



“Forced to Make Amends”
An Evaluation of the Community
Reparation Order Pilots



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**AN EVALUATION OF THE COMMUNITY
REPARATION ORDER PILOTS**

**Joe Curran, Sarah MacQueen, Bill Whyte
with John Boyle
CJSW Development Centre and DTZ**

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**The Criminal Justice Social Work Development Centre *for* Scotland
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EXECUTIVE SUMMARY

Introduction

1. This report sets out the findings of the evaluation of the pilot Community Reparation Order schemes (CROs) operating in Dundee, Highland and Inverclyde from April 2005 to March 2007. The research has been conducted by the University of Edinburgh's Criminal Justice Social Work Development Centre for Scotland in partnership with DTZ.
2. The Scottish Executive introduced Community Reparation Orders (CROs) in May 2005 as one of a range of new measures for tackling antisocial behaviour under the *Antisocial Behaviour etc (Scotland) Act 2004*.
3. CROs are
 - community-based disposals available to district and sheriff courts in Scotland for summary cases;
 - intended to achieve reparation for antisocial behaviour (ASB) by having offenders, aged 12 and over, make amends for their crimes by completing a programme of between 10 and 100 hours of unpaid community work;
 - intended to address lower level forms of ASB that cause alarm or distress to victims and communities; and
 - aimed at reducing the offender's involvement in ASB by making them aware of the adverse effects of ASB and encouraging personal and social responsibility and self respect.
4. The evaluation was based on
 - interviews with key members of local authority staff in the pilot areas;
 - analysis of CRO monitoring data;
 - interviews with 10 justices of the peace and 4 sheriffs, spread equally over the pilot sites;
 - interviews with 17 offenders;
 - consultations with key stakeholders including senior personnel in strategic partners organisations such as the police, the District Courts Association and the Association of Directors of Social Work (ADSW); community stakeholders who had been involved and consulted prior to the implementation of CROs; and community representatives; and
 - cost analysis.

Establishment and Early Implementation of CRO Schemes

5. All 3 sites successfully initiated community consultations on the operation of the Orders. There were local variations in the way this was progressed and consultation through established community safety channels proved problematic.
6. All sites had managed to ensure that their CRO offenders had been placed in work schemes and projects. However, all sites also reported difficulty in creating and sustaining these opportunities.

7. Awareness-raising had been carried out with sentencers. Common techniques included the provision of presentations and open days. In one of the pilot areas staff also regularly attended the district and sheriff courts in the initial stages to promote the scheme and offer guidance.
8. 'Victim awareness' work varied within the 3 schemes. One site set up a victim awareness module and made awareness an ongoing theme and philosophy throughout the Order. In the other 2 sites, no specific victim awareness work was undertaken. The prescribed activities were relied upon to meet the change requirement of Orders.

Profile of the Orders and the Offenders

- During the first 20 months of the pilot period, 74 CROs were imposed on 70 offenders.
- Only 20 of the Orders were given by sheriffs. Nineteen of these came from one site.
- Numbers of Orders in the second year of the pilot were smaller than in the first year and numbers were consistently lower than the expected overall figure of 550 orders per annum.
- The overall average number of hours for Orders was 44 but this varied from 30.4 to 70.5.
- Most (87%) of the offenders were male. The average age of the offenders was 22 and three quarters were aged 21 or younger. No CRO offenders were under 16, however 29% were under 18.
- Previous conviction information was available for 30 (43%) of the offenders. Sixty three per cent had previous convictions. Only one was known to have served a custodial sentence.
- The most common offence leading to a CRO was Breach of the Peace.
- Twenty four offenders had successfully completed their Orders and 16 were still in process. There had been 33 breach applications.
- Completion rates across the different sites ranged from 18% to 60%.

Views and Experiences of the Sentencers

9. The extent to which sentencers said they had been briefed about CROs varied. Sheriffs in 2 sites reported little involvement at the early stages whereas justices across the 3 pilots recalled a variety of training sessions during which they had been informed of the main features of the pilot.
10. Sentencers gave a number of suggestions as to why there had been fewer Orders than anticipated. These included: far fewer relevant cases than expected; lack of attendance of some justices at briefings and training; the existence of a local fixed penalty diversion scheme; awkward location of the scheme on the outskirts of town; and uncertainty about the types of offences for which a CRO could be used.
11. Justices welcomed the sentencing opportunity that CROs provided. Experience of means enquiry court sittings had demonstrated a niche for the Order as a constructive

and reparative disposal. Sheriffs on the other hand were content with continuing to utilise Community Service Orders and viewed CROs as an unnecessary addition.

Impact of CROs on Offenders: What the Offenders Said

12. All offenders said that social work staff had explained the nature of the Order to them at some point after they had been sentenced. However, only half of offenders interviewed demonstrated some degree of understanding as to the nature and purpose of the CRO.
13. Many offenders reported positive gain from their placements. Skills acquisition and achievement were regularly cited. Those given menial tasks typically did not value their placement. Some reported difficulties with their placements, such as lack of transport, health issues, and feelings of intimidation.
14. All but one offender expressed satisfaction with their supervising officer, suggesting potential within the schemes to motivate and change offenders. Some described their supervising officer as providing a positive role model. Similar views were expressed about activity supervisors.
15. One site placed particular emphasis on pro-social modelling and offenders here were all able to identify the positive elements of their supervisor's treatment of them. Where supervisors were less involved with the offenders, feedback was more negative.
16. Few offenders reported that they felt their placement had made amends to the community for their offences. Only three offenders reported having any contact with the beneficiaries of their work although offenders took positive account of any praise they received for their work, directly or indirectly.
17. A number of the offenders felt they had changed in some way since starting their CRO. Reported changes included learning to control bad tempers; controlling alcohol consumption; staying at home more; and recognising that graffiti and litter were a public nuisance. Some offenders knew they needed to change but were not ready to, or could not avoid situations that got them into trouble. To some degree, these might be seen as achievements in self-awareness. Twelve offenders discussed future plans, often predicated on ceasing offending. Despite these positive findings, more than half of those interviewed reported committing further offences since starting their Order.
18. Some expressed awareness of the adverse effects of antisocial behaviour and there were reasons to believe that some were aware of the need to take greater personal responsibility. It is not possible to say that any of this awareness had been raised or instilled by the Orders.

What Other Stakeholders had to say

19. Interviews with key strategic partners, community stakeholders and community representatives provide support for many of the broad impressions, within the 3 sites, arising from the evaluation.
20. There was a general belief among community groups that while the public perception was that ASB was increasing, it was not clear that this was borne out by the facts. ASB was attributed to boredom among the young and drug misuse among adults.
21. The principle of community reparation was generally supported but there were perceived to be difficulties in implementing CROs.
22. Inter-agency working in delivering programmes such as CROs was thought to have shortcomings, particularly in relation to communication between agencies.

