

User Views of Punishment

The dynamics of community- based punishment: insider views from the outside

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INTRODUCTION

This report explores the experience of community sentences from the perspective of those subject to them and is part of a larger project on 'User Views of Punishment' in which we attempt to document what the punished think of punishment: how it works, what it means and how it fits into the larger context of a person's life. Where a previous research note explored research findings with a particular focus on the experience and effects of short prison sentences from the perspective of those serving them (Armstrong and Weaver 2010), this research note provides highlights of findings from the analysis with a specific focus on the experience and effects of both prison and community sanctions from the perspective of those currently subject to community sanctions, whose penal experience includes short prison sentences.

METHODOLOGY

The overall project involved semi-structured interviews with 35 people falling into one of the two groups referred to above: those currently serving a short prison sentence of six months or less (the 'prison sample'), or those currently serving a community-based sanction (probation, community service).

The overarching research questions guiding interviews were:

1. What are the *characteristic features* of the experience of prison and community-based punishment such as probation or community service?
 - What aspects of the experience are felt to be useful or not useful?
 - What emotions do the respective experiences engender: anger, boredom, hope, fear, comradeship?
2. How do offenders *compare the experience* of prison and an analogous community-based sentence?
 - What makes one or the other feel like the 'harder' punishment?
 - What makes one or the other more or less useful for providing an environment in which desistance is a possibility

Method of Recruitment

The community sample were recruited through social workers in three local authority Criminal Justice Social Work teams. Social workers were asked to identify people with whom they worked on either probation or community service who had prior experience of short prison sentences to ensure that respondents were able to offer comparative insights into their experience of both short prison sentences and the community disposals to which they were subject. Social workers were then asked to provide potential respondents who were interested in taking part with information sheets and consent forms, prior to providing us with contact details to make arrangements for interview. Interviews were conducted

between February and May 2010 at Criminal Justice Social Work offices in three local authority areas of Scotland. The community sample interviews ranged between 45 minutes and 2 plus hours long.

Features of the Sample

- **Gender and age breakdown:** In total we interviewed 13 people subject to either probation or community service orders across the three local authority areas. The community sample contained three women (two in their early 30s, one of unknown age) and 10 men (ranging in age from 19 to 44 years old).
- **Offence types:** The offences precipitating the imposition of probation and/or community service included shoplifting, assault, reset and fraud, theft, possession of an offensive weapon, domestic assault, wilful and reckless conduct, road traffic violations, robbery, and Breach of the Peace.
- **Sentence lengths and types:** Of the 13 respondents, 3 were subject to a Community Service Order, 4 were subject to a probation order and 6 were on a Probation Order with a condition of unpaid work. Notably, some people had more than one order running concurrently. The duration of the time spent serving their current probation orders ranged from a minimum of 4 to a maximum of 18 months; the lengths of community service were generally between 120 and 300 hours. Two of the 13 participants had commenced their community based orders in 2008, while most were placed on their orders in the second half of 2009.
- **Prior experience of punishment:** Recruitment of the community sample screened in only those with prior experience of short prison sentences. Most people had had multiple experiences of prison, albeit including few short prison sentences comprising in the main '*A whole load of remands and two sentences.*' 9 of the 13 participants had had previous experiences of community based sanctions, and while some people had had multiple and recent experiences of different penalties, with one individual being subject to two probation orders and 8 Community Service orders over the course of a decade, for many their experience of previous community disposals tended to be limited either because they had not complied with previous orders; or because they had been incarcerated whilst subject to the order; or because their previous experience of community disposals had been in the distant past. Similar to the prison sample, a pattern emerged of people reporting that they had been given one or two chances on a community sanction early in their offending careers, often breaching it but not always.
- **Histories of Compliance with Community Sanctions:** Only 2 people had breached the orders they were on at the point of interview although a further 5 people had breached previous orders, often when they were younger. The limited sample size precludes further analysis of the overall level of compliance exhibited by participants relative to a broader population. However, in view of the small-scale nature of this enquiry and participant recruitment methods, the overall level of compliance that participants

exhibited in relation to their current orders may be an outcome of social worker sample selection bias. It might be hypothesised that social workers approached service users who were positively disposed to community sanctions or who were generally compliant with their orders and potentially more amenable to participating in the research.

FINDINGS

1. Perceptions and Experiences of Penal Purposes: Probation is about getting help and community service is about giving help by paying back
2. How community sentences 'work': Punishment as a personal process
3. The pains of prison were mainly felt to be its unintended effects
4. Being out and staying out: Probation worked as a supportive and protective, though time-limited constraint on people's behaviour
5. Community sentences meant people could keep their lives going, or get their lives back on track
6. Doing time on the outside: the negative and positive aspects of time in community sentences.
7. People on community sentences unequivocally expressed a preference for doing community sentences over a short prison sentence – but not because it's 'easier'
8. User's Views: Suggestions for improving the experience and impact of short prison and community sentences

1. Perceptions and Experiences of Penal Purposes: Probation is about getting help and community service is about giving help by paying back

The penal messages conveyed to participants about the purposes of community sentences generally cohere around probation as rehabilitation through the provision of help, and community service as reparation for wrong doing, as paying back or giving help but also as an alternative punishment to custody. There is perhaps nothing new in the construction of the purposes of community based sentences as pivoting, to a greater or lesser degree, around the provision of appropriate help for offenders; the statutory supervision of offenders; the diversion of appropriate offenders from custody; and the reduction of crime (Bottoms and McWilliams 1979:168). Indeed, the idea of supervision as both help and control appears in the current version of the *National Objectives for Social Work Services in the Criminal Justice System: Standards Probation* (Scottish Executive 2004) and narratives surrounding community service (or unpaid work) as, in various measures, a punitive, reparative, alternative to custody have endured in official discourses for decades (McIvor 2010). What is perhaps of further interest is the extent to which these aims have been internalised and acknowledged by those subject to them and the ways in which their experiences of community sentences effectively communicate these aims.

In elaborating their perceptions of the general purposes of probation, based on the messages they received from their social workers, people understood probation as a rehabilitative mechanism in terms of receiving help, which was more often than not construed in offending terms, either to help them gain an understanding of why they were offending, or to help them to move on from offending and to address the consequences that their offending had had on their lives.

So as you don't get back in trouble, to rehabilitate you so you don't go down the same path, the wrong path. 32 year old man, Combined Probation and Community Service Order, Domestic Assault (CS03)

They said it's a thing that helps you go through all your re-offending and if you've got alcohol issues cos a lot of mines was related to drink and its been sorted out now. My probation officer helped me so it was about helping me not re-offend again and getting my lifestyle back to normal without offending - and getting your family back talking to you and that. 22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)

To learn to live in the community. My worker said I was to do relapse prevention and look at why I was doing things and help me to think about things instead of me having a bad day and just getting myself the jail. I did that when ever I couldn't cope with things. And she said she would help me learn to deal with situations and analyse it all. 29 year old male, Probation, Shoplifting (CS09)

Whilst probation's rehabilitative purposes were both perceived and experienced as an individualised and supportive process, equally probation was experienced as a process of regular monitoring and compliance.

