

# STANDARDS RELATING TO THE SUPERVISION OF COMMUNITY SERVICE ORDERS BY THE JERSEY PROBATION AND AFTER CARE SERVICE

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## **1. Preface**

- 1.1 These operating policies should be read in conjunction with the Criminal Justice (Community Service Orders) (Jersey) Law 2001 ("Community Service Law") and other published Service policies.
- 1.2 Particular reference should be made to the operating policies relating to the supervision of Community Service Orders 2005
- 1.3 These standards supersede those which were approved in 1986.

## **2. Pre-sentence assessment**

- 2.1 The criteria for assessment is as follows
  - 2.1.1 The offender and his/her circumstances
  - 2.1.2 The suitability and willingness of the offender to perform Community Service
  - 2.1.3 The availability of Community Service
- 2.2 The assessing officer, as part of the assessment procedure must satisfy the requirement of Article 3(2) of the Community Service Law. This is achieved by taking the offender through the consent form, which requires to be read either to or by the offender who must sign the form to signify his/her acknowledgement and consent to the conditions of a Community Service

Order. The Court must be notified of an offender's refusal to sign the consent form.

### **3. Post-sentence assessment**

3.1 Offenders must be given contact instructions in writing within three working days from the date of sentence. Wherever possible an appointment should be made with the Community Service team by the Court Duty Officer on the day of sentence.

3.2 A placement and assessment interview must take place within ten working days from the date of sentence. Where no interview is conducted within ten working days then the reasons for the failure must be recorded.

### **3.3 Commencement of Community Service**

3.3.1 All offenders will commence Community Service within fifteen working days from the date of sentence save in cases of medical unfitness or other significant factor, which must be recorded and subject to regular monthly review.

### **3.4 Orders subject to appeal**

3.4.1 Where an offender intends or has commenced appeal against either sentence or conviction then commencement must be delayed until either the appeal is abandoned or the outcome of the appeal is known.

3.4.2 Where an appeal is contemplated but not yet commenced then the offender must be given ten working days from the date when he/she advises the Service of his/her intention to appeal in which to seek legal advice. At the end of the ten day period, if the appeal process has not commenced or the offender has not sought legal advice regarding the appeal then the Community Service Officer must conduct the placement and assessment interview and issue reporting instructions. If the offender subsequently commences an appeal then the Order must be suspended at that time.

3.4.3 Where an appeal has been commenced or the offender has issued instructions to his/her Advocate to commence an appeal, then monthly contact must be maintained with the offender and where necessary, his/her legal representative, in order to monitor the progress of the appeal.

### **3.5 Assessment and Placement Interview**

3.5.1 All offenders must attend an assessment and placement interview, excepting where the Order is imposed consecutively or concurrently with an existing Order. The Community Service Officer must ensure that the offender understands his/her obligations and rights. A leaflet will be provided re-emphasising the terms and conditions of the scheme and this action will be entered on the contact log.

- 3.5.2 Offenders must initially be assessed for suitability to perform the Order working at an individualised placement. Where an offender is considered suitable for an individualised placement then wherever possible, a placement must be made available to him/her. Where an offender is not considered suitable for an individualised placement then he/she must be instructed to a placement supervised by a Community Service Officer.
- 3.5.3 Time spent in attending interviews or other appointments during the life of the Order shall not be credited against the Order, save where an interview is conducted for research and evaluation purposes.

#### **4. Supervision**

##### *4.1 Issuing of work instructions*

- 4.1.1 An offender must be issued with work instructions at the conclusion of the assessment and placement interview. If no instructions are given then the reason must be recorded.
- 4.1.2 An offender must be issued with reporting instructions in writing, which must include date place and time at which he/she is to report. If these instructions are varied during the course of the Order by the Community Service Officer then revised instructions must also be given in writing, save where there is insufficient time between the revised instructions and the commencement of work. In such cases, the Community Service Officer must be satisfied that the offender has understood the verbal instructions given to him/her.