Cost Analysis and Roll Out

23. Analysis of the funding for the provision of CROs in 2005-06 and 2006-07 in each of the pilot local authorities was compared against actual expenditure.
24. In 2 of the sites, expected unit costs have borne little relation to actual unit costs. Lack of cases was a major contribution to the high costs as initial set-up and capacity building costs are inevitably high.
25. As a result of the lack of throughput, as well as slower than expected implementation, there was an under spend of 30-40% in 2 sites in the first year of CROs.
26. Using a unit cost of £1,000, roll out might cost approximately £7 million across Scotland. However, this should only be seen as a rough estimate based on a level of uptake of CROs across Scotland at the rate originally expected in the three pilot areas. If rollout reflected the problems in implementation in the pilot areas, we estimate an alternative rollout cost of £4.5 million, but with far fewer cases and, consequently, unit costs of near £7000.

Conclusions

27. The CRO pilot schemes met many of the objectives set. The concept of making amends through unpaid work was perceived positively by sentencers, community representatives and offenders alike.
28. Findings from this evaluation suggest that the place of CROs as a vehicle for unpaid work was unclear and needs to be reviewed in the light of other available options. District courts welcomed the provision and perceived it as a constructive response to low tariff offences for people unlikely to be able to pay a fine. Sheriff courts already had unpaid work in the form of Community Service Orders (CSO) which they use as they consider appropriate.

29. The predicted numbers of CROs (550 in the first year) did not materialise. These numbers are unlikely ever to be realised without further clarification of the applicability of Orders to cases and the function of unpaid work as a low tariff reparative option. The explicit expectation that CRO practice should achieve changes in crime related and crime sustaining (criminogenic) attitudes as an outcome, created differences in practice and expectations across the pilot areas.
30. The findings suggest that the costs and administrative arrangements of providing opportunities for unpaid work may be better met through integration within existing community service provision along a continuum from alternatives to custody, through to diversion from prosecution. Clearer guidance is required for the kinds of experience needed to achieve the different objectives, including making amends, personal change, community awareness and perceived benefits. Policy and practice guidance is required to indicate the appropriate application of this method across the range of offences and court jurisdictions.

CHAPTER ONE INTRODUCTION AND BACKGROUND

Introduction to the Report

1.1 In May 2005, the Scottish Executive issued a research specification seeking bids for an evaluation of pilot Community Reparation Order schemes (CROs). This report provides an analysis of the results of that evaluation carried out by the Criminal Justice Social Work Development Centre for Scotland, based at the University of Edinburgh, in partnership with DTZ.

1.2 The evaluation's aims, as set out in the specification, were: to describe and assess the use and operation of the CRO pilots and their impact on offenders and the community (this aim was further broken down into 9 objectives); to provide a cost comparison with other court disposals dealing with antisocial behaviour; and to assess the longer term viability and implications of extending CROs to other prescribed courts in Scotland (see Annex 1).

1.3 By the time the fieldwork for the evaluation had ended, the pilot courts had, in total, given 74 Orders to 70 individual offenders in 20 months, in contrast to the estimated 550 given in the Research Specification and estimated by the sites. None of these were for young people under the age of 16. Inevitably, these low numbers had an impact on the way in which the evaluation was approached. Any changes to the research methods were made with the agreement of the Scottish Executive and the Steering Group for the study.

Introduction to this Chapter

1.4 This Chapter provides an introduction to the policy and legislative background of CROs by looking at the wider context and explaining their main objectives. It also briefly discusses the research approach adopted for the study and outlines the main focus of the rest of the report.

1.5 CROs are a community-based disposal available to district and sheriff courts in Scotland for summary cases, that is, cases involving relatively minor crimes that are heard without a jury.¹ They are intended to achieve reparation for antisocial behaviour (ASB) by having offenders make amends for their crimes by completing a programme of unpaid community work.

1.6 Operation of the legislation was piloted before being considered for more general roll-out. The pilots operated in Dundee, Highland and Inverclyde from April 2005 to March 2007.² The Scottish Executive did not require the pilot local authorities (LAs) to submit a proposal for implementing CROs. Instead, the Executive asked a number of areas if they would be interested in participating in the pilot and were selected to offer a mix of urban and

¹ "In summary procedure the judge, whether a sheriff, a stipendiary magistrate or a lay justice sits without a jury and decides questions of both law and fact. Summary criminal trials are the most common form of trial in Scotland. Summary criminal proceedings account for 96% of criminal cases prosecuted in court in Scotland." *Report of the Summary Justice Review Committee*, ISBN 0-7559-4072-5. Website Publication Dated March 16, 2004

² Specifically, pilots are running at Inverness Sheriff and District Courts, Kingussie and Nairn District Courts, Dundee Sheriff and District Courts, Greenock Sheriff Court and Inverclyde District Court.

semi-rural locations.

Policy and legislative background

1.7 The Scottish Executive introduced CROs as one of a range of new measures for tackling ASB under the *Antisocial Behaviour etc (Scotland) Act 2004*. The Act provides for a mix of prevention, early intervention, enforcement and rehabilitation measures and has been financially supported by £130m nationally in the period 2004 to 2008.

1.8 CROs increase the range of community disposals available to the courts. Prior to CROs, available community disposals with an element of reparative or restorative justice³ were either high tariff (Community Service Orders), designed to deal with specific groups (Supervised Attendance Orders for those who defaulted on fines) or financial (Compensation Orders). An additional option was believed to be needed to address lower level forms of ASB that, while relatively minor, were nevertheless considered criminal and potentially distressing to victims and communities.

“[The CRO] will give the courts more options for dealing with people who offend. It will allow the courts to say that if you take something from your community then we will make you give something back. It sends out a message that all types of antisocial behaviour – from petty vandalisms to assault – will be punished.”
(First Minister, Scottish Executive 2004b)

1.9 The Scottish Executive’s *Scottish Strategy for Victims* (2000) set a policy objective of increasing the involvement of victims in the criminal justice system. The strategy does not specifically mention CROs, but notes that court disposals incorporating an element of restorative justice increase the involvement of victims by enabling them to see what is being done to help redress the harm caused. In the case of CROs, communities are involved in determining the nature of reparative activity. Local authorities (LAs) were given a statutory responsibility to consult with community organisations including the police, community councils and residents’ associations, on the types of activities that offenders should be involved in so as to ensure that the work carried out would make the biggest positive difference in their local areas.⁴

1.10 In 2004, the Scottish Executive introduced national guidelines and funding for police use of restorative justice warnings.⁵ The warnings are aimed at young people involved in minor offending. The warning is intended to impress upon offenders the impact of their actions; victims, who are advised that a warning is taking place, are offered an opportunity to say what that impact has been. Victims also have the opportunity to be informed of the outcome.

³ ‘Restorative and reparative justice’ are rapidly developing concepts which are sometimes treated as being synonymous. The web site for *Restorative Justice in Scotland*³ talks, for example, of ‘working toward the restoration of those harmed’ but also of ‘repairing the harm and making amends’. The Youth Justice Board, however, notes that “Reparative processes are ways of repairing the damage caused by offending behaviour. Reparation is generally viewed as restorative only when the victim has been consulted and the offender has not been coerced to provide reparation.” (Youth Justice Board).

⁴ Section 3 of the *Community Reparation Orders (Requirements for Consultation and Prescribed Activities) (Scotland) Regulations 2005* identifies prescribed activities for the purposes of section 245K (5) of the *Criminal Procedure (Scotland) Act 1995*.