I knew probation was about going over your life story with you, kind of thing, and they keep on top of what you've been up to and what you've been doing but I don't mind that cos my probation officer is a good guy... The purpose of it is cos I've committed an offence and a probation officer needs to keep an eye on you and ask you things about what you've been doing, make sure you're complying. 31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)

In elucidating their perceptions of the purposes of community service, most people recognised that the ostensible aim was for them to give something back into the community, as a way of paying back for wrong doing.

*They said community service was my way of putting something back into the community. **33 year old woman, Combined Probation and Community Service Order, Wilful and Reckless Misconduct (CS05).***

However, what the following quotes illustrate is the degree of convergence between the stated purposes of community service as both reparative and punitive and their experience of it – how it made them feel.

*It made me feel like I'd paid back what I done wrong. What I did didn't hurt the people I helped on Community Service but I got the chance to help somebody else like the old people with their grass and the weans – decorating their youth club. **38 year old man, Community Service, Theft (CS02)***

*Aye ... to pay back to the community after you done something wrong... it's to give something back - to pay back - and you do, you put a lot into the community. I mean it's about punishment as well and it did and it didnae feel like one if you ken what I mean. **38 year old man, Community Service, Theft (CS02)***

People also seemed to understand community service as an alternative punishment to a short prison sentence, which was underlined by the pervasive threat of prison in the event of non-compliance.

*Community service is the last stage before you get jail so if you breach it, you know when you go up for it your going back into prison. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace(CS08)***

*She just said community service was a direct alternative to jail and you need to do your graft and its three strikes and you're out so if your sick you need to get lines, so she told me what the rules were really. I knew people on it anyway.....Community service is more teaching you a lesson so you know you can't do stuff and just get away with it. So you need to be punished. **19 year old man, Combined Probation and Community Service Order, RTA (CS04)***

What the foregoing quotes illustrate are the multiple simultaneous functions, perceptions, impacts and experiences of community sentences which contrast with the comparatively monotonous experience of doing short prison sentences as something to be endured and managed (Armstrong and Weaver 2010). The people we spoke to recognised that the ostensible purposes of probation were about rehabilitation through the provision of help and this was perceived as an individualised process, through

engagement in one-to-one or offence focused, cognitive behavioural work whilst simultaneously involving a process of monitoring and compliance. Community service was acknowledged as having a reparative function, and was experienced as a means of paying back by giving help by providing people with an opportunity to engage in pro-social activities, whilst simultaneously functioning as an alternative to jail, which was more or less experienced as pointlessly or vindictively punitive in effect.

2. How community sentences work: punishment as a personal process

The preceding highlights illustrate that the perceived purposes of probation and community service are often rationalised, by those subject to these orders, in reference to the specific focus of the different orders. Here we focus less on what people thought the purpose was supposed to be and more on what it was, as a lived experience. People identified the focus of probation as being both retrospective, in terms of getting help to understand their own past offending behaviour, and prospective, in relation to the provision of support to move on from offending. However, in realising these aims, the types of help offered through probation interventions were rather more immediate in terms of receiving help with people's pressing problems, which were addressed either through talking therapies - or conversational approaches - or through the provision of more direct, practical assistance. The pressing problems that people frequently cited receiving help with on probation included help to address problems with drugs or alcohol, with housing or homelessness, and less frequently with support in relation to employment. The prevalence of addiction issues across the sample is highlighted in our earlier research note and needs no further elaboration here (see Armstrong and Weaver 2010). What the examples below further illustrate is that the approaches used in probation interventions are experienced by people as being *as* concerned with their emotional well-being, as much they are with addressing their thinking processes, and more often than not are centred around addressing addictions and supporting people to find stability in otherwise chaotic lives as either a prelude to, or as a means of addressing, offending behaviour.

*I've just came and spoke to my social worker and if I've got any problems she will help me deal with them – any sort of problems she will deal with, but we also talk about the reasons why I'm here. During my background reports I had told her a lot of things about my past so she is also helping with things like that so. **Woman, Probation, Reset and Fraud (CS12)***

Mostly just seeing my social worker but I went to one group or something, its a long time ago and me and my worker talk, you get reviewed and you fill out alcohol forms and look at how I felt when I was doing all they things – you had to write everything down and talk to your social worker and go

*through it all and that was basically it. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

*Going to drug and alcohol counselling and through them I'll hopefully get back to work through Apex and they've taught me when to say no through questionnaires and leaflets and that. They don't tell you anything new, it's just what it tells you about yourself that helps. It's good. You get help on how to fill out applications forms for jobs and you know where to go to ask for help. **27 year old man, Probation, Assault (CS13)***

*On probation they just like to see how you're getting on, we've been taking things slowly really just now and setting wee goals for myself, helping me to get into a normal way of life again, cos I was on heroin for 12 years and when you're on drugs, that's all you care about – everything else can wait basically so you need to get into a whole new frame of mind and that's really hard after 12 years. **32 year old man, Combined Probation and Community Service Order, Domestic Assault (CS03)***

*A lot of stuff, she's been great. We'll sit and talk if I've got problems and work stuff out like when I got evicted from my house she sat with me all day and helped me sort it all out and got me somewhere to stay. I'm going to be going to drug and alcohol counselling but she wants to get me more stable before that starts. **31 year old woman, Probation, Shoplifting (CS10)***

What is also clear from the preceding examples is the value people placed on their social worker taking things at their pace and dealing with the concerns that mattered to them. In other words, personalising the supervisory process - in the sense of giving the individual attention on a one-to-one basis, paying attention to the individual, their needs, and tailoring the intervention to those individual needs. Where this dynamic was absent, this threatened to undermine the utility and meaningfulness of the order, on an emotional and on a pragmatic level.

*One-to-one, talking to my worker, but it was hard at first cos I'd get mixed up with my letters and I had a lot of trouble so I asked for another worker and I got one and it's been easier since. The other guy was too busy - I think he didn't have enough time for me. My new worker is great and it's been fine since and I got a bond with her and she doesn't judge you or nothing and she's open minded and she's seen a change in me. She's got me another support worker who helps me get out and about and helps me with the house and budgeting and its taken pressure off my mum, cos my mums already bringing my daughter up. **29 year old man, Probation, Shoplifting (CS09)***

The types of help that people gave to the community while on community service were immediate in focus (as opposed to participating on more enduring or perennial projects), and were essentially manual and menial in nature, commonly including gardening work, painting and litter-picking.

