

# Moray Community Justice Partnership

## Community Options:

A Guide to the Alternatives to Prosecution, Remand & Custody



**Moray  
Community Planning  
Partnership**

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# 1. Introduction and useful terms

## 1.1 Purpose and intended audience

This booklet provides information on the alternatives to prosecution, remand and custody in Moray. It aims to promote a better understanding of prosecution and sentencing options and explain in broad terms why different offences and offenders are dealt with in particular ways.

This is information which may be useful if you are:

- a victim of a crime who wants to understand what has happened to the perpetrator of the crime
- a witness attending court who wants to understand what has happened in the case or what will happen when you attend court
- someone who has committed a crime who wants to know what might happen and what this means
- a practitioner or support worker from a public or third sector organisation working with victims and witnesses or people involved in offending behaviour and going through the Criminal Justice System
- a student
- someone with an interest in the Criminal Justice System.

In producing this guidance, we are grateful to Glasgow Community Justice Partnership for permission to draw liberally on their own 'Summary of Community Options'.

## 1.2 Options available

When a person commits an offence, various options are available to the Police, Procurator Fiscal Service, Children's Panel and Courts. Options can range from formal warnings and fines to community sentences and imprisonment, depending on the age of the person when the offence is committed. How and when the different options can be used is set out in legislation or guidance from the Government.

Broadly speaking:

- Low-level minor offences are likely to result in an on the spot formal warning from the Police
- Less serious (summary) crimes, first offences and crimes unlikely to result in a court proceeding, or where the Procurator Fiscal takes the view that prosecution is not in the public interest, are likely to result in a formal warning or direct measures such as fines, orders to pay compensation to victims, an order to undertake unpaid community work or a Diversion from Prosecution Scheme
- More serious crimes and persistent offences are likely to result in a community sentence or custodial sentence.

## 1.3 Why different options are used

The Scottish Government uses research and evidence to guide policy and legislation around the options that can be used for a person who has committed an offence. This evidence recognises the emotional, practical, financial and psychological effects of offending on victims, witnesses and the wider community.

It is common for people who end up in the criminal justice system to have experienced multiple disadvantages from a young age. Issues that often underpin offending behaviour include poverty, alcohol and drug addiction, poor family relationships, mental and physical health issues, learning, housing and employment issues.

In Scotland, there is a strong emphasis on reducing re-offending. The economic and social cost of crime is estimated at over £5billion per year with re-offending accounting for about £3billion of this.

Reducing re-offending leads to fewer victims of crime. Robust alternatives to prosecution and community sentences that address the underlying causes of offending are known to reduce re-offending rates, by helping people who commit offences to become more responsible and active citizens. Short custodial sentences are comparatively less effective in reducing re-offending. This may mean that the most effective action won't necessarily involve prosecution or a custodial sentence.

## 1.4 Useful terms

<b>Term</b>	<b>Definition</b>
Alternatives to custody	Measures that can be used instead of a prison sentence for people who have been convicted of a crime in Court. This means that the individual will serve their sentence in a community setting
Alternatives to prosecution	Measures that can be imposed directly (a Direct Measure) by the Police or Crown Office and Procurator Fiscal Service, without taking the matter to court
Alternatives to remand	The majority of prisoners on remand have not been convicted of a criminal offence and are awaiting trial following a 'not guilty' plea. There are some measures that can be granted as an alternative to remand where the suspect will be supervised or allowed to remain in the community with conditions attached, until a trial or sentencing hearing takes place
Bail	An accused person awaiting trial must agree to certain conditions before being released from custody by a court
Children's Hearing (Children's Panel)	A legal meeting arranged to consider and make decisions about children and young people who have committed offences
Community Payback Order (CPO)	A sentence that is served in the community
Conviction	A formal declaration by the verdict of a jury or the decision of a judge in a court of law that someone is guilty of a criminal offence
Crime	An action or omission, which constitutes an offence and is punishable by law
Custody	When a person is kept in prison or a Police cell
Deferred sentence	Sentences can be deferred for up to six months. The Court may impose conditions during this period
Offence	A breach of law or rule, an illegal act
Offender	Someone who has committed a crime
Procurator Fiscal	A lawyer who receives reports about crimes from the Police and others and decides what action is to be taken, including whether to prosecute a person accused of committing a crime
Programmes	Courses that include modules designed to challenge and address specific attitudes, behaviours or addictions that may be leading to offending behaviour
Prosecution	Charging and trying a case against a person accused of a crime through the Court system
Public Interest	Factors that are considered by prosecutors when making decisions, including the interest of the victim, the accused and the wider community
Remand	When a person is kept in a Police cell or prison before a court appearance