⁵ See <http://www.scotland.gov.uk/News/Releases/2004/06/5692>

1.11 The *Antisocial Behaviour etc (Scotland) Act 2004* introduced a range of new legislation and, in 2005, the Scottish Executive published *Smarter Justice, Safer Communities: Summary Justice Reforms-Next Steps* which proposed, among other things, giving procurators fiscal the power to issue “community fiscal fines” as an alternative to prosecution. The provision would be a ‘fine on time’ and would be considered for instances in which “a community's wellbeing is undermined by minor offences which damage the physical and social environment”. Offenders would be given “the opportunity to make reparation to that community” (Scottish Executive, 2005a, paragraph 3.40).

1.12 In 2005, the Scottish Executive also published *Supporting Safer, Stronger Communities: Scotland's Criminal Justice Plan*. A major objective of the Plan is to reduce re-offending, and community options are acknowledged as an important means of achieving that objective. The Plan explains that community options are more conducive to rehabilitation because they build on the positive forces in an offender's life and maintain important contacts with the offender's community.

1.13 Community options offer an alternative to short periods of custody, which can disrupt the offender's life and exacerbate the factors that may have led to offending in the first place. The Plan therefore reconfirms the Scottish Executive's commitment to ensuring the availability of a broad range of options for community sentencing.

“It is important that criminal justice services build on the positive forces that exist in an offender's life, promoting rather than undermining the factors that help to deter further offending. Sentences must embody fair punishment. Punishment in the form of community sentences is more conducive to rehabilitation and sustaining positive links.... No person should end up in custody because of the lack of an appropriate community sentence.” (Scottish Executive, 2005b, p.45)

1.14 Subsequently, in April 2006, the Scottish Executive established 8 Community Justice Authorities (CJAs) under the *Management of Offenders etc (Scotland) Act 2005* to improve joint working to achieve the vision of the Criminal Justice Plan of a more coherent and effective system for managing offenders across different agencies in Scotland. The CJAs will receive the community component of criminal justice funding and, if CROs are rolled out across Scotland, it will be their responsibility to consider how best to utilise them.

1.15 Community sentences have increased from 7.5% of all disposals in 1995/6 to 12.6% in 2004/05. The share of custodial sentences has also increased but by a lesser amount. CROs may replace other low tariff disposals such as the fine, a function clearly identified by Scottish Executive officials when interviewed by the research team, but could also draw cases into the court that might otherwise have been diverted.

1.16 The recommendation of the Sentencing Commission for Scotland in its 2006 report, *Basis on Which Fines are Determined*, if followed, would see the CRO replacing some fines:

“So far as those offenders who have very little or no income are concerned, we recommend that they should not be fined and that the courts should impose an alternative sanction, perhaps a SAO or a CRO. Imposing a financial penalty in such cases is in our view simply setting-up the offender to fail.” (Chairman's Forward)

1.17 A further point from the Criminal Justice Plan is its acknowledgement that a challenge for community sentencing is securing public confidence in the robustness of the punishment and protection from re-offending. There has been an increasing need not only for justice to be served but also for justice to be seen to be served. In a news release (5 May 2006), the First Minister called on communities to demand greater use of antisocial behaviour powers at a local level. This call drew attention to the range of measures and disposals available and also signalled to communities that these measures and disposals were there to help them.

What are CROs meant to achieve?

1.18 The objectives of CROs include extending the disposals available to courts in dealing with offences that to any extent involve engagement in ASB by offenders aged 12 or over. An Order must be between 10 and 100 hours of prescribed activities, either on an individual or group basis, in the form of unpaid, predominantly reparative, work within local communities. It must be relevant to the capacities, needs, circumstances, age and maturity of the offender. Reparation is intended to be to the community in general rather than to individual victims and should seek to reduce the likelihood of future engagement in ASB.

1.19 Three types of activity are envisaged by the guidance, separately or in combination, to meet the prescribed criteria. First, activities should be designed to increase awareness of the adverse effects of antisocial behaviour on the victims and on the local community. Secondly, activities should aim to reduce future offending, with particular emphasis on challenging antisocial attitudes and assumptions and on reducing antisocial behaviour. Finally, activities should encourage personal and social responsibility and self respect and/or the development of life skills and solving problems (Scottish Executive 2004 paragraph 2.29 (Guidance)). As the Justice Minister put it:

“That could mean that the yob who smashed a window spends a week repairing windows – putting something back into the community while giving them an opportunity to enhance their life skills.” (Scottish Executive news release, April 2005)

1.20 Supervision of the offender is intended to be both firm and fair and non-compliance should be followed up. In turn, Orders are intended to provide visible reassurance to local communities that ASB will not be tolerated and that action has been taken against perpetrators.

1.21 While, therefore, the requirement for unpaid work has similarities to Community Service Orders (CSOs) and can be seen as a ‘fine on time’, the CRO legislation and the Scottish Executive Guidance (Scottish Executive 2004 paragraph 1.8 (Guidance)) also identify specific change outcomes expected as a result of participation in a CRO. In addition, there is no provision requiring a court to seek advice through a social enquiry report (SER) and no pre-requisite for the offender’s consent prior to making an Order.

What is antisocial behaviour in the context of CROs?

1.22 Antisocial behaviour is defined by the legislation as behaviour which is likely to, or has, caused alarm or distress to at least one person who is not from the same household as the offender. Examples of specific offences that may meet these criteria were not provided in the National guidance. The CRO is specifically reparative in design and can be viewed as a ‘fine on time’.

Research design

1.23 The research specification set out 11 objectives for the evaluation and they are listed in Annex 1 of this report. Broadly, they required

- a description of the establishment of the pilot schemes, including arrangements for consultation with communities and an assessment of the effectiveness of ongoing consultation with communities;
- a description, comparison and assessment of the effectiveness of the processes and procedures adopted in each of the pilot courts;
- a description, comparison and assessment of the use and operation of CROs in each of the pilot courts;
- an exploration of the levels of, and reasons for, non-attendance and failure to comply, enforcement action, court reviews, breach of CROs and consequences of breach and an identification of factors which appear to promote successful completion of CROs;
- an assessment of the impact of the CRO on offenders;
- an assessment of the extent to which reparation is made to the community;
- an exploration of public perceptions of the impact of CROs on antisocial behaviour and the extent to which agencies have become more successful in it;
- a comparison of the differences for the under 16 age-group with those over 16 and a consideration of the impact on the Children’s Hearing System;
- an identification and costing of pre-existing alternative disposals, and comparison with CROs; and
- an exploration of the implications of using CROs in other ‘prescribed courts’ in Scotland, in terms of process, procedures, delivery, cost and outcomes.

1.24 Multiple methods were adopted in the evaluation to generate both quantitative and qualitative information. Each site was required by the Scottish Executive to gather monitoring data profiling the offenders placed on CROs and this has been the main source of quantitative information on the use of CROs.

1.25 Information was also gathered through interviews with: key delivery staff; senior personnel in key strategic partner organisations such as the police, the courts, the District Courts Association (DCA) and the Association of Directors of Social Work (ADSW); and community stakeholders and community groups.