*Started off grass cutting, cutting old folks grass, and then went on to cleaning up the town, and fae there to painting railings and going up to the park to do stuff there and clearing up the ice and that fae the bus stops. **38 year old man, Community Service, Theft (CS02)***

*Doing things for the community like litter picking and grass cutting and stuff like that, painting and that. **19 year old man, Community Service, Breach of the Peace (CS07)***

For some people we talked to, it was clear that the process of putting something back into the community by helping people made them feel good about themselves. In this sense, there was an affective, or emotional, dimension to the experience of giving help, in terms of being seen to repay your debt to society by doing something that both they and the community recognised as being helpful, as recompense, or as an antidote to the 'trouble' some people felt they had caused. That people frequently mentioned undertaking this work for perhaps more vulnerable members of society who could not necessarily undertake this work for themselves, or who had no-one else to do it for them, would suggest that this dynamic further contributed to the distinction between what might otherwise be construed as simply manual and menial labour for its own sake and the more constructive configuration of community service as giving help. We return to and elaborate on this theme in our concluding comments.

*Ground work, cutting grass, litter picking, anything that needs done really, we've to do it basically – painting fences cos there's a painting squad and a gardening squad and I'm on a gardening squad. If it's icy we get sent out with ice breakers to break ice and get it away fae bus stops and we got recognition for that in the papers and all. **29 year old man, Community Service, Shoplifting (CS01)***

On community service you do feel like you're giving something back but if you go to jail you done nothing, not a thing, for anybody. What can they say you paid back to society? Time? Does society need time fae me spent lying in a cell. No. You've took from society the money it costs to keep you there. If you're on community service, you can honestly turn round and say you have worked in an old folks home, or delivered a bed to young mum for her wean. Or you do work in the parks and when you go by you can say, I done that. It makes a difference to you when you can see you've done something whereas if you get 6 month you've done nothing. Vegetated and got bitter and tried to

work out how not to get caught next time. 44 year old man, Combined Probation and Community Service Order, RTA (CS11).

Community service – paying debt to society. When you're causin' trouble you feel bad about yourself but you feel good about yourself when you're out there helping handicapped people and doing their grass and that. You've helped people that need you there. 27 year old man, Probation, Assault (CS13)

While the constructive affective dimension of giving help was a dominant theme across many accounts from the community sample, for others, paying back to the community was experienced in a more retributive, restrictive and punitive sense, as a fine on their time.

Community service [is] keeping me out of prison cos prison these days is not a deterrent, I'd say community service is more a deterrent than prison is because I've seen people coming out of court with 240 hrs community service and they are saying 'oh yes' and I'm sitting thinking, oh I wouldn't be saying 'oh yes' if I was you because you've got all they hours to do and it takes a lot of out of you, if you got all kinds of things to do that day – it can disrupt your life...you're out working where as you could be out trying to find a job that you are getting paid for but you're out doing community work for nothing. 29 year old man, Community Service, Shoplifting (CS01)

I don't know really – trying to get their streets cleaned up, I don't know – trying to keep you out of trouble, trying to teach you not to do it again cos it is a pain coming here all the time. 19 year old man, Community Service, Breach of the Peace (CS07)

Drawing these themes together, the extent to which community sentences meant something to people generally related to the extent to which these sentences were experienced as personalised and constructive. People found meaning in community service where they perceived their work was helpful to some of the more vulnerable groups in society or where the work undertaken was constructively recognised and appreciated. Conversely the idea of paying back in its more punitive sense was equally personal in terms of the demands community service placed on them. People experienced probation as personally meaningful where they could discern the worker's commitment to supporting them to make constructive changes in their lives, in ways, which respected and responded to probationers' personal and social contexts.

3. The pains of prison were mainly felt to be its unintended effects

A dominant theme emerging from the community sample's evaluation of the impact of short prison sentences was that it exerted a disproportionately punishing effect on their lives, in relation to the destructive secondary effects of short term prison sentences. People identified these effects as including the loss of significant relationships, employment and accommodation. Yet, in considering the constitution of punishment, there is wide consensus that 'it is essential to the definition of punishment in the criminal context that it is inflicted because of behaviour which transgresses the criminal law, and that the pain or hardship involved is intentional, not just a coincidental or accidental outcome' (Hudson 2002: 234). However, the significant pains associated with short prison sentences seemed primarily to relate to the accidental or unintended outcomes, with the deprivation of liberty, the ostensible punitive element, being less prominent in the community sample's accounts of the impact of this sentence.

*You lose your kids, freedom, your friends, you can't do anything, and you're meeting all types of people. Most people in jail, its drug related, especially here and that's how they're overcrowded. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)***

*Well, for one, the disadvantage is you lose your house, you have to start from scratch on release to build up your status for employment because you've lost your job. You lose your relationship cos not a lot of people could put up with no money coming in – and you get so possessive. You get angry cos she's out, and if you phone and she's not there you start thinking 'where the fuck are you, you should be there when I'm phoning you' and it's not right but you get so paranoid and insecure and it causes nothing but grief. There's a lot to lose in 6 months. The Courts don't think about that. **44 year old man, Combined Probation and Community Service Order, RTA (CS11).***

*I lost my house and everything and my wee boy got put into care – I mean it should be the last option to send you to jail because they've got a lot more things they can do with you **31 year old woman, Probation, Shoplifting (CS10)***

In addition to the disproportionately punishing, coincidental effects of short prison sentences on individuals' lives, a further undesirable dynamic associated with short prison sentences related to the meaninglessness with which this form of punishment was apprehended by our sample. This related both to the absence of clear purpose, and to the practices of short prison sentences described in relation to the absence of help and support, and the insignificance attached to the mundane and monotonous types of work people were generally required to do.

*Its pointless cos you go in there, you lose your house, everything and they do nothing to help you in the slightest. **31 year old woman, Probation, Shoplifting (CS10)***

*Once you're in the jail, there's nothing to stop you going back down that road but if you get probation or community service you can justify it by getting involved in doing things to help yourself, to help you stop doing the crime. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

*You get nothing to do really when you do short term sentences though – you go through reception and then you're left to just get on with it, play pool, watch TV, go to the gym but you don't get education, though you do get work parties but you're just stripping copper wire all day and it's horrendous. **29 year old man, Community Service, Shoplifting (CS01)***

*I was in the joiners and you'd go down the workshop and you were just left there, I just remember a lot of sitting about. The weekends were murder cos you were locked up all weekend. **27 year old man, Probation, Assault (CS13)***

For many, therefore, with the exception of treatment and support for addictions, nothing was seen positively and nothing positively made a difference – short prison sentences at best simply put their lives on hold. Whilst people found that their sentences were too short for them to be eligible for many kinds of programmes and activities in prison, to access the necessary help and support to engage in processes of change, similarly these sentences were too short to be able to disengage from life outside – a term referred to as 'gate fever'.