##### *4.2 Hours of working*

- 4.2.1 The session must not last for less than three hours, save where the hours of work are limited by the operational requirements of the beneficiary, or the circumstances of the client.
- 4.2.2 Work sessions should not have a programmed duration in excess of eight hours. Offenders would not normally be expected to report for more than fifteen hours each week.
- 4.2.3 Offenders are expected to report for an aggregate minimum of five hours each week unless certified as medically unfit, are suspended or otherwise granted absence.

##### *4.3 Cessation of work*

- 4.3.1 Where the offender reports as instructed but the work cannot continue then the offender must be credited with the number of hours worked or one hour of work, whichever is the greater.

##### *4.4 Punctuality*

- 4.4.1 Any offender who reports late will not normally be permitted to work.

## 5. Discipline

- 5.1 Where an offender has failed to report as instructed then the offender must contact the Community Service Officer within two working days to explain the reason for the failure.
- 5.2 In circumstances where further verification is required then an offender shall be given up to three additional working days in which to provide the independent verification requested.
- 5.3 Independent verification must be provided by the Offender in written form such as a letter from an employer or medical certificate.
- 5.4 Verbal verification may be accepted by the Community Service Officer, where the circumstances are considered appropriate and where the individual offering the verification is identifiable and is acting impartially.
- 5.5 Where an offender has failed to attend for Community Service (including any interview appointment) and the Community Service Officer has decided that the failure constitutes an unacceptable absence then the case must be reviewed for the appropriate disciplinary action to be taken:
- First failure  
A first warning either orally and/or in writing must be issued.
  - Second failure  
The case will be reviewed for suspension from the Scheme. Where the Community Service Officer does not consider suspension appropriate, then the reason for this decision and action taken must be recorded.
  - Third failure  
The case will be reviewed for breach by the Assistant Chief Probation Officer. Where the offender was not suspended from the Scheme following the second failure, then he must be suspended upon the third failure, excepting where there is substantial justification for not doing so.
  - Any subsequent failure  
Subject to an offender having previously been suspended from the Scheme, any failure to report on a fourth occasion will be referred to the Assistant Chief Probation Officer who must review the case for breach proceedings (or referral to the Attorney General in the case of Orders made in the Royal Court). Any decision not to instigate breach proceedings following a fourth failure will only be taken where there is substantial justification for doing so. The reasons for this decision and action taken must be recorded. In such cases the offender should also attend a discipline interview with the Assistant Chief Probation Officer or Assistant Chief Probation Officer .

5.6 Any interview conducted as a result of a discipline issue must be conducted in person.

### **5.7 Suspension from the Community Service**

5.7.1 Any decision to suspend an offender from the Scheme must be taken within three working days of the offender failing to report as instructed. The offender must be notified in writing with the reason for his/her suspension and be instructed to attend a compliance interview. The compliance interview must be scheduled to take place within five working days of the failure to attend.

### **6. Travel outside Jersey**

6.1 Consent to travel outside the Island must be provided to the offender in writing with copies provided to the States of Jersey Police prior to the scheduled date of departure.

### **7. Recording of contacts**

#### *7.1 Recording of hours worked*

7.1.1 The Community Service Team must maintain a record of the hours worked by each offender. The record must contain the following information for each session of Community Service:

1. Date of placement
2. Number of hours worked
3. Where and for whom the offender worked
4. The accumulated total of hours worked against each Order
5. Comment on the attitude and performance

#### *7.2 Recording of failures*

7.2.1 The Community Service Team must maintain a record of each failure to report as instructed and any enforcement action taken. Where no enforcement action is taken then the reason for that decision must also be recorded.

#### *7.3 Recording of other contacts*

7.3.1 In addition to the recording of hours worked and failures to report, the Community Service Team must maintain a record of all contact with the offender and any contact with other agencies or persons having an interest in the Order.

