracked. Research from Florida State University suggests that electronic monitoring can significantly reduce the likelihood of 'technical violations, reoffending and absconding' for serious offenders who are supervised in the community.<sup>8</sup> Furthermore, 'both Radio-Frequency and Global Positioning System monitoring significantly reduced the likelihood of revocation for a new offence and absconding from supervision, even when controlling for socio-demographic characteristics of the offender, current offence, prior record and term of supervision factors and conditions'.<sup>9</sup> This research indicates that there is the potential for

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<sup>8</sup>Padgett K, Bales W and Blomberg T (2006) *Under Surveillance: An empirical test of the effectiveness and consequences of electronic monitoring* Available online at: <http://ccoso.org/undersurveillance.pdf>

<sup>9</sup> Padgett K, Bales W and Blomberg T (2006) *Under Surveillance: An empirical test of the effectiveness and consequences of electronic monitoring* Available online at: <http://ccoso.org/undersurveillance.pdf>

electronic monitoring to be used more widely as a measure to increase offender compliance with other interventions. However, more research needs to be undertaken to establish whether these initial findings can be replicated in England and Wales.

### **Q19. How can compliance with community sentences be improved?**

Against a backdrop of concern that adult reoffending rates remain stubbornly high, as well as having to ensure that interventions which are part of community sentences are run well with demonstrably high levels of treatment integrity, it is crucially important, for reasons of cost efficiency and effectiveness, that we strive for higher completion rates, more programme commencements and fewer offenders dropping out. This requires easier access to programmes (both in terms of scheduling and proximity of programmes to where offenders live), increased programme delivery capacity and better integration with the community. Offenders who drop out are more likely to reoffend than those who complete programmes and offender attrition has an adverse effect upon the rehabilitative impact of accredited programmes.<sup>10</sup> Some of the more common reasons for attrition include the following:

- Lack of offender motivation
- Poor pre-programme preparation
- Waiting times
- Access and transport issues
- Case management
- Inappropriate targeting

Since 2001, the Probation Service has invested time and effort into lowering attrition rates with varying degrees of success. The lack of congruence between the programme venue and the offender's neighbourhood/surroundings, combined with a lack of life skills and problems related to alcohol and drug misuse have – to a greater or lesser extent – undermined the gains that have been made. In response to this, it is important to continue working to: create better offender targeting procedures by identifying people at risk of dropping out in advance and working appropriately with them; solve local logistical issues such as transport and group access; and provide support to the offender through mentoring or coaching.

A community-focused approach which provides tangible social benefits makes the community safer and increases public reassurance. It also works for the offender. Specific problems making an individual more likely to commit crime are also likely to be attrition indicators. Tackling these factors will not only reduce the likelihood of reoffending, they will also result in lower attrition rates. Attrition can be reduced by:

- Engaging the offender in activities he/she perceives as relevant, meaningful and worthwhile.
- Helping the offender to acquire new skills.
- Delivering neighbourhood-based programmes at evenings and weekends.

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<sup>10</sup> Harper G and Chitty C (2004) *The Impact of Corrections on Re-offending* London: Home Office p.47

Lessons could be learnt from the drug treatment environment where there is a focus on service users' journeys through drug treatment systems. Drug treatment gains can quickly be lost if people are not supported by the provision of services auxiliary to treatment (such as housing, employment and education opportunities). The parallel need for effective wrap-around services for offenders on accredited programmes is well documented.<sup>11</sup> This depends on coherent service provision being in place and the programme being able to reach the offender even when he/she is part of the most hard-to-reach groups.

With this in mind, enhancing the role of the third sector is likely to lead to closer integration between the community sentence and the community. The third sector – with its roots in local communities and its network of voluntary and community groups – is the only sector which provides reach into the heart of local communities. Closer integration between community sentences and the community could be provided in a number of ways from the third sector through: employing and/or providing programme tutors; through programmes being delivered in community settings and facilities owned by third sector agencies (especially at weekends and outside normal programme hours); and third sector organisations providing mentors and coaches to support programme delivery. We are confident that there are significant efficiency savings to be had by doing things differently (not just in relation to reducing attrition), for instance through the better use of facilities and the strengthening of cross-sector partnerships.

**Q20. 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?**

As with any measures which aim to impact on offenders' attitudes and behaviour, there is a need to balance interventions which target compliance with those which properly enforce the legal components of the order. One will not work without the other. This is likely to be improved by a system of enforcement which is fully integrated with all of the other components of the order, applied swiftly and appropriately (depending on the nature of the infringement) and where possible, enables the objectives of the sentence plan to continue without interruption. Applied in this way, enforcement measures can be used to reinforce learning and to provide additional opportunities for the offender to take full responsibility for his/her actions. It is important that we do not confuse enforcement with compliance. A fixed penalty scheme may strengthen the former, although this is highly debatable, but there is little reason to believe that it will strengthen the latter.