*Well if you are doing a long term sentence, you get settled in and that but if you're only in a few weeks or months, you are always thinking of the outside and you're counting the weeks till you get out and it annoys you. It's harder in a way **29 year old man, Community Service, Shoplifting (CS01)***

*You're always waiting for the day you get out. As soon as I was in, that was all I could think of, because you know you're not in for long and you can't help counting down till your lib date but if you were in for longer, you wouldn't even be thinking about when you were getting out because you know you're in for a while **19 year old man, Combined Probation and Community Service Order, RTA (CS04)***

*You can't get settled because you're going back out, like permanent gate fever. I'd rather have done a longer one. **29 year old male, Probation, Shoplifting (CS09)***

4. Being out and staying out: Probation worked as a supportive and protective, though time-limited constraint on people's behaviour

A theme that emerged from people's review of the positive features of community sentences related to the fact that being placed on probation or community service meant that they avoided being sent to prison. What is particularly interesting, however, is *how* people described these sentences as working to keep them out of prison. While avoiding a prison sentence was an understandable, if not predictable, advantage of being placed on probation, being on probation also provided the necessary support or structures to help keep them out of jail in the immediate future at least.

*I didn't go to jail, that's one good thing and there's the support there if I need it that I wouldn't get anywhere else. **Woman, Probation, Reset and Fraud (CS12)***

*It's a landing net for you. There's always a chance you'll go back though to prison cos you can breach your order but the support, attention and open-mindedness is great. **29 year old male, Probation, Shoplifting (CS09)***

For some people a benefit of being on probation, then, was that the 'existence' of the probation order itself seemed to create a supportive, protective structure, a positively experienced constraint on their behaviour, reinforced by the threat of imprisonment, which 'really made [them] stop and think'.

*Probation [is] a safety net for you. It's like prison but you still have your family but you're still tied to the criminal justice system and if you don't go you'll get jail. It makes you feel secure. You know you've got that there to look after you if you need it. It's a safety net. They have that hold on you. So it's like jail but with freedom. **29 year old male, Probation, Shoplifting (CS09)***

*If you think you are going to do something, you will think about it more, like oh no if I do this, I'm going to get the jail. So now I think before I react, whereas before I react before I think and then it's too late and your worker will help you and talk to you one to one, like a counsellor. He likes to know what you're doing and how you use your time. I've got 3 kids and when I was on kit years ago, I lost all contact with two of them and now I'm in the middle of seeing if I can get contact and he helps me with that. He helps me to calm down and take things slowly and we do things one step at a time, and he helps me manage things in order, whereas before I would go off my head, jumping about cos everything was so overwhelming. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)***

Probation makes you really stop and think about what you are doing, that you need to stop offending and what's going to happen if you don't. 19 year old man, Combined Probation and Community Service Order, RTA (CS04)

Although avoiding custody was construed by some people as a benefit of probation and a source of motivation to comply with probation, the self-discipline and responsibility this engendered was viewed by some as time-limited in effect. Thus, while a probation order operated as a protective structure during the order, the conclusion of the order or the gradual reduction in the frequency of requirements to attend had the similar demob happy effect as being released from prison.

Apart from practical help – [being on probation has] kept me on straight and narrow – when I finish probation it's going to be a test because knowing if I re-offend I can't get into bother but if I re-offend on an order I'll get prison. When you've not got it it's a test. 27 year old man, Probation, Assault (CS13)

If you have something to do, it can get in the way, it's a big commitment but if you can show them that you're working at it and trying to help yourself then they'll put you down to monthly [attendance]... so you'll get a bit of slack, enough to hang yourself! So you can screw up that way. 29 year old male, Probation, Shoplifting (CS09)

You're tied to appointments all the time and I'm feared in case something slips up and I end up doing a year and a bit of my probation and then just mucking it up in the last stages cos that's what I seem to do, I do ok then in the latter stages I muck everything up. 33 year old woman, Combined Probation and Community Service Order, Wilful and Reckless Misconduct (CS05).

5. Community sentences meant people could keep their lives going, or get their lives back on track

For many people, one of the benefits of being on a community sentence was that this gave them the opportunity to keep their lives, and particularly their relationships going. Relatedly being on community sentences similarly seemed to mean that not only they, but their families were spared from experiencing the loss of a parent, wife or husband, a reminder that short prison sentences impact not only on the person doing time, but their families as well.

If I'd went to jail it would have ruined a lot of things for me cos my children are in care and that and I've got to - this is my last chance of getting them

*back so being on probation and not going into jail means I can see them all the time and keeps my access up with them and it keeps the social worker off my back at panels as well cos she's not too happy with my lifestyle and if I had another sentence on my record she would hold that against me. **Woman, Probation, Reset and Fraud (CS12)***

*When I was single – it wouldn't have bothered me [going to prison] but cos I'm married with weans now it would have affected me more getting prison than it would have getting CS cos my wife was working at the time and she'd have had to give up her job to get the weans to school so it was a godsend getting cs. The weans were used to me being there every day, taking them to school and making sure everything was alright so it would have been confusing for them thinking I'd have just disappeared cos i wouldn't have wanted them coming in to the jail to see me. **38 year old man, Community Service, Theft (CS02)***

*I've had the jail 3 or 4 times and that doesnae work cos I was coming back out and taking heroin each time and I had nobody but now I see my girlfriend, my pals, my house is in order so I don't want to lose all these things like that cos it can take you two minutes to lose it all and three or four year to build it all back up if you can find the energy, cos you give up and all. I mean people used to cross the road I walked down on as if they didn't want to know me cos I looked like a junkie. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)***

Similarly, for some people, community sentences provided them with the support and opportunities to get their lives back on track. People described the changes they had observed in themselves and on their lives, which they related to the support they had received from their worker. For some, this also had the effect of helping them mend or maintain significant personal relationships.

*My head's clearer now, I'm on methadone, and now my head's clearer so I know now I'm on the right path to changing everything round about me and I know probation can help me with that and my worker he's a good guy and doing this is bringing me closer to my family as well. **33 year old woman, Combined Probation and Community Service Order, Wilful and Reckless Misconduct (CS05).***

Being more open and that, talking and that. Not running about with people. Like I talked to my worker about what had happened – the people I was running about with and that and then I stopped hanging about with them

*and I've got a girlfriend now and all and I'm just keeping my head down now so. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

*It's helped me grow up and stop acting daft, and it's helped me get back with my family and get respect and that, cos I didn't have any before, I didn't care about my family, it was me or nobody. I didn't care what anybody else thought, I was just going to do it what ever it was. It's made me realise that your family is the closest thing to you. It's really helped. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

For others, being on probation had helped them to become more resilient through the development of problem solving or coping skills, or probation had effectively created the space and provided them with the support they needed to help them cope. In each case, this had meant that they had managed to avoid offending during their order.