## **8. Breach proceedings**

### **8.1 *Breach of Community Service Order initiated by the Service***

- 8.1.1 All decisions to either commence breach proceedings or to formally refer the performance of an offender's Order to the Attorney General must receive the prior approval of Assistant Chief Probation Officer. The Attorney General has advised that before breaches of Royal Court Orders can be returned to the Court he wishes to be informed of the details of the alleged breach in order to consider whether the case merits a representation.
- 8.1.2 In all cases (save where an offender has pleaded or been found guilty of further offences), a detailed explanation of the circumstances for the commencement (or in the case of Royal Court Orders for referral to the Attorney General for commencement) of breach proceedings must be provided.
- 8.1.3 The Assistant Community Service Manager shall provide the Connetable with details of the last known address of the offender. Where the whereabouts of the offender are not known, then the last address provided by the offender should be used, even when it is known that the offender is no longer resident at that address.
- 8.1.4 The offender must be suspended in writing from the Scheme pending outcome of the proceedings. The Assistant Community Service Manager must also advise the offender in writing that the Order is being returned to the sentencing Court and recommend that he seeks legal advice.

### **8.2 *Suspension upon remand for new offences***

- 8.2.1 An offender will not be suspended from the Scheme by virtue of re-offending.

### **8.3 *Submission of evidence***

- 8.3.1 Where an offender is returned to Court on grounds of further conviction then the Assistant Community Service Manager will normally be required to provide a written statement regarding the offender's progress in relation to the Order. In circumstances where there has been no prior notice of the offender's appearance then the statement on progress may be provided orally by the Service's Court Duty Officer.
- 8.3.2 Where either written evidence or a statement is provided to the Court then a copy of any relevant reports previously prepared or held by the Service must be attached.

8.3.3 Where a written statement or evidence is prepared then it must be submitted to the Magistrates or Youth Court at the earliest opportunity and not less than two working days before the scheduled date of the appearance. Statements or evidence prepared for the Royal Court must be submitted not less than four days prior to the appearance. All Royal Court reports will be gate-kept by a Manager.

8.3.4 In all instances where written evidence or statements are prepared by the Service, then copies of all documentation prepared for a Court must be made available to the offender's Advocate at the earliest opportunity and not less than two working days before the scheduled date of the appearance. Where it is known that the offender intends to represent himself before the Court then he must also be given the opportunity to examine such written evidence or statements as are intended to be submitted to the sentencing Court and not less than two working days before the scheduled date of the appearance.

## **9. Review proceedings**

9.1 All decisions to either commence review proceedings or to formally refer the performance of an offender's Order to the Attorney General must receive the prior approval of Assistant Chief Probation Officer.

9.2 The offender must be advised in writing of the powers of the Court in dealing with the application. In the event that the grounds of the offender's application for a review is considered by the Assistant Community Service Manager to fall outside the provisions of Article 6 of the Community Service Law then the matter must be referred to the Assistant Chief Probation Officer who may refuse the offender's request. In such circumstances, reasons for the refusal must be provided to the offender in writing who must also be advised to seek legal advice in the matter.

9.3 In all cases, the Assistant Community Service Manager must provide the sentencing Court with a written report detailing the circumstances of the case, including details of the reasons for the review application and additionally may be required to give oral evidence if ordered by the sentencing Court.

9.4 The offender must be notified in writing that the Order has been referred to the sentencing Court for review and he/she must be advised to seek legal advice.

## **10. Supervision of Jersey Orders by other jurisdictions**

10.1 There is no protocol for the transfer of Community Service Orders between Jersey and the remainder of the United Kingdom or other jurisdiction.

10.2 The offender will be supervised to the standards adopted by the Service in the jurisdiction in which they are residing.

10.3 There must be a formal designation of an officer in the foreign jurisdiction as the relevant officer in order to comply with the requirements of Article 10 of

the Community Service Law. The offender must be notified in writing of the arrangements and confirmation of the officer in the foreign jurisdiction who has been designated by the Chief Probation Officer to supervise the Order on behalf of the Jersey Service.

