



To: Lisa Frost, Office of the Sentencing Council
From: Quaker Peace & Social Witness Crime, Community and Justice Sub-Committee
Date: Wednesday 24 February 2016

Dear Lisa Frost,

Consultation on draft guideline for imposition of community and custodial sentences

1. The Religious Society of Friends (Quakers) in Britain is a denomination of around 15,000 members in the United Kingdom. Quakers have worked for over three hundred years in supporting offenders, victims, and the families of both, and in campaigning for reform of our justice system. Current Quaker work in this area includes promoting alternatives to custody, greater use of restorative justice within the criminal justice system, and support for the families of prisoners and for communities affected by crime.
2. Quaker Peace & Social Witness is part of the central organisation of Quakers in Britain. It's Crime, Community and Justice Sub-Committee supports and represents Quakers in the area of crime and community justice.
3. We draw upon a wide range of experience from Quakers individually many of whom work in the justice system, including as magistrates, and collectively as an organisation working in Britain and with our Quaker colleagues in Europe and Geneva.
4. We are for the use of prison only when there is no reasonable alternative. Only offenders who pose a genuine, immediate and/or violent threat to society need to be incarcerated. Although the numbers given in the consultation document show only a small reduction in the number of immediate custodial sentences and a decline in community orders, we continue to advocate community orders as an alternative to prison.
5. We therefore welcome the intention to up-date the guidelines for the imposition of community and custodial sentences to make them more concise, functional and consistent.

Question 1: Do you agree with the general principles for community orders? Please highlight any additional principles you believe should be included.

6. We agree with the general principles, but would like to see the general principles shift the emphasis from punishment to rehabilitation and reparation, making specific reference to restorative justice as one of the 'reparative activities'.

Question 2: Is the guidance on how to identify the level of community order clear? Please highlight any additional information you believe should be included.

7. The guidance is clear. Rather than the seriousness of the offence being the initial factor in determining requirements, we recommend that the first considerations should be reparation to the victim, if appropriate, and measures intended to persuade and enable the person not to offend again. The seriousness of the offence should be a limiting factor, to make sure that measures intended to be rehabilitative or reparative are not disproportionate.
8. 'Reparative' should be defined as including compensation or restorative justice measures in which victims can be offered the chance of a restorative meeting with the offender, if the offender is willing.
9. Restricting the offender's liberty seems to us sufficient as the punitive element. We would prefer to see the rehabilitative and reparative elements of the community order take priority over punishment.
10. However, we recognise that the punitive elements are required by law, and recommend that the way they are presented to the offender and the public should also point to their reparative and preventive features, for example:
 - unpaid work could be presented as service to the community
 - curfew, exclusion and prohibited activity are primarily preventive
 - attendance centres are at least partly rehabilitative.

Question 3: Is the list of requirements clear and comprehensive? Please highlight any additional information you believe should be included.

11. The list of requirements is clear. We would prefer it to include reference to restorative justice and reparation as part of the list: we believe that the concept of rehabilitation is incomplete without this.
12. We note that the Offender Rehabilitation Act 2014 makes it explicit that Rehabilitation Activity Requirement can include restorative justice. Restorative justice requires the offender's consent (in addition of course to the victim's); probation officers writing pre-sentence reports should therefore explain the process to the offender and include a recommendation if, and only if, the offender indicates willingness (and has been made aware that the court may not make such an order and the victim may not wish to take part).

Question 4: Are the specific considerations to be made when determining requirements of a community order clear and comprehensive? Please highlight any additional information you believe should be included.

13. Evidence continues to show that community-based sentences are at least as effective and, subject to certain conditions, much more effective in limiting re-offending than custodial sentences. However we are concerned that effectiveness needs to be seen in a wider context. It is not good for society if, for instance, in the short term re-offending does not occur but in the longer term a family has been broken apart by the experience of the loss of an important member or an individual loses work, home and family. If restorative justice is used within the context of community sentences we believe that these may be made even more effective. The right sentence should take into account the wider public good. It should be proportionate and constructive in the long term.
14. The specific considerations are clear but again we should like to see the balance shift against punishment and in favour of reparation and restorative justice as a basic requirement. The stated purpose of the sentence should include measures intended (a) to make reparation to the victim and/or the community, and (b) to persuade and enable to offender not to offend again.
15. There may be a contradiction in consideration (ii), which says that requirements must be compatible with one another: punitive measures are intended to be painful, with all the side-effects that that can produce, whereas others are intended to gain the co-operation of the offender in making reparation and avoiding re-offending. To some extent this can be avoided by the approach mentioned above under Question 1, namely that the reparative, preventive and rehabilitative features of the requirements should be emphasised.
16. We would like to see (iii) include specific reference to the effect of the sentence upon any dependants for whom the offender is the sole or primary carer.

Question 5: Is the guidance on pre-sentence reports and electronic monitoring clear and comprehensive? Please highlight any additional information you believe should be included.

17. Pre-sentence reports should indicate if the offender would be willing to take part in a restorative justice process. The recommendation to complete pre-sentence reports on the same day, however, would make it difficult to do this satisfactorily.

Question 6: Do you agree with the structure and content of the flowchart for imposition of community orders? Please give your reasons if you do not agree and/or highlight any additional information you believe should be included.

Question 7: Do you agree with the overall proposed guidance on imposition of community orders? Please give your reasons if you do not agree and/or highlight any additional information you believe should be included.

18. The flow chart emphasises the need for a punitive response: as we have stated elsewhere, shifting the emphasis to reparation and restorative justice has been found to have a much more positive effect and is more likely to reduce the incidence of future offending.

Question 11: Please provide any additional comments or suggestions that you have about the proposals.

19. We should like to see the guidance include reference to the Crime and Courts Act 2013 which makes it explicit that the courts can use their existing power to defer sentence post-conviction to allow for restorative activity to take place. We are aware that restorative justice services are not yet available everywhere, but attendance centre requirements are included 'where available', and there is no apparent reason why the same should not apply to restorative justice. We would add, although it is not specifically part of this consultation that magistrates and probation officers could be given official encouragement to establish such services where they do not already exist.

20. In view of the serious overcrowding in prisons, we recommend that when no place is available in a prison that is not overcrowded, within a reasonable distance of the offender's home, all sentences of two years or less should be suspended (with any appropriate requirements).

Question 12: What is your name?

Gillian Charters

Question 13: What is your role and organisation?

Clerk to the Community and Justice Sub-committee of Quaker Peace & Social Witness