*It's given me a positive attitude so I don't need to run to prison all the time and I can stand up to the trials of life better now. They take time to listen to you and show you strategies to help you cope with things. I've learnt there's a solution to everything and I've learnt that if I really want something I can do it. **29 year old man, Probation, Shoplifting (CS09)***

*This is the longest I've went without being in trouble. Partly that's to do with if I do get stressed out, I can just get on the phone and speak to my worker instead of doing something stupid. That and I'm in a stable relationship now ... So being out, and not in jail gives you chance to keep a relationship going and to think about what you can do to help yourself you know. **44 year old man, Combined Probation and Community Service Order, RTA (CS11).***

*It's kept me going the right way. Before I came here, my life was really messed up – that's how I got the charges, but coming here has helped me to keep going the right way, you know having it in my head what could happen if I screw it up, its stopped me from doing a lot of things, coming here and I ended up homeless while I was here and my worker helped me get – gave me advice as to how to get myself sorted out and that's me back in the house now and she did say if I had any problems she would help me out even more. So I'm more stable and independent now **Woman, Probation, Reset and Fraud (CS12)***

6. Doing time on the outside: the negative and positive aspects of time in community sentences.

The control of time is essentially the penal mechanism of community sentences. In certain contexts, such as the immediate experience of 'doing' community sentences, this dynamic of punishment was experienced as a negative feature. More broadly, however, in the contexts of people's lives - of which punishment itself is only one part - it had a more productive or constructive disciplinary quality.

The negative features of community service that people identified in this regard related to the way in which their time was used, or misused as a consequence of the way in which it was run. Critiques included not maximising or utilising the skills that people on community service had, the inflexibility or rigidity of attendance times, and the lack of work to do, which left people feeling that their time was being wasted. It is not difficult to discern from the proceeding quotes how these perceived administrative shortcomings are construed by people as evidence of disregard for their efforts and their time, which can threaten to undermine the legitimacy of the order, people's sense of fairness and as one person suggested, motivation to attend, and therefore comply.

*Community service is like prison cos they don't utilise peoples skills the way they should do. I've known painters and decorators doing community service who they've got cutting grass. In jail they do that, so if you're a qualified chef then you'll get a garden job in the jail, know? That's cos the officers in the kitchen are qualified so you're going to be better qualified than them. Its that or just laziness, like they just don't think. **44 year old man, Combined Probation and Community Service Order, RTA (CS11).***

*Things like attendance, if you've to be there for quarter to nine – but nobody leaves till 9.00 and if you get there at 2 minutes past, somebody's still there – like a worker and then they'd just send you home, and that could be your final warning and you could be breached and you'd be going to prison but instead they could just take you out to where it is, so things like that so they could be more flexible. **29 year old man, Community Service, Shoplifting (CS01)***

*It can be hard to motivate yourself to come but once you are at community service it's alright and you work for so long and then there is a lot of sitting about and you get bored basically... Sometimes you come out a Sunday and there's not enough supervisors and you get sent home and you've lost your shift and you only get two hours for going in. Then sometimes you get put out with people who use heroin and that and they just don't want to work so it doesn't motivate you. **27 year old man, Probation, Assault (CS13)***

For some people, however, the requirement on them to attend either probation or community service had a constructive quality in that it injected a level of structure and a routine to their week, which many did not otherwise have. The positive effects that people attributed to this injection of structure included increased personal motivation and having less time to think which for one person distracted them from thoughts of drugs and alcohol, and for another reduced their feelings of paranoia.

*It's something for me to do ... It could lead to, well I could end up doing on community service that would help me to get a job because you've got experience then of work ... I'm doing a supervised attendance order now too and I do that on a Monday and a Tuesday, CS on Wednesday and Sunday and on Thursday I go to wise group for job search so I'm busy which is good cos if I sit about too long my mind starts to wander and I think about drugs and drink, whereas if I'm working I can stick to my script... and it gets me motivated to get up in morning to go to it whereas before I'd just lie in bed till 11 and let her get up with the wean and that and now I get up naturally early cos I'm used to getting up. **29 year old man, Community Service, Shoplifting (CS01)***

*You've just to get on and do it and try not to get any more charges and that—it gets you out of your shell, out of that lazy attitude and cos you're not just sitting about with nothing to do, you don't get all that paranoid way so much. **32 year old man, Combined Probation and Community Service Order, Domestic Assault (CS03)***

*Once I got out the jail I was needing to – see once your in the jail you've not got any motivation know so when I got out and started CS that motivated me to get a job cos when you're in the jail you get everything done for you – you don't need to work. When you come out its a big difference, even though you're maybe only in four month, still, its a big shift. When you leave your job to go in a place like that it's hard to – when you come out, to find your feet again you know? That's helped me. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

Where themes surrounding time wasted and the inflexibility of time frames in respect of reporting arrangements were mainly related to how authorities exercised power in the administration and delivery of punishments, and therefore to the way in which individuals felt their time was used or misused, it was also clear that for some people, community sentences helped them to develop some control over their lives by using time engaged in punishments to develop a routine and structure in their lives. Thus, control of time as the penal mechanism of community sentences had both a negative and a constructive quality– not least in providing a safety net as we saw earlier, but also in terms of creating structure, and modelling time management behaviour.

7. People on community sentences unequivocally expressed a preference for doing community sentences over a short prison sentence – but not because it's 'easier'.

Previous research into sentence preferences shows a general preference for a short jail sentence over a longer community sentence (Petersilia & Deschenes, 1994; Petersilia, 1990; Payne & Gainey, 1998; Wood & Grasmick, 1999; Searle et al., 2003). However, in both the prison and community samples, people expressed a preference for community sentences over short prison sentences. Whilst one might readily infer from this finding that doing a short prison sentence might be viewed by those subject to it as more severe or punitive than probation and community service (May and Wood 2010; Morris and Tonry 1991), and indeed assume that people would not be likely to prefer a sanction of increased severity over another, with the community sample this line of reasoning did not pertain. The community sample generally found short periods of incarceration less onerous than community sentences. This difference is likely to be because research on sanction severity primarily measures punitiveness and excludes other experiential aspects and meanings attached to the various forms of punishment which this research has revealed.