## 2. Information for victims and witnesses of crime

### 2.1 Your rights as a victim or witness

If you are a victim of crime, you have a number of rights. The Victim's Code for Scotland sets out these rights and how you can exercise them. The document is available at [www.mygov.scot/victim-witness-rights](http://www.mygov.scot/victim-witness-rights). The Standards of Service for Victims and Witnesses (2016-17) is a document that explains what you can expect to happen at each stage of the criminal justice process, the standards of service you can expect and who you can contact for help and advice. The document is also available on the websites of each of the following criminal justice agencies and by contacting any of these agencies:

Police Scotland  
[www.scotland.police.uk](http://www.scotland.police.uk)

The Crown Office & Procurator Fiscal Service  
[www.copfs.gov.uk](http://www.copfs.gov.uk)

The Scottish Courts and Tribunals Service  
[www.scotcourts.gov.uk](http://www.scotcourts.gov.uk)

The Scottish Prison Service  
[www.sps.gov.uk](http://www.sps.gov.uk)

The Parole Board for Scotland  
[www.scottishparoleboard.gov.uk](http://www.scottishparoleboard.gov.uk)

### 2.2 Information on the progress of a case

As a victim or witness of crime, Police Scotland and the Crown Office and Procurator Fiscal Service may provide you with information on the progress of the case. For cases involving children, hate crime, domestic abuse, serious violent and sexual crimes, and where it is likely that a trial will involve a jury, case information is provided to victims and witnesses by the Crown Office and Procurator Fiscal.

Victim Information and Advice Service:

[www.crownoffice.gov.uk/involved-in-a-case/victims-enquirypoint@copfs.gsi.gov.uk](http://www.crownoffice.gov.uk/involved-in-a-case/victims-enquirypoint@copfs.gsi.gov.uk)  
01389 739557

Calls can be made through RNID Typetalk by prefixing the telephone number with 18001.

Deaf sign language users should text on 07825 280346, specifying the format that the response should take (SMS, text or email).

Postal Address:  
Crown Office & Procurator Fiscal Service  
25 Chambers Street  
Edinburgh EH1 1LA.

For other cases, the Police may provide information if asked for an update. Otherwise, the outcome of a case will not generally be disclosed (e.g. whether an alternative to prosecution was used, the details of decisions on bail, and the final outcome of a case if it goes to court). To find out what has happened with your case, you can use your right to information.

## 2.3 Right to information – victims and witnesses

You have the right to be given certain information on your case by the criminal justice agencies, and can make a formal application for this information if it has not been provided to you.

Contact Police Scotland for:

- information about a decision not to proceed with a criminal investigation and any reasons for it
- information about a decision to end a criminal investigation and any reasons for it.

Contact the Crown Office and Procurator Fiscal Service for:

- the reason why a case was not prosecuted.

Contact the Scottish Courts and Tribunal Service for:

- dates of any court hearings, the final decision of a court in a trial or any appeal arising from a trial and any reasons for it.

Protocols are in place that determine what information you have a right to at what stage and who to contact.

You can access these at:

[www.scotcourts.gov.uk/coming-to-court/witnesses](http://www.scotcourts.gov.uk/coming-to-court/witnesses)

## 2.4 Support for victims and witnesses

You have the right to use victim and witness support services if you are a victim of or witness to a crime. The Police provide victims with a Victim Care Card that gives basic information on the case and the details of support services. The Police and the Crown Office and Procurator Fiscal Service must let you know of the support available to you and refer you to a support service if you request this.

Victim Support Scotland has a network of local offices [www.victimsupportsco.org.uk](http://www.victimsupportsco.org.uk) and provides emotional support, practical help and essential information to victims, witnesses and others affected by crime. The services provided by Victim Support Scotland are free and confidential.