1.26 As many as 550 CROs were expected during the first year of the pilot period. Accordingly, the research team agreed with the Scottish Executive to aim for 80 interviews with offenders, to allow for robust statistical analyses of the impact of the Order. However, given that far fewer Orders were made than was anticipated, the general approach to the study had to be modified. While the main research question remained, in effect, 'how successful have CROs been', it was also necessary to ask - 'why have there been so few cases?' Consequently, more focus had to be placed on what the interviews might be able to tell us about how the pilot had fared and why the legislation had not been used as much as had been anticipated.

1.27 As it became apparent that the anticipated figures were not going to be realised it was decided to approach the whole population of CRO offenders with a view to interviewing as many as possible. The offenders involved in the pilot were informed at the outset by their Supervising Officers about the evaluation and their potential role as participants. Consent for interview was sought by the Supervising Officers and those who agreed to participate signed a consent agreement form. Supervising Officers then arranged the interviews at times convenient for the offenders and informed the research team. Over the course of the pilot 39 (56%) of the 70 CRO offenders consented to participation and interviews were successfully arranged. Despite the fact that interviews were arranged for sessions that offenders were required to attend as part of their Order, a total of 22 offenders failed to turn up to their interview. In all, only 17 interviews with offenders were achieved. This could have reflected a change of heart on the part of respondent or, as seemed more likely, compliance was a major practice challenge which proved to be a hindrance for the study.

1.28 It had originally been intended to interview a sheriff and a justice of the peace in each pilot area. Given the low numbers of Orders and an apparent reluctance on the part of sheriff courts to use the Order, it was decided that a larger sample of sentencers was necessary to explore the reasons for the low usage. In all, 14 interviews were conducted with 4 sheriffs and 10 justices of the peace and included both those who had and had not used the CRO disposal during the pilot period.

1.29 In the chapters which follow, many of the research objectives are tackled through an analysis of the more subjective information provided by the interviews.

1.30 Chapter 2 examines the establishment and implementation of the 3 pilots (Objective 1). Chapter 3 provides a description of the 74 CROs and the 70 offenders (Objectives 4 and 5). The views and experiences of sentencers are given in Chapter 4 (Objectives 1, 3, 4, 6, 7 and 11). Objective 6 is covered by Chapter 5 which provides an analysis of the impact of the Orders on the offenders in their own words and experiences. Chapter 6 reinforces some of the messages from Chapter 4 by discussing the views of other stakeholders, including key agencies as well as community groups. The Chapter contributes to answering Objectives 1, 2, 4 and 11. Objective 10 is dealt with by Chapter 7 which looks at the cost of CROs and alternative disposals and at possible costs of a roll out of CROs.

1.31 Each Chapter carries its own summary. Finally, Chapter 8 draws together the broad conclusion that can be made on the basis of the evaluation.

Summary

1.32 Community Reparation Orders (CROs) are part of the wider legislative and policy agenda of the Scottish Executive to tackle antisocial behaviour (ASB) and reduce reoffending. The pilot schemes operated in Dundee, Highland and Inverclyde from April 2005 to March 2007.

1.33 CROs can be used by summary courts as a ‘fine on time’. They can run for between 10 and 100 hours and are designed primarily to make reparation to the community rather than a specific victim. Supervision of the offender is intended to be both firm and fair, with non-compliance being followed up. Orders are intended to provide visible reassurance to local communities that ASB will not be tolerated and that action has been taken against the offenders.

1.34 As well as making reparation, the CRO should seek to reduce the offender’s involvement in ASB and should encourage personal and social responsibility and self respect and make offenders aware of the adverse effects of their behaviour on victims and the local community.

1.35 It had originally been estimated that there might be up to 550 CROs in the pilot period but, in the event, there were 74. The focus of the study was, therefore, developed to include an exploration of why there had been far fewer Orders than had been anticipated.

1.36 A range of research methods were adopted to generate both quantitative and qualitative information. Monitoring data profiling the offenders and generated by the pilot sites was analysed and information was gathered through interviews with: key delivery staff, including sentencers; senior personnel in key strategic partner organisations such as the police, the District Courts Association and the Association of Directors of Social Work; and community stakeholders and community groups.

CHAPTER TWO ESTABLISHMENT, EARLY IMPLEMENTATION AND OPERATION OF CRO SCHEMES

Introduction

2.1 This chapter is based on interviews with 6 key members of staff (in the pilot areas) and provides information to meet Objective 1 of the research specification (see Annex 1), to describe the establishment of the Community Reparation Order (CRO) schemes in the pilot areas and identifying elements of the inception process. The interviews were conducted with a manager with CRO operational responsibilities and a supervising officer in Site 1; a manager with strategic responsibilities and an operational manager in charge of CROs and probation matters in Site 2; and in Site 3, with a manager with strategic responsibilities and a supervising officer.

Site 1

2.2 At inception, the CRO scheme in Site 1 consisted of 2 ‘supervising officers’ who had case management responsibility for CRO clients and 2 ‘activity supervisors’⁶ with responsibility for supervising offenders on work placements. The initial planning in this site (including budgeting and staffing) was based on an estimate of 150 CROs, derived from a basic analysis of court data, which gave an indication of how many cases broadly fitted CRO criteria in the year preceding inception of the scheme. On the basis of that estimate, Site 1 received funding of £232,899 for the scheme in the first year.⁷ Chapter 7 of this report provides more detail on funding and costs for the pilot period.

Awareness raising with the courts

2.3 The research team was informed that staff in Site 1 undertook extensive work to promote and raise awareness of the new scheme. In particular, they made early approaches to the relevant sentencers, offering to attend courts and give presentations explaining the new Order and the circumstances in which it might be used. At the inception of CROs, one member of staff had also been allocated to attend both the district and sheriff courts once a week to be a “...constant presence...a reminder...” (KMS1.2⁸) of the new scheme, and to answer any queries about the scheme or offender suitability that a sentencer may have at point of sentencing.

2.4 Site staff reported that this early introductory work had met with a somewhat mixed reception, with justices of the peace demonstrating more enthusiasm for the Order than sheriffs. It was reported, for example, that whilst a number of attempts had been made to establish initial meetings with the sheriff court “...there has been no opportunity [made available] to do this...” (KMS1.1). This general picture may be supported by the fact that there was strong enthusiasm among justices who felt well briefed; although this seemed to be

⁶ The Guidance defines ‘supervising officers’ as the criminal justice social work staff member with responsibility for the formal supervision of the offender, including enforcement of the Order. The ‘activity supervisor’ is responsible for the day to day supervision of the offender on site (paragraph 1.7)

⁷ After start-up costs, this translated into a unit cost of approximately £1,486 per CRO.

⁸ Refers to Key Member of Staff number 2 in Site 1.

a consequence, at least in part, of the focused work of one of the justices. The sheriff interviewed in this site did, however, maintain that while he did not see any need for CROs, the LA had not been in touch because its officials had decided that the legislation was mainly for the district court.