As this research note has illustrated, there was a general consensus amongst the community sample that prison exerted a more severe impact on their lives than community service and probation, this was notably so in relation to the destructive unintended effects, such as the loss of significant relationships, employment and accommodation, rather than the immediate experience of incarceration, which at best was insignificant to them. Conversely, and without exception, the community sample rated the impact of community sentences as having a constructive effect on their lives, which in no small measure was related to retaining one's liberty and being able to keep one's life going, or get one's life back on track. However, as we have shown above, what perhaps made community sentences more onerous were the challenges of sustaining compliance over time, in contrast to the forced but passive compliance characteristic of prison regimes. Although the pressures of sustaining compliance and the associated, pervasive threat of prison was construed by some people to be a negative feature, this was also the means through which it achieved positive effect in providing an incentive to avoid offending – at least for the duration of the order.

*The disadvantage I suppose is that I have a year to go so I can't go outside and across to my ex-Mrs cos she will just phone the polis and say I done this or that and I would get a charge and I'd be straight to jail and that would be my probation and community service revoked and I would get a new charge and a longer [prison] sentence. So there's that risk there you know. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)***

Indeed, comparatively, the immediate experience of prison was often referred to in terms that indicated it was relatively undemanding and unproblematic, one without the challenges and commitments associated with community sentences – or indeed, their life in the community.

Community Service [is] keeping me out of prison cos prison these days is not a deterrent. I'd say community service is more a deterrent than prison is because I've seen people coming out of Court with 240 hours of community service and they are saying 'Oh Yes!' and I'm sitting thinking, 'Oh, I wouldn't be saying 'Oh Yes!' if I were you because you've got all they hours to do and it takes a lot out of you. If you've got all kinds of things to do that day – it can disrupt your life....I know in [prison] and that you're locked up, fair enough, but you've got everything you need and everything is getting done for you but community service, you're out working...for nothing. 29 year old man, Community Service, Shoplifting (CS01)

8. Users' Views: Suggestions for improving the experience and impact of short prison and community sentences

6 out of the 13 people who were on community sentences were unable to identify any way of improving short prison sentences and this seemed in the main to reflect their negative views of prison. One person suggested that people needed an incentive to go straight when they get released from prison. As he points out, if people have nothing, what have they got to lose by returning to prison again and again? Given the cumulative, destructive effects of short prison sentences on peoples lives, this perhaps goes some way to answering the question we posed in a previous paper: *'one wonders given the long-term track record for so many of our respondents how often a desire never to come back translates into its realisation'* (Armstrong and Weaver 2010 p11).

When you go in, 9 times out of 10 it's the same faces but they come in at different times. The thing is you can't do nothing about that if nobody's got an incentive. Like if you get out and there's a job for you and your getting a wage that'll keep you out of bother but if you have nothing, nae family, nae house, nae clothes, then why would they bother there arse, why would they care. They want things to be different but they don't have any way of changing things. 31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)

Other people offered some suggestions that cohered around the idea of making their time in prison count, with suggestions that resonated with their experiences on community sentences in terms of accessing support or getting their lives back on an even keel. Suggestions included providing short sentence prisoners with help and

support during their sentence, which could be achieved by making programmes or courses available to people on short prison sentences or through intensive involvement with social workers.

*To get programmes, on drinking, cos see in the jail you can only get a programme if you're doing nine or ten month, and with wee daft sentences like 6 weeks or two months, you get nothing and they don't help you. There's no support nothing. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

*Well you need to actually open doors, give them a course, take more time for them, to help them. If they had the same regime as for LTPs [long term prisoners], if everyone was equal, and they had the same structure, things would change. If they give you a plan like they do with LTPs. You know people sit down and talk to you like probation but in the jail. That will help people stop going in and out all the time. They keep doing it cos there's no help for them. It's mad. **29 year old man, Probation, Shoplifting (CS09)***

*Work with them more and, when they get in, get social workers in the prison working with people daily or 2 / 3 times a week to help them. Show them rights and wrongs if they not get shown at home. I never seen one once. **27 year old man, Probation, Assault (CS13)***

A number of people had no suggestions for improving community sentences, although this seemed to reflect their positive experiences on their current orders. Other people suggested being more flexible in relation to attendance if people were late or having more flexible office hours, if people had other commitments during the day. For community service particularly, people suggested that there was a need for a greater number and variety of work placements to make sure they weren't just sitting around waiting with nothing to do.

*Well being more flexible, maybe having a spare van there so that they can take folk that are late out. More variety. **29 year old man, Community Service, Shoplifting (CS01)***

*It's easier to do a community service cos you can work it into the weekends but it's a nightmare trying to do probation if you're working, practically it's hellish. Probation needs to be more flexible, none of this 9-5, so people who are in full time employment can actually come in cos not everyone can afford to take a day off. A lot of bosses will say ok, you mucked up, we kept your job open but we still need you here everyday. Not everyone works local and that's a massive problem. **44 year old man, Combined Probation and Community Service Order, RTA (CS11).***

*They need to try and get more activities [on Community Service] cos sometimes you're just sitting about and your day really drags right in. If you finish your work at 1.00 pm you still need to stay till 4 pm and you can just be sat in the van and that. More variety and make sure we're always busy. **19 year old man, Combined Probation and Community Service Order, RTA (CS04)***

While some people had appreciated that their work on community service had been publicly recognised, other people referred to the stigma attached to doing community service. One person suggested educating the public about the variety of people who do community service and the nature and impact of the work undertaken, another suggested making the work that people did on community service more worthwhile and less 'demeaning'.

*What I hate is everyone thinks you're a junkie when you're on CS so there's that you know? Working class people in blue overalls and cos we're doing removals or painting people's houses they'll turn their nose up at you. BW: What could we do about that?more publicity so they know what it's about - like adverts on telly or a campaign cos you go into some folks houses and it's the pits and if you're painting it, well you need to do all the preparation and it's harder than people think, it's real graft and some of it you're really helping people you know. **31 year old man, Combined Probation and Community Service Order, Domestic Assault & Breach of the Peace (CS08)***

*I know some people think probation and community service is beneath them. Cos people have got statuses and they'll say you'll not get me in a pair of overalls going picking up litter – because they stay in the area and it's demeaning... cos if you got a status, you need to back that all day every day, and litter picking isn't going to do it. You need to make community service worthwhile so that it doesn't bring people down, that it takes nothing away from, make it so that they're doing something people will think well of them for, genuinely, like building children's play area, make it more appealing. So get projects that are worthwhile.... Most of the guys on community service have got weans, they know their weans will go the same way unless something is done about the community, why not get them involved in changing things, not just for the community, but for their own [children]. **44 year old man, Combined Probation and Community Service Order, RTA (CS11).***

Somebody else suggested that people could get assistance to obtain employment. To this end, he suggested that community sentences could be focussed on helping people to develop vocational skills or experience that could be transferred into employment.