National Helpline  
[0345 603 9213](tel:03456039213)

### 3. Alternatives to prosecution, remand and custody

#### 3.1 Alternatives to prosecution

##### General information

Alternatives to prosecution are used for less serious offences, sometimes referred to as low tariff offences. Disposals are available to both Police Scotland and the Procurator Fiscal as direct measures.

Victims of crime are not automatically told when a Recorded Police Warning or Direct Measure is used. However, the Police should provide updates to the victim on the progress of the case, and both the Police and the Procurator Fiscal's office can be contacted for information. Victims and witnesses have the right to obtain information on the progress of their case. For more information on how to access this right, please see Part 2 – Information for Victims of Crime.

##### Recorded Police Warning

Recorded Police Warnings are on the spot formal warnings, issued by the Police. They are used to provide a proportionate, timely disposal for low-level offences.

Main features:

- age 16+
- minor offences
- immediate, 'on the spot'
- recorded for a period of two years by the Scottish Criminal Records Office
- do not count as a conviction.

Recorded Police Warnings:

- Significantly shorten the length of time that it can take for the same disposal to be achieved
- Reduce the volume of formal reports in the criminal justice system
- Give Police Officers the opportunity to exercise their professional discretion on the spot.

When is a Recorded Police Warning used?

There are often cases where incidents could be resolved quickly, without the need to submit a formal report to the Procurator Fiscal. These are crimes that would be unlikely to result in court proceedings. The circumstances of each incident are fully assessed by Police Officers when deciding on whether to issue a Recorded Warning or take another course of action.

##### Procurator Fiscal – Direct Measures

Alternatives to prosecution are used for some less serious cases. The Procurator Fiscal may take the view that it is in the public interest to take action but may not consider prosecution (taking the case to court) to be the best course of action. The Fiscal has a number of direct measures available. The accused may be:

- given a Fiscal Warning
- offered the option of paying a fine, compensation or a combination of both
- offered a Fiscal Work Order or
- offered a chance of referral for specialist support or treatment – Diversion from Prosecution Scheme.

In these cases, the accused will not have a criminal conviction recorded against their name, and the courts are freed up to deal with more serious cases.

##### Fiscal Warning

The Procurator Fiscal may decide to give the accused a written or a personal warning.

Main features

- age 16+
- minor offences
- once issued, the accused cannot be prosecuted for that offence
- does not count as a conviction.

## Fiscal Fines and Compensation Orders

A Fiscal Fine requires the accused to pay a sum of money. The Procurator Fiscal can also issue a Compensation Order requiring the accused to pay compensation to someone who was affected by the alleged offence. A combined offer can also be made, which includes a fine and compensation. Where both a fine and compensation are offered, the whole offer needs to be accepted. Action will be taken to enforce the fine if it is not paid.

Where a fixed penalty offer or compensation offer has been accepted, the Procurator Fiscal, if asked, may disclose to the victim that the case has been dealt with by using an alternative to prosecution.

### Main features

- age 16+
- less serious offences
- dealt with outside of the Court
- if accepted the accused cannot subsequently be prosecuted for the offence
- does not count as a conviction.

### Fiscal Fines and Compensation Orders:

- deal quickly and simply with less serious offences
- provide speedy and appropriate resolution of cases and
- provide a mechanism whereby people can make reparation, deterring further offending.

Fiscal Fines and Compensation Orders are used in some less serious cases where the Procurator Fiscal considers that it is in the public interest to take action but may not consider prosecution to be the most appropriate course of action. Each case is assessed individually with consideration given to:

- the seriousness of the offence
- the circumstances of the offence
- whether the person has the financial means to pay.

## Fiscal Work Orders

A Fiscal Work Order is a requirement for a person to pay back to the community they have harmed by undertaking community work activities. The individual will be required to carry out between 10 and 50 hours work over a period of up to six-months, or attend a programme aimed at tackling the reasons for their offending behaviour. Criminal Justice Social Work Services are responsible for supervising Fiscal Work Orders.