10.4 It is the responsibility of the Designated Officer to ensure that the case is managed in accordance with the standards applicable to the foreign jurisdiction. Monthly contact between the Designated Officer and the Jersey Community Service Officer allocated to monitor the case is the responsibility of the Jersey Officer.

10.5 Procedure for arrest where the Probationer is in the United Kingdom

The Service will refer to the Law Officer's Department for advice all breaches of Community Service Orders where the offender is living in the United Kingdom, whether the Community Service Order was made in the Royal Court or the Magistrate's Court. If the Attorney General decides that on the information before him the circumstances merit the return of the offender to Jersey, he will obtain a warrant from the Bailiff

## **11. Supervision of Orders made in other Jurisdictions**

11.1 The Service will, in principle, supervise offenders on behalf of the other Probation Services on the basis that should the offender fail to comply with these practices then the referring jurisdiction must be notified of the failure to comply with these operating practices and would be responsible for any disciplinary action in line with their standards.

11.2 The Jersey Probation Service will not accept any financial responsibility for the offender and any costs incurred would be an issue for the referring jurisdiction.

11.3 Any request for the supervision of an Order made in another jurisdiction must be approved by the Assistant Chief Probation Officer. Copies of Pre-sentence reports, previous convictions and any risk assessment documents will be required, prior to accepting the Order.

11.4 Offenders will be supervised to the Jersey Service's standards.

11.5 States of Jersey Police must be informed of the client's arrival on the island

## **12. Offenders who were under eighteen at the date of sentence**

12.1 In addition to these standards the following additional practices must be followed. It is, however, acknowledged that Community Service Team have discretion in the management of Orders imposed upon young offenders (those under eighteen years old). In all instances where the Community Service Team deviate from these standards then the reason for that decision must be recorded.

- 12.2 A parent or guardian must be notified in writing under separate cover of the initial assessment and placement interview and be invited to attend. They must be provided with a copy of the Community Service explanatory leaflet.
- 12.3 Parents or guardians must be kept informed of significant developments in the young offender's case and be sent copies of any correspondence with their young offender.
- 12.4 Where a young offender fails to attend a Community Service placement then in addition to the normal discipline procedures they must be instructed to report to the Assistant Community Service Manager to explain the reasons for their failure.
- 12.5 Where the young offender fails to attend the first warning appointment then this would not normally be considered as a second failure of the Order. The young offender must be offered a further first warning appointment and in the event of failing to attend the first warning appointment on a second occasion then this must be considered as a formal failure and the young offender must be suspended from the Scheme.
- 12.6 Where a young offender is suspended from the Scheme on grounds of failing to report and fails to attend the compliance interview then they must be offered a second compliance appointment. In the event of the young offender failing to attend the compliance interview on a second occasion then they must be considered to be in breach of the Order.
- 12.7 Where a young offender is instructed to attend an appointment to discuss their case then in all instances a parent or guardian must be invited to attend.
- 12.8 If a parent or guardian is unable to fulfil the role of responsible adult despite the attempts of the Community Service Team to engage that person, then whenever possible another appropriate adult including Probation colleagues should be asked to attend.

### **13. Successful completion**

- 13.1 Where an offender has completed the number of hours specified in the Order to the satisfaction of the supervising Assistant Community Service Manager then he must notify the Chief Probation Officer who will then discharge the Order.
- 13.2 Upon the Order being discharged, the Assistant Community Service Manager shall notify the sentencing Court and other interested parties within three working days that the hours specified in the Order have been completed to the satisfaction of the Chief Probation Officer and the Order has been discharged.

13.3 The Assistant Community Service Manager shall also notify the offender in writing that the hours specified in the Order have been completed to his satisfaction and the Order has been discharged.

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**11.5 added 15<sup>th</sup> August 2012 Brian Heath CPO**