*Well I really need to start working, I need to get an income, you realise that when you start going down the right path, know – I mean I've got 3 step children and my last job I had was in London when I was 25 and that lasted a week so help in getting work would be better really, know? Even getting skills you [could] take to work or getting put on a work placement so you could take that on to a job you know? **32 year old man, Combined Probation and Community Service Order, Domestic Assault (CS03)***

Another person suggested that group work on probation could take the form of a peer informed support or discussion group, in the form of a support group, where people could share their experiences and learn from each other instead of 'answering sheets of work'.

*Maybe having a group exercise and getting people – not answering sheets of work – but just talking about how they feel maybe when they're getting into trouble – maybe 5 or 10, asking them to talk about it, and how their family reacted – and just see what their answers would be cos you'd get a lot of different answers and I think people would really listen to each other and I don't know why they don't do that, know like they do in AA and that. Then people who've done daft wee things like drinking in the street will hear people who've been in jail for assault and that and maybe that would make them think a bit more about the way they're going, about what it can lead to. **22 year old man, Combined Probation and Community Service Order, Assault to Injury and Robbery (CS06)***

Another suggestion related to the identification of or provision of support or access to support groups after their community sentence had finished, which he suggested might go some way to addressing the de-mob happy effect that some people experienced when their orders concluded.

*I've done 7 or 8 community service orders over last ten years and I breached two of them as a YO [young offender]. You see the problem is I get to the finishing line, and I go out and I'll have a drink and I'll get caught again with fighting but I'm not going to do that this time. It's like a lid gets lifted off and you are free to do what you want. I think there should be more help for you after you finished community service or probation, so you can keep in touch with people, and phone them up and speak to them. If you've got something on your chest and you don't want to go out there and hit somebody – you could phone someone up and talk away to them. I know maybe there is groups out there but it's just getting the information through. **27 year old man, Probation, Assault (CS13)***

CONCLUSIONS

We conclude this note of interview highlights by drawing out some implications of these identified themes.

The Meaningfulness of Punishment – In the main, community sentences were apprehended as ‘constructive punishments’ (Duff 2003:181) in relation to the generally positive and helpful impacts that they had on some of the people we spoke to, and their lives, in contrast to the monotony, impersonality and meaninglessness of their immediate experiences of short prison sentences, and the destructive, unintended effects that so often accompany this form of punishment. What made community sentences more meaningful than short prison sentences was that people perceived that the support they received on probation was personalised, or individualised, and took account of the difficulties that people were facing in their lives. People valued remaining in the community to keep their lives going and they valued the individual attention they received from their social worker, and the provision of help to resolve some of the difficulties they were experiencing, that made it difficult to get their lives on an even keel. Where community sentences were experienced as depersonalised or insubstantial - where the social worker was perceived as being too busy for them, or if they were sitting around because there wasn’t enough work to do on community service - this diminished the potential impact and detracted from their ability to find meaning in the punishment. This suggests that punishment ‘works’ when it is personally meaningful to the person being punished but not when it is too easy or hard for the wrong reasons (see also Armstrong and Weaver 2010).

Our research revealed that, from the perspective of the punished, there was a broad correlation between the purpose, form and content of the specific community based punishments under enquiry; those subject to them could see the point in these sentences, which they recognised as being about getting help (probation) or paying back by giving help (community service). People identified the focus of probation as being both retrospective, in terms of getting help to understand their own past offending behaviour, and prospective, in relation to the provision of support to move on from offending. This is broadly consistent with Duff’s argument that if punishment is to be meaningful, the message communicated by punishment must be a message focussed on and justified by the offence (and in this sense retrospective and retributive) but also forward looking (and in this sense consequentialist). Duff’s theory of communicative punishment suggests that punishment should be oriented to bringing an offender to a recognition of the wrongfulness of past conduct, as a means of helping an offender to bring about a change in their behaviour, avoid wrong-doing in the future, and to repair those relationships damaged by their offending (Duff 2001). Community sentences, Duff argues, are therefore appropriate forms of punishments for these goals of punishment which are inclusive rather than exclusive of offenders, as opposed to imprisonment

which he argues should be reserved for only 'the most serious kinds of crime' (2003a:187).

Duff (2001; 2003b) views community service as a public apology and thus a mode of reparation, that seeks to bring the offender to face up to the wrongfulness of his conduct. He suggests that 'performing work for the community further enables the offender to express his or her understanding of what he or she has done and his or her renewed commitment to the community' (Duff 2003 in Rex 2004:117). The people we spoke to acknowledged community service as having a reparative function, and indeed experienced community service as a means for them to compensate the community for their wrong doing by giving help. However people also found meaning in community service where they perceived their work was helpful to some of the more vulnerable groups in society or where the work undertaken was constructively recognised and appreciated. As Rex (2004) points out in reference to her own empirical research, this suggests a more dynamic process than Duff's rather more uni-directional representation of community service as an expression of an offender's desire and commitment to paying back to the community for their wrongdoing. Involvement in community service had an emotional impact on some of the people who participated on this order, particularly in terms of enhancing their self esteem or self worth through their experience of providing help to some of the more vulnerable members of society. Community service also seemed to have a constructive impact on their lives in a more practical sense. Through their involvement in pro-social activities, which, for many, provided them with an opportunity to acquire vocational skills, people felt encouraged and motivated to pursue employment. The commitment required of them to sustain their compliance with the simultaneously constraining and constructive level of routine and structure this injected into their lives, also modelled time management behaviour that served to enhance their sense of personal capacity to actualise this.

Responsivity and Receptivity to Punishment: Far from being the easier option there was a clear sense that community sentences were experienced as personally demanding. This was evident in people's reference to and awareness of the immutable threat of prison, should they not co-operate with the restrictions and obligations these sentences conferred on people in terms of maintaining attendance and taking responsibility for managing their behaviour in often challenging circumstances. That people had to find the motivation to maintain their commitment to this process over a long period of time – in general for a minimum of a year, meant that people often saw community sentences as being more onerous on them than short prison sentences, which could be over in as little as 6 or 12 weeks. Whilst this clearly speaks to issues surrounding compliance (Bottoms 2001; Robinson and McNeill 2008), this further leads us into considerations of responsivity, receptivity to and readiness for punishment that this research did not seek to address but which necessarily has important implications for penal policy.