### Main Features:

- age 16+
- less serious offences
- where harm to the community (e.g. vandalism) has occurred
- dealt with outside of the Court
- participation is voluntary. If accepted, the accused cannot subsequently be prosecuted for the offence if they complete the Order
- does not count as a conviction.

### Fiscal Work Orders are used to:

- deal quickly and simply with less serious offenders
- provide victims and communities with speedy and appropriate resolution of cases
- provide community benefit through supporting local unpaid work initiatives.

Fiscal Work Orders are often used in cases when a minor offence has caused harm to a community, a first offence has been committed, the person is dependent on others or the person is unable to pay fines. These cases could technically be prosecuted, but the Procurator Fiscal may consider that there is 'no overriding public interest' in taking a case to court.

### The accused must:

- accept the details of the charge against them
- opt in (i.e. accept the Order).

Each case is assessed individually with consideration given to:

- the seriousness of the offence
- the circumstances of the offence
- whether the person has the financial means to pay for any damage caused
- whether the community would benefit from payback.

## **Diversion from Prosecution Scheme**

Diversion from Prosecution provides an option for the Procurator Fiscal to deal with someone accused of low-level offences outwith the court system. The person will be required to work with a Criminal Justice Social Worker or other agency to address the problem areas of their life that are contributing to their offending behaviour.

In such cases, the person will receive appropriate support and the opportunity to avoid a potential criminal conviction.

The accused must:

- broadly accept the details of the charge against them
- agree that there are problem areas in their life
- agree to work with Social Work and other agencies to address these difficulties.

If the accused does not agree with the above, the Procurator Fiscal may prosecute the case in the normal way.

Main features:

- age 16+
- less serious offences
- dealt with outside of the Court
- participation is voluntary
- does not count as a conviction
- failure to co-operate may lead to the case being prosecuted.

Diversion from Prosecution Schemes aim to address the underlying causes of offending behaviour through Social Work and other interventions. They also seek to stop people entering into the formal criminal justice system at an early age. Evidence suggests that the earlier people enter the criminal justice system, the more likely they are to go on to more serious offending.

There are often cases when a minor offence has been committed which could be prosecuted but the Procurator Fiscal decides that there is 'no overriding public interest' in taking the case to court.

Each case is assessed individually with consideration given to the:

- seriousness of the offence
- circumstances of the offence
- the person's attitude (the person may choose to opt out, i.e. go to court).

## 3.2 Alternatives to remand

### Bail

Bail is the temporary release of an accused person awaiting trial. The accused person may be granted bail when their lawyer has persuaded the judge that they can be trusted to adhere to certain conditions. This is an alternative to being kept in prison whilst information is gathered before a trial. It can be a lengthy process.

Main features:

- dealt with by the Court
- is not a conviction
- breach of bail conditions is a criminal offence.

### Standard Bail Conditions

There are Standard Bail Conditions that will always be imposed. These are that the accused:

- must attend court every time their case is called
- must not engage in any criminal behaviour whilst on bail. If this happens, the nature of this second offence will be considered to be more serious by the court; this is described as being an 'aggravation'
- must not interfere with, threaten or intimidate witnesses or any other party involved in the case (including any co-accused person)
- must not obstruct the course of justice, e.g. dispose of items which may be relevant to the case
- must be available to assist with the gathering of information relevant to the case.

### Additional Bail Conditions

In addition to the standard bail conditions, extra bail conditions can be applied. The Courts have wide discretion in relation to this aspect of bail and this is only limited by what the individual accused, judges and prosecutors will accept, and the resources available to enforce the condition.

Common additional Bail Conditions include:

- Bail Accommodation – the accused is required to reside at a certain supervised address or premises whilst on bail
- Bail Curfew – the accused is required to be present in his or her place of residence during certain times of the day and present themselves to police officers visiting the address. A common time for such a curfew is from 7pm-7am
- Attendance at Police Stations – the accused is required to attend a particular Police Station regularly, typically on a daily or weekly basis. The accused will usually be required to sign a register to prove that they attended
- Prohibition – the accused is forbidden to enter particular areas or approach certain people.

Breach of Bail conditions is likely to result in an accused being remanded in custody for the original offence and being prosecuted for the breach.

