

Convener
Criminal Justice Committee
Scottish Parliament
By email
CriminalJustice.committee@Parliament.Scot

Parliament House
Edinburgh
EH1 1RQ

Our Ref: Sheriff Pattison
20260930

06 October 2026

Dear Convener,

Community Payback Order Requirements

During the evidence session of 30 September attended by Sheriff Scott Pattison in his capacity as a judicial member of the Scottish Sentencing Council, you invited him to provide further information on the complexity of certain legislative provisions in relation to Community Payback Orders (CPOs). I am pleased to provide this further information to the Committee on behalf of Sheriff Pattison and the Council.

The Council's 2021 issues paper, *Judicial perspectives of community-based disposals*, drew on a consultative exercise with sentencers across Scotland. The Council's research suggests that there is a desire for greater flexibility of options to assist in imposing an appropriate sentence for the specific case before them and set out a number of areas where consideration might be given to remedial activities.

Among other things, the paper identified legislative barriers to the imposition of certain community disposals, with sheriffs highlighting practical difficulties in obtaining all the information mandated within legislation before drug, alcohol, mental health, or programme requirements can be made as part of a CPO. The crux of the issue is that the formal statutory route may be disproportionate or less flexible than the intervention required in an individual case. As such, the Council took the view that there may be a case for simplifying the legislation in this regard, suggesting that it may be helpful to re-examine the underlying policy intention behind the legislative provisions for these requirements, to consider whether a more purposive, as well as simplified, approach to the legislation would be appropriate.

The annex to this letter contains an extract from the issues paper which sets out the specific issues in detail.

The Council notes that this matter is now being considered by the Scottish Government, which, in its recent *Prison population and penal reform – working towards a sustainable prison population: consultation*, asked for views on the

effectiveness of CPOs in their current form, the appropriateness of the underpinning legislation and whether the current framework is sufficiently flexible.

Yours sincerely,

Ondine Tennant

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