The key difficulty with a fixed penalty-type scheme is that this does not fit comfortably with a legal structure which is reliant on the court passing the sentence and the offender manager being responsible for administering it. If the offender breaches the order, the matter is referred back to the court. The current system of warnings fits neatly with this governance process and reinforces the 'contract' between the offender and the court. There is a danger that a fixed penalty scheme will skew this relationship and hamper the offender manager's ability to administer the order effectively. This could have knock-on implications that affect rates of offender attrition.

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<sup>11</sup> Harper G and Chitty C (2004) *The Impact of Corrections on Re-offending* London: Home Office

**Q21. Would a fixed penalty-type scheme for dealing with failure to comply with the requirements of a community order be appropriate for administration by offender managers?**

No. It is the courts that must take ultimate responsibility for the order and remain accountable for decisions in case of breach. The fixed penalty scheme as outlined in the consultation paper changes the relationship between offender managers and offenders. It is crucially important that appropriate enforcement measures are aligned with all of the other components of the sentence plan.

If a fixed penalty scheme was introduced, investment would need to be made in suitable training and support for offender managers. There would also need to be properly thought through appeals processes, and rules and regulations in respect of offender manager discretion.

**Q22. What practical issues do we need to consider further in respect of a fixed penalty-type scheme for dealing with compliance with community order requirements?**

Should a fixed penalty scheme be introduced, there would be a number of practical issues that would need to be considered. Firstly, offender managers would need suitable legal training and access to legal advice. Procedures would need to be put in place that would ensure the fair and transparent administration of justice, as well as measures to make sure that there is sufficient consistency across offender managers and different providers. The government would need to carefully work through procedures which clearly and specifically outline the amount of discretion given to the offender manager. Measures would also need to be put in place to address any risks of net widening.

**Q23. How can pre-sentence report writers be supported to advise courts on the use of fines and other non-community order disposals?**

If the use of fines and non-community disposals is to be extended then clear steps need to be in place to satisfy the court of an offender's ability to pay and/or otherwise comply. This is particularly important when managing individuals with mental health problems and learning difficulties. This requires rigorous, timely and consistent screening and assessment arrangements, and safe and reliable protocols between the court, probation trust (responsible for the pre-sentence report) and other providers so that essential information can be shared to inform the pre-sentence assessment of an individual's capacity, capability and motivation to comply. In all likelihood, this could and should be built into the practices and procedures for the delivery of liaison and diversion services going forward. Alongside this, there will need to be suitable resources allocated to enhance compliance, including debt advice, budgeting skills and welfare issues where necessary and appropriate.

**Q26. How can we establish a better evidence base for pre-sentence RJ?**

The evidence base for restorative justice has been significantly expanding over the last decade. In 2011, the government saw the results of a £7 million investment in a seven-year research programme to evaluate restorative justice practices through randomised control

trials.<sup>12</sup> The data collected during this research has indicated that restorative justice can reduce reoffending by 27%.<sup>13</sup> However the existing evidence base has tended to focus on the effectiveness of restorative justice practices in general, without clearly acknowledging the distinctions between the myriad of practices that are grouped together under the heading of restorative justice. Delivering restorative justice, in a variety of different guises, could have a significantly different impact on reducing reoffending rates, depending on the point at which the intervention is delivered and the profile of the offenders in different cohorts. With this in mind, the business case for pre-sentence restorative justice needs to be strengthened. This could be achieved, as outlined in the consultation paper, by piloting pre-sentence restorative justice in a handful of local areas to further test its effectiveness in different settings.

#### **Q27. What are the benefits and risks of pre-sentence RJ?**

The key implications of pre-sentence restorative justice stem from the potential impact it may have on sentencing decisions. In the light of this, clarity is needed as to the purpose of pre-sentence restorative justice and where it fits into the sentencing framework. If the purpose is to divert offenders from the criminal justice system, then this would raise the question as to why restorative justice is not being used at an earlier stage ie, before (or as an alternative to) formal charge and/or conviction. Notwithstanding the fact that it is difficult to determine how the success of pre-sentence restorative justice might be measured, if it were to be seen to be leading towards more lenient sentences based on the defendant's positive participation in, and the outcome of, the restorative justice process, this could skew an offender's motivation for participating in the process. The current evidence does suggest that offender participation rates are higher for pre-sentence restorative justice than for those post-sentence and the benefits and pitfalls of this need further investigation. There is also the need for careful consideration of the implications of pre-sentence restorative justice on the purpose and role of the victim impact statement in the justice process.