## Bail Supervision Schemes

Bail supervision schemes are designed to reduce the risk of offending whilst on bail. These cases are supervised by Social Work or third sector (non-governmental and non-profit making) organisations. Supervision will include regular appointments with the Bail Supervisor (usually 2-3 times per week), until they are removed by the Sheriff – usually following a trial.

Main Features:

- age 16+
- dealt with by the Court
- is not a conviction
- intensive level of supervision by Social Work or other responsible organisation appointed
- aims to reduce the risk of offending whilst on bail
- participation is voluntary
- breach of bail conditions is a criminal offence.

Why is Supervised Bail used?

A significant number of accused people who are remanded in custody do not go on to receive a jail sentence. Supervised Bail enables people to remain in the community, continue with their employment (where relevant) and reduces the risk of further offending through supervision, monitoring and support to address life issues.

Supervised Bail:

- prevents unnecessary custodial remands of people awaiting trial
- reduces the risk of re-offending whilst on Bail
- reduces the prison population and the costs associated with custody.

Supervised Bail is primarily used for borderline cases where the accused is not considered to pose a danger to members of the public and there is no real concern that the defendant will not appear for a court hearing. It is also used for certain vulnerable groups, e.g. those with mental health problems, single parents, those with drug or alcohol addiction issues, or young people who may suffer extreme difficulties if remanded in custody. The Court makes the final decision as to whether Supervised Bail will be granted.

Referrals can be made by Sheriffs, Procurators Fiscal, Defence Agents and Social Workers.

The accused must agree to work with Social Work and other agencies to meet the bail conditions, which can include undertaking a programme to address the underlying issues that are driving their offending behaviour.

Each case is assessed individually with consideration given to the seriousness and circumstances of the offence.

### 3.3 Alternatives to custody

#### a. Structured Deferred Sentence

When a person has been found guilty of a crime, a Structured Deferred Sentence can be used to delay the final decision about any punishment to a later date, usually three or six months. Social Work intervention will be provided to the person prior to final sentencing. It is an opportunity for the person to prove to the Court that they can stay out of trouble and are willing to make positive changes to reduce the risk of reoffending. An individual's progress during a Structured Deferred Sentence will be taken into consideration by the Court in the final sentencing decision.

Main Features:

- dealt with by the Court
- targeted at low risk offenders
- individuals already convicted (i.e. not used for serious, violent or sex offences)
- aimed at individuals with high social needs
- delays final decision on sentencing (3-6 months).

Structured Deferred Sentences are designed to:

- reduce or restrict the frequency or seriousness of offending behaviour
- avoid premature or unnecessarily intensive periods of supervision in the community
- steer people from other, less suitable community disposals or custody.

Structured Deferred Sentences are primarily aimed at people with underlying problems like drug or alcohol dependency, mental health or learning difficulties, or unemployment. They are not used for serious, violent or sex offenders.

Each case is assessed individually with consideration given to:

- the seriousness of the offence
- circumstances of the offence
- any underlying problems that may be contributing to offending behaviour.

#### b. Community Payback Order

A Community Payback Order is a sentence served in the community rather than prison by a person convicted of a crime in a court. Community Payback Orders are designed to ensure that those who offend make reparation for their offences and take responsibility for addressing their offending behaviour. They also allow offenders to address any underlying problems that may be fuelling their behaviour by imposing one or more of nine provisions or requirements that are available to the Courts.

Main Features:

- there is no minimum age for a CPO except where unpaid work and other activity requirement is made. In these circumstances, it can only be imposed on a person aged 16 and above.
- low to medium level offences
- dealt with by the Court
- is a conviction
- non-compliance (breach) is addressed rigorously
- continued breach may result in a custodial sentence.

Requirements available to the Court:

##### Unpaid work and other activity

The Court will require someone to undertake a form of practical work as well as other activity that promotes desistance from offending. The duration of the work can be anything from 20 to 300 hours and must be completed within a specified time period.

##### Alcohol treatment

The Court requires someone to undertake treatment where alcohol dependency has been identified as contributing to their offending behaviour.

##### Compensation

The Court requires the person to pay a sum of money to the victim(s) of their crime for damage, loss or personal injury that was caused.