2.5 Some interviewed staff suggested that the way in which the pilots had been selected and announced to stakeholders may have contributed to some ambivalence towards the pilot; it was maintained that sentencers and those responsible for operating the pilot had discovered via the national press that they were to participate. This suggests an issue with the flow of information during the pilot as officials in the Scottish Executive informed the research team that they had communicated with the relevant Sheriffs Principal, district court Clerks and Chairs prior to commencement of the CRO pilot. Criminal Justice managers in the three sites were also liaised with regularly.

Consultation with local organisations

2.6 During the inception of the scheme in Site 1, CRO staff had sought to liaise with the local community and with community groups to establish multi-agency links and appropriate placement opportunities for offenders. When this process began, CRO staff had anticipated that placement opportunities and inter-agency liaison would principally be pursued via Community Councils and the established Community Safety Partnerships for the area. However, in practice, attempts by staff to facilitate this liaison were viewed by them as largely "...a waste of time..." (KMS1.1) It was suggested that the nature of these community organisations and their wide-ranging responsibilities meant that they were only able to engage with the CRO scheme to a very limited degree.

2.7 As a consequence, the strategy was changed and liaison over placement negotiation was carried out at a very local community level by the CRO manager. She reported using local knowledge and experience to make direct approaches to individuals and groups who she felt might benefit from the workforce that it was anticipated would be available under the new scheme. The manager believed that it was important both to have local groups propose CRO activities, to ensure local support and visibility for the CRO project's work and also to ensure that CRO work did not encroach on tasks that would normally be completed by others.

2.8 This manager recounted that she had had early contact with a Trade Union representative who had expressed concern about the potential for CRO offenders to absorb tasks that would normally be undertaken by paid employees⁹. As a consequence, she had to consider that areas of CRO work would have to avoid conflict with the Union.

2.9 As a result of this very localised engagement and liaison, Site 1 was able to establish a number of varied placements for offenders. The majority of tasks that had been undertaken by offenders consisted of work in a primary school, a centre for special needs children and a park, for example, clearance of footpaths and preparing gardens.

2.10 Staff at Site 1 reported that a strong principle of their scheme was to place the concept of victim awareness at the heart of their plans and they were keen that this should not be seen as a discrete or separate element, but rather that: "...it should be an ongoing theme

⁹ A warning given specifically by the Scottish Executive 2004 (Guidance) paragraph 2.5)

challenging attitudes...” (KMS1.1) for the duration of the Order. Consequently, the staff entered into early discussions with sentencers in an attempt to ensure that CROs were of a ‘sufficient’ number of hours to allow them to have ‘a real impact’ on the offenders. In practical terms, this philosophy had a notable impact upon the type and length of CROs imposed.

2.11 Site representatives noted that CRO offenders with a relatively high number of hours were, in their view, better suited to the kind of placement work they had developed, in keeping with the philosophy of change, in a local park, gardens and schools. This site had a greater percentage of Orders over 50 hours and interviews with justices in that area revealed that they had developed something of a policy of not giving less than 50 hours.

2.12 Despite the successful establishment of placements that were perceived as relatively popular and potentially effective by community representatives, CRO staff in Site 1 reported some difficulty in obtaining and sustaining placement opportunities, largely because of the low numbers of offenders available for work at any given moment.

2.13 Generally speaking, these work placements were the main vehicle for achieving the requirements of prescribed activities. Some use was, however, made of a video presentation by victims of crime talking about the impact their victimisation had had on them.

2.14 Stakeholders interviewed for the evaluation (see Chapter 6) believed that there had been a great deal of community consultation and that they had been involved in setting up projects for CROs. They also felt that the LA delivery team had provided community partners with sound advice and contacts, although there was some perception that too many groups and organizations were involved and that this had created practical difficulties.

Reparative Work

2.15 Site 1 was able to secure two main CRO projects for offenders to work on. The first was the development of an allotment for the pupils at the local primary school and the second was the development of a garden at a nursery for children with special needs. Both projects were worked on exclusively by the CRO offenders and their supervisors, from the digging of the foundations through to the addition of finishing touches. Both also required the application of a range of skills and teamwork, and allowed offenders an identifiable contribution to a lasting finished product that was visible to members of the local community.

2.16 Offenders at this site were also able to contribute to local park landscaping work and undertook site clearance in a variety of public parklands and walkways. Again, these were visible within the community. For those who experienced problems, e.g health problems and violent behaviour, different activities were made available. One offender had become involved in fighting in his work gang and had undertaken joinery and painting work at the workshop. This allowed the offender in question to work alone but still contribute to the larger projects. Another had health problems that precluded their involvement in the manual projects available. This offender was placed as an assistant in a local charity shop.

2.17 Site 1 also included a module on Victim Awareness to their list of activities. Every offender placed on a CRO here was required to participate in this. The module consisted of a video session wherein a range of crimes were shown and described by the victims, crimes

included a housebreaking, a stabbing, an assault and a bank robbery. The video was followed by a discussion between the supervising officers and the offenders on how the victims had suffered in physical, psychological, emotional and financial terms. While the crimes featured in the video are of a more serious nature than the acts that led to the imposition of CROs throughout the pilot, staff at this site felt that the video was still relevant as they believed a number of their CRO offenders had previously committed such acts or hung around with others that did.

Site 2

2.18 Site 2 was the largest of the CRO pilot projects. In the first year, the scheme employed 3 CRO supervising officers and 3 ‘case responsible assistants’, together with a senior officer to manage the scheme. The total budget for the scheme in the first year was approximately £258,000, again Chapter 7 provides greater detail on funding and costs for the pilot period. As in Site 1, the structure of the scheme was initially planned on the basis of estimated CRO levels derived from a basic analysis of court data in the year preceding inception of the scheme. In the first year, it was anticipated that there would be a throughput of approximately 350 Orders.¹⁰

Awareness raising with the courts

2.19 Staff in Site 2 reported that they liaised with both district and sheriff court staff when establishing their CRO scheme. Much of this preparatory work took the form of open meetings and presentations aimed at raising awareness of the new Order and clarifying the purpose of the new scheme.

2.20 During early meetings with sentencers, CRO staff in Site 2 had distributed a brief one-sided sheet of questions (‘screening sheet’, see Annex 2) intended to provide some additional local guidance about the types of cases CRO staff felt were suitable for the new Order and which were not. Site staff commented that the ‘screening sheet’ had, therefore, two principal aims. First, it was hoped that it would “...get people to be creative with the Order...” (KMS2.2) by suggesting a degree of flexibility regarding suitable cases. Secondly, it was hoped that the screening sheet would help prevent the imposition of Orders in the types of cases that were viewed (by CRO staff) as being ‘unsuitable’ for the new Order.

2.21 The Screening Sheet itself notes that it seeks to direct attention to the target group agreed by the social work department and the courts in the site.

2.22 The ‘criteria’ set out in the checklist, if followed, could have severely limited the number of appropriate cases. For example, the checklist asks: “Is the person aged more than 25?” “Have they more than one previous conviction?” “Does the present or one previous offence involve violence?” The checklist notes: “If yes to any of the above then they do not meet criteria for CRO.” Later, the checklist asks: “Is the person willing to undertake the order?” and this is followed by the question – “Based on the above is the person considered suitable for the order?”¹¹

¹⁰ After start-up costs, this translated into a unit cost of approximately £709 per CRO.