There could be instances where pre-sentence restorative justice works to the detriment of due process. For example, those offenders whose victims are willing to participate fully in pre-sentence restorative justice are given an opportunity to lessen their sentence, whilst offenders who may have committed exactly the same crime but where their victim is unwilling to participate are not given the same opportunity to do so.

#### **Q29. Is there more we can do to strengthen and support the role of victims in RJ?**

The role of victims is crucial in restorative justice practices. Victims need to be properly supported throughout the process by fully trained practitioners who adhere to national standards. Work by the Restorative Justice Council to improve professional standards is welcome, and will go some way towards ensuring that victims have a positive experience of restorative justice.

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<sup>12</sup> Restorative Justice Council (2011) *Restorative Justice Works* Available online at: [http://www.restorativejustice.org.uk/restorative\\_justice\\_works/](http://www.restorativejustice.org.uk/restorative_justice_works/)

<sup>13</sup> Shapland J et al (2007) *Restorative Justice – The Views of Victims: The third report from the evaluation of three schemes* London: Ministry of Justice

**Q30. Are there existing practices for victim engagement in RJ that we can learn from?**

There are a number of ways to improve victim engagement. Firstly, victims need to fully understand what a restorative justice conference will involve. They need to be reassured that their participation is entirely voluntary and that they will be safe throughout the process. They also need to know about the experiences of other victims, how the process may have helped them and the impact restorative justice has on stopping people from reoffending. The victim must also have sufficient trust that the restorative justice practitioner can deliver an effective conference that will benefit all parties and generate positive outcomes. To achieve this level of trust, the practitioner should meet with victims, face to face, to address their concerns and allay any fears they may have about participating.

**Q32. What more can we do to boost a cultural change for RJ?**

To accelerate cultural change around restorative justice, it will be necessary to increase public awareness of the practice and to ensure that interventions are properly resourced. The evidence is now established for post-sentence restorative justice: in particular, it demonstrates high levels of victim satisfaction with the process. This needs to be properly communicated and promoted to ensure that victims who are considering participating in restorative justice have all the available information and might be influenced by the positive experiences of others.

**Q36. How else could our proposals on community sentences help the particular needs of women offenders?**

The consultation is right to place due emphasis on meeting the needs of women offenders, both through developing and supporting specific services for them, and giving the voluntary and community sector a pivotal role in this provision. Both of these measures should enhance the engagement support for women offenders and help them to move away from crime.

In respect of mental health needs, the service provided by Missing Link at courts in Bristol, South Gloucestershire and North Somerset has shown that taking a holistic approach to the needs of women offenders and considering their emotional well-being – as opposed to mental health – is likely to be less stigmatising, lead to greater compliance and engagement, and to better results.

**Q37. What is the practitioner view of implementing enforced sobriety requirements?**

Early research from the United States suggests positive indications that enforced sobriety could be related to reductions in alcohol-related crime. We await the results of the UK pilots for further information, but in principle these programmes could be a useful addition to the available community orders. Through the use of enforced sobriety requirements, it is possible to directly challenge alcohol-related antisocial behaviour, and testing can be used to enforce the prohibition of alcohol consumption at times when offenders are most likely to commit offences. However, it is vitally important that carefully thought through medical assessments and clinical supervision arrangements are available to avoid scenarios whereby dependent drinkers find themselves on enforced sobriety requirements and encounter the dangerous health implications of giving up drinking without professional clinical supervision.

**Q38. Who would compulsory sobriety be appropriate for?**

Compulsory sobriety would be suitable for those offenders whose violent behaviour is clearly alcohol related. For these individuals, it is likely that there will be a pattern of behaviour which involves alcohol as a key trigger for offending and will occur on specific days or at specific events. The deployment of this intervention should have a focus on the reduction of violent crime and disorder associated with alcohol. However, enforced sobriety measures will not be appropriate for all offenders with alcohol problems.

**Q39. Are enforced sobriety requirements appropriate for use in domestic violence offences?**

Yes they potentially could be, but they must be seen as part of a broader approach that deals with both the perpetrator and the victim of the abuse. There could be a number of consequences to stopping alcohol consumption which need to be carefully considered and enforced. Ensuring the protection of the victim should be the first priority.

**Q40. What additional provisions might need to be in place to support the delivery of enforced sobriety requirements?**

There needs to be a balance of measures. There must be targeted interventions that stop the initial problem, by changing attitudes and behaviour and which address any personal issues with housing, relationships, employment and so on. The use of alcohol programmes to reduce or stop alcohol consumption should be used in conjunction with this measure when appropriate. Electronic monitoring could be a useful tool to support a sobriety requirement, for example by restricting the liberty of offenders and controlling behaviour that may lead to the consumption of alcohol and/or offending behaviour. Tagging offenders on enforced sobriety requirements may also increase offender compliance with the order.