## **Conduct**

The Court requires the person to do, or refrain from undertaking certain actions.

## **Drug treatment**

The Court requires the person to undertake treatment where drug dependency has been identified as contributing to their offending behaviour.

## **Mental health treatment**

The Court requires the person to undertake treatment (including care and support) where a diagnosed mental health condition and/or learning disability has been identified as contributing to their offending behaviour.

## **Supervision**

The Court requires someone to attend appointments with a Criminal Justice Social Worker for a specified period of time to achieve positive change in their behaviour and compliance with the Order. The person will be subject to a programme of work that will address the underlying reasons for their offending behaviour and helps them to acquire knowledge and skills that will help reduce reoffending.

## **Programme**

The Court requires the person to undertake a course or other planned set of activities, over a period of time.

## **Residence**

The Court requires the person to live at a certain address to reduce the likelihood of re-offending.

Breach of (or failure to comply with) a Community Payback Order can lead to the person having a prison sentence imposed. The consent of the offender to the requirements of a CPO is required before it can be imposed by a court – except where the order is imposed following fine default.

Community Payback Orders are used for low to medium level offences. There is a presumption against short prison sentences of twelve months or less, meaning that prison sentences for low level offences can still be imposed but there is an expectation that people who commit offences will be given orders to undertake unpaid work.

Why are Community Payback Orders used?

- they provide scope for courts to punish individuals in a way that addresses the areas of their lives that need to change
- they have been found to be effective for low-level offenders who commit crimes that cause havoc, disturbance, upset and fear in communities
- short prison sentences may not provide enough time to address the underlying causes of offending behaviour.

### c) Restriction of Liberty Order (tagging)

A Restriction of Liberty Order is a Community Sentence imposed by the court for higher level offences. They are used by the court as an alternative to a prison sentence or another community penalty that would impose substantial demands on the person.

A restriction of Liberty Order restricts a convicted offender to a specified place (normally a home address) for up to 12 hours per day and/or from a specified place for up to 24 hours (for example, a town centre where their offending may have occurred). These restrictions can be imposed for periods of up to one year.

Somebody subject to a Restriction of Liberty Order wears an electronic monitoring device or 'tag' to monitor compliance with the order. The initial assessment for a Restriction of Liberty Order will be undertaken by a Criminal Justice Social Worker but the Order is monitored remotely by a specialist contractor. The Order can be made alongside a Community Payback Order for individuals who require a programme of supervision and support.

Main Features:

- higher level offences
- dealt with by the Court
- is a conviction
- breach can result in a custodial sentence.

Restriction of Liberty Orders provide an option for punishment whilst addressing the areas of a person's life that need to change to prevent reoffending and further harm to victims of crime and communities.

Research shows that electronic monitoring works best when accompanied by a wider programme of supervision and support.

### d. Drug Treatment and Testing Orders

A Drug Treatment and Testing Order (or DTTO) is a direct alternative to custody for people who misuse drugs and commit crime to fund their drug use and who might otherwise have received a custodial sentence. The Order will include regular reviews of progress by the court and a requirement that the individual consents to random drug tests.

Main Features:

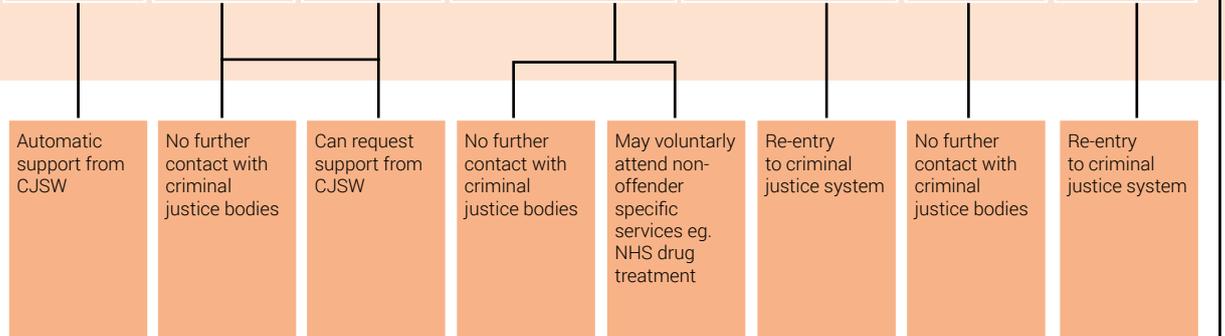
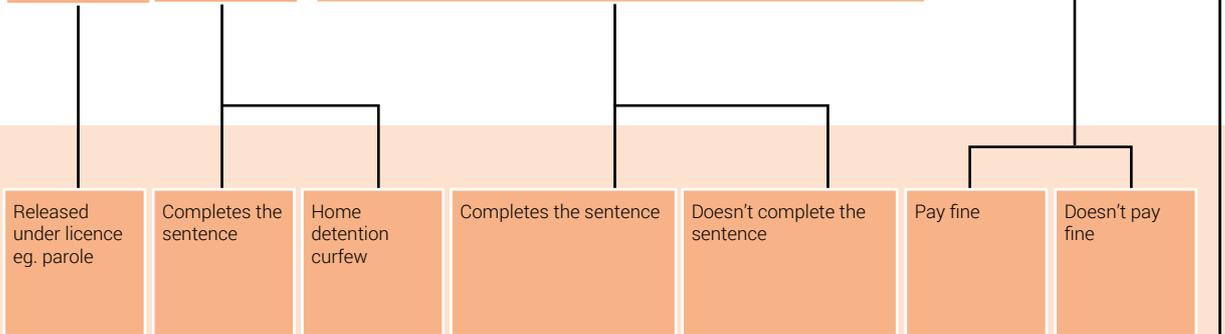
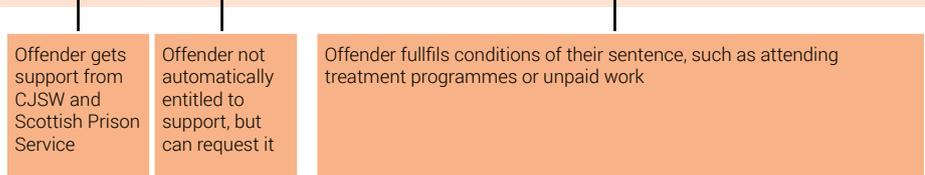
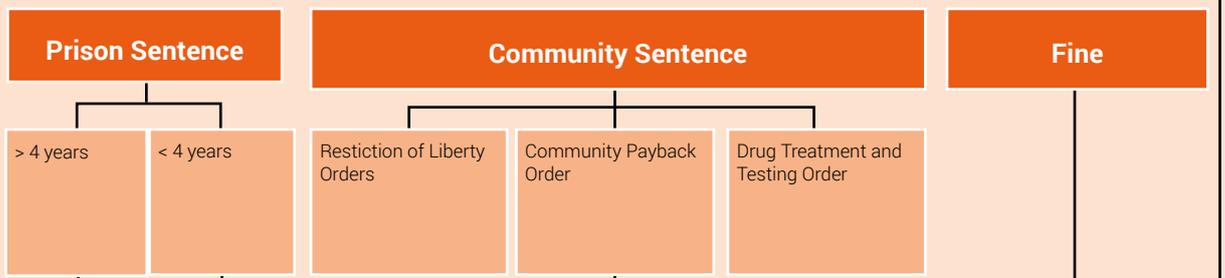
- dealt with by the Court
- is a conviction
- aimed at people with an extensive offending history linked to drug misuse
- intensive supervision by Social Work and Addiction Services
- regular drug testing
- monthly Court reviews
- breach may result in a custodial sentence.

People with drug problems often commit crime to finance their addiction. Research suggests that treatment and support to promote recovery from drug addiction reduces drug-related crime and re-offending and results in fewer victims of crime.

Drug Treatment and Testing Orders are used when an individual's offending is assessed as directly resulting from their drug misuse.

Serious drug dealers will continue to receive custodial sentences.

### 3.4 Sentencing options and pathways



## 4. Young people who commit offences

### 4.1 Introduction

The age of criminal responsibility in Scotland is 12 and the age for criminal prosecution is 12.