¹¹ The legislation: set the age limit at 12; did not stipulate a limit to previous convictions; did not exclude those with previous convictions for violence; does not require consent to the Order from the offender.

2.23 Whether the checklist did limit the number of Orders made is not known; none of the sentencers interviewed indicated that this was the case. Looking at the offenders given Orders in Site 2: 6 were over the age of 25; one had 6 previous convictions, another had 4 and one had 3; 4 had previous convictions for assault, one with robbery and one with theft.

2.24 The second aim of the Screening Sheet was seen as a particular issue within the locality and reflected concern among CRO staff that Orders might be imposed in some cases merely because of a perceived 'lack of alternative remedies'. CRO staff saw the Order as "...demanding a level of discipline..." that these 'unsuitable' offenders simply would not possess (KMS2.2).

2.25 CRO staff reported that their initial briefings were generally well received and that sentencers appeared to think that there might be a niche for the new Order within the current range of disposals, as it provided an opportunity to use unpaid work or community service type activity with offenders without operating as an alternative to custody (required for a CSO). Although, uniquely, the district court in Site 2 retains the power to make CSOs,¹² site representatives felt that the removal, in effect, of the 'alternative to custody' requirement in CROs was a move generally welcomed by sentencers and seen as a useful addition to their available disposals.

2.26 This positive reception from sentencers was supported by the interviews conducted in this site. One sheriff noted "The attraction of the Orders from our point of view was that it didn't need a social enquiry report as a pre-requisite and so it had a more instant nature." This level of interest was reflected in the fact that sheriffs in Site 2 made more Orders (19) than their justice colleagues. All 3 of the justices interviewed said they had been very positive about the idea of CROs and one even suggested reducing the power of the police locally to divert certain young offenders from the courts. Nevertheless, they gave only 4 CROs between them.

2.27 In addition to early awareness raising activity, Site 2 had offered additional support to the district court during the inception of the CRO scheme. It had become apparent, during the initial stages of the scheme, that there were some difficulties incorporating the new Order within existing information and communication technology (ICT) systems in the district court. This was seen as potentially hindering the use of the new disposal by justices. To address this, CRO staff had made a grant of approximately £3,000 to the court to enable necessary changes to be made to computer and software systems.

Consultation with local organisations

2.28 In relation to wider community consultation, CRO staff at Site 2 reported that they had "...tried to generate a lot of initial interest..." in the new Order and had "...very quickly created an expectation..." (KMS2.2) that it would be possible to progress a number of local projects through the CRO legislation.

¹² This was a power that was allocated under the auspices of a previous scheme that was piloted in the area. Whilst the pilot has now ceased, the power of the district court to make CSOs has remained, and it is a popular disposal frequently employed by the court. See <http://www.scotland.gov.uk/Publications/2006/01/31101934/4>

2.29 The community consultation undertaken in Site 2 had focused on ‘high-level’ groups such as the regional Community Safety Partnership (CSP), Community Councils and established Neighbourhood Watch schemes in the area. To a lesser extent, CRO staff had also “...gone to the communities themselves...” to identify possible longer term work placements where offenders could “...go back and do small tasks once the workforce had built up...” (KMS2.2).

2.30 Although numerous approaches had also been made to different local community groups, at different levels, CRO staff in Site 2 recounted that attendance at consultation events scheduled by them had, generally, been low. CRO staff had anticipated at the inception of the scheme that they would be inundated with work placement ideas and suggestions from both community groups and the wider public. However, in practice, this had not been the case and community contacts were described as “...a bit disappointing...” (KMS2.1) in that they had resulted in few suggestions for potential projects, particularly new and innovative schemes.

2.31 There was little recollection of consultations among the key stakeholders interviewed for the evaluation, and reported in Chapter 6, with the only event recalled being an open day promoting CROs to potential placement providers.

2.32 Notably, site staff commented that the community groups they had contacted had appeared confused about the differences between CROs and CSOs. KMS2.1. recollected one event he had attended where “...everybody asked ‘How is this different from CS?’...”. Concurring with this, KMS2.2 commented that it had been somewhat difficult to explain the differences between CROs and CSOs to community groups, which in turn had made it difficult to explain the distinctive purposes and potential uses of the new Order. He stated: “CROs don’t seem to have a separate identity....there’s no ‘unique selling point’...”

2.33 This is an intriguing difficulty. One of the justices interviewed in Site 2, who had not attended any training events about CROs reported “I personally have my own difficulties in understanding the difference between the scheme and the Community Service Order.” This apparent uncertainty over the status of the CRO could be linked to the fact that this pilot site, uniquely, had the facility for the district court to use the CSO.

2.34 Despite the somewhat mixed response received during initial community consultation, CRO staff in Site 2 reported that they had managed to establish sufficient community links to place offenders “...if and when necessary...” (KMS2.2). It was noted that the low numbers of Orders had assisted in this respect; had there been larger numbers of offenders (or even the numbers originally anticipated) site representatives felt that it was likely there would have been difficulties in finding sufficient work placements.

2.35 This story was corroborated by a sheriff interviewed for the study who explained that:

“...with the best will in the world ... they ... could not find, despite intensive enquiries through the police, through particularly community liaison ... other local agencies, ...a community scheme that they could effectively supervise ...And of course the other difficulty was, before you can supervise a community rehabilitation scheme cost effectively, you have to have about a dozen offenders and there was no way that a magic wand could be waved and a dozen offenders suddenly produced.”

2.36 CRO staff in Site 2 recounted that, during early planning for the scheme, they had hoped to identify a high profile ‘beacon’ activity that would raise awareness, achieve community visibility and build the reputation of the new Order amongst both sentencers and the local community, as intended by the policy. However, the low number of Orders imposed, together with the dearth of community suggestions for activities and placements, meant that it had not been possible to undertake a project of this nature. Had such a project been launched, respondents argued, the low numbers could have made it unsustainable, undermining credibility in the community rather than promoting it. As a consequence, CRO staff in Site 2 had deliberately avoided too high a profile and sought to focus on small-scale, more individual projects. One respondent commented that CRO staff had intended to “...look for the individual cases in the local paper...but we haven’t even been able to do that because of the numbers...” (KMS2.1)

2.37 Despite the reported difficulties in identifying appropriate work placements, and the complications posed by the extremely low throughput of offenders, some successful and visible activities were undertaken at Site 2. One such activity was a litter clean up in a very deprived local area of some notoriety. KMS2.1 recounted that, in the initial stages, this work had been successful, with some very positive comments being made by the local community. However, this activity had subsequently been forced to end because of health and safety concerns. Staff at Site 2 reported that some young people in the community had started to throw missiles at the work party and “...it just became too risky...” (KMS2.2) to take offenders to the location.

Reparative Work

2.38 Site 2 offered a variety of placement activities, frequently allowing offenders to work individually. Where team placements were possible, offenders undertook work on local regeneration projects, most commonly involving the removal of graffiti. Other such work included gardening and decorating community resources.

2.39 Other placements included undertaking a computer course at a local college, coaching youth football teams, helping out at the Cats Protection shelter and caring at a local day centre for the elderly.