'[W]hat is crucial' for penal legitimacy Duff argues, 'is the offender's capacity to understand and to respond to her imprisonment *as a punishment*' (Duff 1986: 27: emphasis in original). Understanding and responding to imprisonment, or any other sanction, as a punishment is also likely to be crucial to penal efficacy, a related concern. Duff is addressing specifically the point that if a punishment is to be considered just, an offender must be competent, or cognitively able, in order to be punished. Relatedly, however, if a punishment is to have meaning, such that it reflects the goals of sentencing, then the offender must be 'accepting' of that punishment in order to be able to respond and be receptive to the reproach communicated through the act of punishment. Duff argues that punishment 'aims to communicate to a criminal a proper understanding of the nature and implication of his offence *and to persuade him to accept his punishment as an appropriate penance for that offence*' (Duff 1986:278: emphasis added). Where punishment lacks meaning or sense to an offender, or if the experience of punishment is subjectively perceived as disproportionate, unjust, or exclusionary, it runs the risk of breeding resentment and alienating the offender from their own remorse and desire to make amends. One of the values of speaking with people who have experienced various kinds of punishment is that it can tell us something about the legitimacy of punishment, that is, how particular experiences of punishment are received by the punished and the extent and means through which they affect one's readiness and willingness to accept and obey the wider rules of society.

Rex's (2005) research on *Reforming Community Penalties* highlights that stakeholders, including offenders, 'expected [punishments to extract] a moral response from the offender in terms of an acknowledgement of wrongdoing and an effort at better self-restraint' (2005:138), consistent with Duff's theorisation of the goals of communicative punishment referred to above. However, she further argued that people did 'not draw a sharp distinction between the normative and instrumental reasons for stopping offending, nor did they see them as acting alone. Rather, they saw them as interacting and mutually reinforcing' (p139) which she observes, 'challenges the notion that individual deterrence should not play a prominent role in a normative penal theory' (138) as theorised by Von Hirsch (1993) and Duff (2001). Indeed, a similar picture emerged from our own research in that people were able to identify both instrumental and normative reasons underpinning their responsivity and receptivity to punishment. Thus, for our offenders - like Rex's - people were more responsive to those forms of punishment where they recognised that this process could support them to achieve non-offending goals, that would nonetheless support the process of change, or where they could discern through the means, the ends underpinning the punishment. Thus responsivity and receptivity to punishment has as much to do with the *contents* of punishment, as it has to do with the offender's readiness for and acceptance of the *context* of, or rationale for punishment '*as an appropriate penance for that offence*' (Duff 1986:278: emphasis added).

However, in addition to the punishee's acknowledgement of the contextual legitimacy of the punishment imposed on them, Duff would further argue that attention needs to be paid by the punishers (and thus communities on whose behalf the punishers act) to offenders' lives as the contexts within which *both* crime and punishment occur. This, then, is a dynamic process which would, as the people we spoke to urged, suggest scope for community penalties to similarly become more 'responsive' to, cognisant and 'accommodative' of offender's lives (e.g. Ayres and Braithwaite, 1992; Kagan, 1984 in Robinson and McNeill 2008: 444). Furthermore, Duff argues that the state and or the community are not only harmed by crime, but they may also be implicated in the ills that provoke it. As such, they in turn have responsibilities *to* the offender to remedy exclusion, as well as having claims to redress *from* the offender. He also emphasises that there is a responsibility on the community to accept an offender's rights to be socially reintegrated after punishment (Duff 2001; 2003 a). The relationship therefore between the punisher and the punishee is in this sense a reciprocal one and the ends and means of punishment a dynamic process (see Duff 2001).

The Meaning of Payback: The concept of payback is generally portrayed as a uni-directional process from the offender to the community. In England and Wales the emphasis is on visibility, on restoring public confidence (Casey 2008; Ministry of Justice 2008), and on expressing a retaliative, retributive, punitive stance towards the punishment of offenders (see Maruna and King 2008; McNeill 2010) essentially as a means of expressing that the Government is tough on crime and the people who cause it (Garland 1996). Unlike Duff's theory of communicative punishment, *this* communication through punishment is directed to communities as opposed to offenders, and it is communities who are cast as the sole beneficiaries of payback. In Scotland, the concept of payback is conceptualised in more constructive and inclusive terms:

'In essence, payback means finding constructive ways to compensate or repair harms caused by crime. It involves making good to the victim and/or the community. This might be through financial payment, unpaid work, engaging in rehabilitative work or some combination of these and other approaches. Ultimately, one of the best ways for offenders to pay back is by turning their lives around'

(Scottish Prisons Commission, 2008: para 3.28)

As McNeill (2010) observes in relation to the more constructive formulation outlined above by the Scottish Prisons Commission, and contrary to Casey's conceptualisation of payback:

'...being paid back in pain is neither the only nor the best way to *feel* better and to restore the balance upset by the offence. Instead, the implication of reparative payback is that the offender must do something constructive either for the victim or for the community; their

payback should be through contributing something to the social wellbeing, rather than being compelled to suffer some personal harm'
(McNeill 2010:4)

Indeed, this seems to accord with the views of the people we spoke to. People didn't just want to help the community, they wanted to be able to put something tangible back into the community, that had an enduring benefit for the community. However, emerging from this research is a rather more dynamic, generative and reciprocal conceptualisation of payback. Paying back, by giving help seemed to work in both directions. By giving something back or putting something into the community, particularly where this benefited some of the more vulnerable groups in the community, this was experienced as personally restorative and went some way to helping people feel that they had paid back and made amends. As we discussed above, this also had a constructive practical impact on them and their lifestyles. While, then, people recognised that they were paying back, they were also taking something away from the experience as opposed to, in reference to Casey's formulation, having something taken away from them – crucially a sense of self worth and self esteem.

This would suggest that 'Payback' can have the effect of enriching the person doing the paying back. It is not so much that pay back is about doing things for offenders per se, as much as victims and communities - but that projects where the paying back has the most impact for communities also has the most impact for offenders. While this perhaps also speaks to the inherent shame and guilt felt by some offenders (Leibrich 1996), this idea is also consistent with the desistance literature on the significance of generativity, defined generally as a commitment to society and its continuation or improvement through the next generation (Erikson 1950; 1963) and more generally referred to in the desistance literature to denote a desire to essentially give something back and help other people which, like the people we spoke to, affords the individual 'a sense of purpose and meaning, allowing them to redeem themselves from their past mistakes' (McNeill and Maruna 2008:231; see also Maruna 2001). In short, feeling like you are worthless can be changed if you are empowered to help someone else. For some people, the public recognition they received in relation to some of the activities they had been involved in also impacted constructively on their self concepts, in addition to imbuing the experience of punishment with meaning. This suggests that there is scope for a further shift away from the more stigmatising or uni-directional idea of 'visibility' in payback to that of constructive recognition that acknowledges not only the rights of communities to be heard but which also recognises the work that people do and that recognises that when people have completed their community service or community payback order, that they have finished paying back.

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