In Scotland, there are different criminal procedure rules for young people accused or found guilty of an offence. Those aged under 16 years are treated differently than those aged 16-17.

Broadly:

- those under 16, as well as 16 and 17 year-olds subject to a Compulsory Supervision Order, will be reported to the Scottish Children's Reporter Administration and will usually be dealt with through the Children's Hearing System. However, if an offence is sufficiently serious, the Crown Office and Procurator Fiscal Service will instigate criminal proceedings against accused aged between 12 and 15
- 16 and 17 year-olds not subject to a Compulsory Supervision Order will be dealt with through the Crown Office and Procurator Fiscal and Court Service.

A 'Whole System Approach' to dealing with young people involved in offending behaviour is embedded in Scotland. It focusses on three main strands:

- Early and Effective Intervention – aims to reduce referrals to the Children's Reporter
- Diversion from Prosecution – aims to keep young people away from criminal justice processes
- Reintegration and Transition – supports young people in secure care or custody in planning for their reintegration into the community.

Evidence and experience tells us that this integrated, holistic approach is effective as it tackles deeds whilst taking account of wider needs.

### 4.2 Alternatives to prosecution

#### a) General information – Aged 17 and under

Offences committed by those aged 17 and under and already subject to a Compulsory Supervision Order, can be reported to the Scottish Children's Reporter Administration (SCRA) by the Police.

The Children's Reporter will decide if a child or young person needs to be referred to a Children's Hearing. Children's Reporters are trained professionals who decide whether there are legal grounds for referral, and whether a Compulsory Supervision Order is necessary. If so, the Children's Reporter will arrange a Hearing.

More information on the Children's Hearing System can be found at:

[www.chscotland.gov.uk/about-chs/](http://www.chscotland.gov.uk/about-chs/)  
0131 244 3696

Postal Address:

Children's Hearings Scotland  
Area 2/1/1 Ladywell House, Ladywell Road  
Edinburgh, EH12 7TB

A Children's Hearing or Children's Panel is a legal meeting arranged to consider and make decisions about children and young people who are having problems in their lives including those who have committed offences. The Panel listens to the young person's circumstances and then decides whether compulsory measures are needed and, if so, what they should be. The hearing can make a number of different decisions including:

- imposing a Compulsory Supervision Order
- sending the young person to Secure Care/ Secure Accommodation (where specific criteria are met).

When a hearing makes decisions about offences by a young person, this counts as a conviction and information may have to be disclosed to employers at a later date.

## **b) Compulsory Supervision Order**

A Compulsory Supervision Order is a legal document that sets out measures agreed by a Children's Panel. The Order makes the Local Authority (referred to as the implementation authority) responsible for implementing the order and ensuring that the young person is getting the help that they need.

There are often cases when a Children's Panel may feel that certain compulsory measures of supervision and interventions are required to address certain behaviours, including offending. A Compulsory Supervision Order will be used to ensure that the young person gets the help that they need to address their behaviour and its underlying causes.

## **c) Secure Care/Secure Accommodation**

Secure Care/Accommodation is a form of residential care that restricts the liberty of young people under the age of 18. It will be used if a young person is deemed to be a significant risk to themselves or others in the community or has a history of running away from home and may do so again.

## **d) Early and Effective Intervention**

Early and Effective Intervention (EEI) is a way of working with young people aged 8-17 who have committed minor offences. It is an intervention response to offence charges that may otherwise have resulted in a referral to the Children's Reporter.

It aims to divert young people who have committed relatively minor offences away from statutory measures in a timely manner. Evidence suggests that unnecessary involvement in formal processes like the Children's Hearings System and Social Work can result in continued anti-social and offending behaviour, labelling and stigmatisation.

Early and Effective Intervention may take the form of referring the young person to an agency for support, providing direct interventions to address their behaviour or coordinating a multi-agency discussion to ensure that the best outcome is delivered.

It is used for less serious offences and requires the young person to agree to participate in whatever form of intervention is identified to address their offending behaviour. Participation is not an admission of guilt.

It will be used when the Police have gathered sufficient evidence to proceed with a case. Police Scotland will identify potentially suitable cases, based on the seriousness of the offence.

## Your Notes





**Moray  
Community Planning  
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