Site 3

2.40 In Site 3, the early planning stages saw CROs being incorporated into the work of existing CSO and SAO schemes, rather than attempting to create a discrete or stand-alone CRO unit. This approach was intended to “...build on existing best practices...lead to efficiencies and recognise the similarity with CS and SAO...” (KMS3.1). Initial predictions at this site estimated a throughput of approximately 50 CROs per annum¹³, which led key staff to conclude that running a separate work squad for CRO offenders would be inefficient.

2.41 At commencement, an assistant community service officer was appointed to take

¹³ Key staff reported that due to a perceived lack of guidance this was a crude estimate based on previous experience of community based disposals.

primary¹⁴ responsibility for the CRO scheme in Site 3, together with 2 full time supervising officers. The remaining staff for the scheme (projects officer, administrators) were sourced from the existing CS unit, with funding being ‘pooled’ between the schemes to try and facilitate efficiencies. The first year budget allocated to this CRO scheme was approximately £90,000¹⁵. Again, Chapter 7 provides more detail on funding and costs for the pilot period.

Awareness raising with the courts

2.42 As in Sites 1 and 2, CRO staff in Site 3 had made early initial contact with sentencers in their area. These predominately took the form of open days and presentations that were intended to fulfil the dual functions of awareness raising and guidance.

2.43 CRO staff noted that initial meetings and awareness raising represented their principal method of engagement with sentencers regarding the CRO scheme. No other specific links with the courts had been established and no staff had been routinely identified to cover the district courts in the area. However, it was stated that the existing court officer based in the local sheriff court was fully familiar with the CRO scheme and was competent to offer advice and guidance if so requested.

2.44 CRO staff in this site reported that sentencers had, in general, responded positively to these initial approaches. However, they also reported that there had been noticeable variation amongst different sentencers. CRO staff perceived that the staff of the district court had responded more positively to the Order than those of the sheriff court. One of the sheriffs interviewed from this location could not, however, recall invitations to attend briefing sessions. Moreover, there was a feeling that justices from some district courts in the area had been more receptive than others to the new CRO scheme. CRO staff felt that this had been evidenced by the levels of attendance at various open days held during the initial set-up of the scheme.

2.45 The perception that the district court responded positively is supported by the fact that Site 3 made more Orders than the other 2 sites and that most of these (34) were made by justices, with only one from a sheriff. It is also supported by the interviews with sentencers, with justices reporting “*Yes there was enthusiasm, we thought we would make a lot of use of it*” and “*Yes, I really felt it was a very good option instead of fining*”, while the 2 sheriffs interviewed saw the Order as principally for district court use.

Consultation with local organisations

2.46 Staff at Site 3 had undertaken a community consultation in the early stages of developing the CRO scheme, to identify possible work placements and reparative activity for those sentenced to the new Order. Notably, CRO staff perceived that this initial activity had fulfilled the obligation to consult for the scheme. They stated that, in light of the removal of the requirement to undertake CRO community consultations annually, they had no plans to repeat the process. The removal of this requirement had been agreed, it was said, at a steering group meeting held midway through the first year of the pilot scheme.

¹⁴ This was a task that would be performed in conjunction with existing duties.

¹⁵ After start-up costs, this translated into a unit cost of approximately £1662 per CRO.

2.47 During their community consultation, CRO staff reported contacting local Community Councils, Community Wardens and relevant local agencies and service providers. In the first stages of this process, staff had briefly considered using public advertising or similar strategies. However, such ideas had been discounted at an early stage, largely because they felt that such approaches had a dangerous potential to ‘swamp’ them with suggestions and create expectations that they could not fulfil, particularly if Order numbers did not meet initial expectations.

2.48 Interviewees reported that Community Councils had expressed initial interest in engaging with the new Order and helping to identify suitable work placements. However, this initial interest was said to have soon waned and CRO staff said they had never actually received any CRO placement suggestions from Community Councils. KMS3.1 commented that the feedback from Community Councils had, in this respect, been “...surprisingly poor...” In comparison, contacts with Community Wardens were viewed as more successful and site representatives recounted that Wardens had made some interesting suggestions for potential work placements.

2.49 Contacts made with local agencies and service providers during the community consultation were described by site representatives as more successful. KMS3.2 recounted that approaches made to agencies during this period had, for example, resulted in the successful formation of links with the Local Authority’s Youth Action Team. The links established at this time ensured that the CRO scheme in Site 3 had the ability to provide placements for young people aged between 12 and 15, although, in the event, this has not been necessary, nor did they anticipate that this would be necessary in the future.

2.50 Site representatives identified a number of other local agencies and service providers with whom they established links. These included: a national agency that worked with offenders who had employment needs; a local drugs support agency; a local volunteer agency; and a City Centre Partnership. The links established with these agencies were not only used to identify work placements but also to source additional support for offenders with specific needs.

2.51 It was noted by Site 3 representatives that although many agencies had been approached during the community consultation period many had not been re-approached during the operation of the scheme. CRO staff commented that the low number of Orders imposed made this unnecessary. The consultation with key stakeholders by the evaluation team suggested that 2 sets of workshops/meetings that they were aware of had not been well attended. The stakeholders, however, also reported the general view that CROs were superfluous and they were not clear how they could rehabilitate offenders (see Chapter 6).

2.52 At the site visit made by the research team, CRO staff in Site 3 described a number of successful work placements that had been conducted during the first year of the scheme. These were mainly different forms of cleaning and environmental programmes, such as the removal of chewing gum from the local city centre and the clearance of local woodland walks.

2.53 Notwithstanding the consultations that had taken place in Site 3, CRO staff noted that finding activities for those sentenced to CROs had been somewhat problematic, principally because of the desire to separate CRO and CSO offenders. This had posed a particular

problem in relation to premises and CRO staff had had to find an alternative location. Site representatives felt that the requirement to separate CRO and CSO offenders was largely unnecessary and somewhat artificial. They provided the example of 2 offenders sentenced to CROs who were also subject to CSOs. The need to separate the 2 groups, combined with the small number of offenders receiving CROs, had ensured that it had not been possible to have CRO offenders work in groups. Work placements were, therefore, largely undertaken and supervised individually.

2.54 CRO staff also commented on difficulties in trying to establish links between the types of offences committed by offenders sentenced to CROs and their work placements. Staff believed that, to some extent, the new Order was premised on a vision that such a link should be made: for example, if someone was convicted of a graffiti offence they would be required to undertake work cleaning graffiti. They commented that this was also likely to be the wider public expectation surrounding CROs. Staff reported that it had, however, not been possible to make such links, particularly in light of the low number of Orders and the inability to predict levels of offenders available with the necessary basic skills for projects at any one moment.

Reparative Work

2.55 Site 3 did not offer discrete projects for CRO offenders to participate in and complete. Instead offenders were given broadly similar tasks, including grass cutting, litter picking and clearance work, undertaken at local churches and parkland. Some offenders undertook more skilled tasks such as gardening and fence building or repair, but generally speaking offenders were required to undertake menial and repetitive tasks with little room to acquire new skills. The outcome of such tasks were however visible to the members of the community and the church.

2.56 Site 3 also tasked offenders to basic maintenance work, for example, yard sweeping and cleaning the work van, in and around the CSO and CRO offices. While this may have been due to difficulties in finding suitable community based work for the scheme, the use of these tasks and their location on the outskirts of the city does not seem to meet the requirements of the CRO guidance that activities allow offenders to make reparation for their antisocial behaviour. Such tasks are neither visible nor have an impact on the local community.

Enforcement Procedures

2.57 Site 1 had one dedicated CRO supervisor for the duration of the pilot. An assistant had been available but had ceased employment with the scheme in March 2006. The main supervisor had previously worked as a sessional supervisor for Community Service in the local authority. Site 2 employed 2 activity supervisors to undertake responsibility for the CRO offenders. Both had come from Community Service backgrounds, although had limited previous experience having only been employed in CS for short periods of time. Site 3 had 2 supervisors who were allocated to both CROs and CSOs. Each had previously worked as dedicated CSO supervisors within the local authority.

2.58 All sites used a warning and breach system to address unexplained absences and ensure offenders complied with the terms of their CRO. The process adopted varied across the sites. In site 1, the first unexplained absence was followed up with a formal warning and the second with a final warning. The third was followed by breach proceedings. Site 2 adopted the same approach to warning offenders but included a period of suspension prior to the pursuit of breach proceedings. Site 3 was the only site to exercise a caution prior to issuing formal warnings, but thereafter followed the same model as Site 1.

2.59 Supervising Officers were asked to reflect on how effective the enforcement procedures had been in their site. Site 1 stated they believed their procedure to have been an effective one, a view largely supported by the relative success rate evidenced in chapter 3 of this report.

2.60 Site 2 reported that where the appropriate screening checklist had been used by the courts when sentencing, the enforcement procedure had been effective. Offender compliance was believed to be hindered here by substance misuse problems and where offenders had a previous offending record and were familiar with the Criminal Justice System. To these offenders, it was argued, there was a lack of 'real' consequence to breaching their Order and they simply did not take the process seriously.

2.61 Site 3 were less satisfied with the enforcement procedure as it had operated over the course of the pilot. Here it was reported that offenders were seen to be taking advantage of the warning system and were unconcerned by the threat and consequences of breach proceedings. It was speculated that offenders were inclined to ignore the District Court orders and were not taking the process seriously. However, it was reported that where offenders were reinstated following breach proceedings they appeared more likely to complete their Orders successfully. As of 22nd December 2006 (the end of the pilot data gathering period) none of the reinstated offenders at this site had yet completed their Order.

2.62 Guidance from the Scottish Executive required the sites to offer flexible placements to support compliance that could accommodate competing demands on offenders' time, such as employment or caring responsibilities. All sites provided a degree of flexibility. In site 1, placements were offered Monday to Friday and on Sundays but no evening work was available. Site 2 offered team placements on a Friday but made sure to accommodate each individual as required. Site 3 offered placements Monday to Friday and on the weekends but, again, no evening work was available.

Summary

2.63 The processes of establishing and implementing CRO schemes shared a number of common features across the 3 pilot sites but there were some differences in the way the sites sought to establish their new schemes.

2.64 At inception, CRO staff at all sites had initiated efforts to fulfil the requirement to consult on the kind of work to be undertaken by offenders. Contact was made with relevant sentencers, with the dual aim of raising awareness of the scheme and clarifying the parameters of its use. Each site adopted broadly similar techniques for progressing this early work, such as presentations and open days. Some differences were, however, apparent. In Site 1, for

example, a member of the CRO staff had been allocated to attend both the district and sheriff courts once a week for the first few months of the pilot to continue to promote the scheme and offer guidance where necessary.

2.65 Site 2 provided further input via the introduction of a CRO Screening Sheet, which included a checklist to assist targeting. While such a checklist had the potential to limit the number of Orders in Site 2, in practice, offenders who did not meet the criteria outlined in the Screening Sheet were placed on CROs. Site 2 also made a cash grant to modify district court ICT systems.

2.66 Sites 1 and 3 reported receiving a mixed response to their initial contacts with sentencers, with a more positive response from the district courts than from the sheriff courts.

2.67 As required by the terms of the pilot, all 3 sites had engaged in some degree of 'community consultation.' In Site 1, the community consultation was an ongoing process driven by the proactive liaison of the scheme manager with local community groups and organisations.

2.68 All sites had managed to ensure that their CRO offenders had been placed in work schemes and projects. In sites 1 and 2, CRO schemes had been established as discrete units, distinct from other aspects of Criminal Justice Social Work. Site 3, in contrast, had sought to build upon existing resources by adding the CRO scheme into the existing structure of CSOs and SAOs and combining the budgets.

2.69 Sites 2 and 3 relied on the nature of the prescribed activity itself to meet the requirements of Orders to challenge antisocial attitudes and assumptions, encourage personal and social responsibility and self respect and/or the development of life skills and problem solving and, ultimately, to reduce antisocial behaviour. Site 1 ran a short 6 session module on victim awareness and sought to make it an ongoing theme and philosophy throughout the entire duration of the Order. In Sites 2 and 3, no specific victim awareness work was undertaken with offenders at the time of writing (January 2007) this report, although staff in Site 2 were considering its introduction.

2.70 The information obtained about implementation and early operation of the pilots raises some questions about early communications and planning. For example, it was suggested in one site that sentencers and those responsible for operating the pilot had found out from the national press that they had been selected as a pilot site. The fact that, in one area, local discussions with Trade Unions happened only after implementation and that in another location there was confusion over how CROs differed from CSOs, would suggest that, if CROs are rolled out nationally, communication over such matters should start as early as possible.

2.71 Similarly, all 3 sites reported disappointing levels of reaction from Community Councils, Community Safety Partnerships and other local groups. Given the importance ascribed to such consultations by the Scottish Executive, any rollout of CROs would benefit from early publicity about the crucial role to be played by community organisations in helping to identify projects for CRO offenders to work on.

2.72 There was uncertainty in the pilot sites about the relationships between seeking placement opportunities and raising community expectations, and between the numbers of

placement opportunities and numbers of CROs. For example, some respondents felt that, had there been more CROs, they might not have had sufficient placement opportunities to accommodate them. One site saw this as a potential problem should they purposefully seek to match offence type with placement type. On the other hand, difficulties in obtaining and sustaining placement opportunities were seen as a problem created by low numbers of offenders coming through. One site abandoned the idea of using public advertising or similar strategies in case they raised expectations they could not meet.

2.73 The nature of work placement varied across sites. Some sites allowed offenders to work on projects that had a lasting and visible outcome, whereas others tasked offenders to menial jobs that were not located within the community.

2.74 All sites employed activity supervisors with previous relevant experience of working with offenders in the community. All adopted a common national standard protocol for ensuring compliance and flexible placement arrangements to support compliance. The degree of compliance between sites varied.

CHAPTER THREE PROFILE OF THE ORDERS AND THE OFFENDERS

Introduction

3.1 This chapter provides a description of the Community Reparation Orders (CROs) in the 3 pilot areas and of the offenders who were given the Orders. The chapter addresses objectives 4 and 5 of the research specification (see Annex 1) by providing: details of the characteristics of the offenders, including previous convictions; details of the offences for which the offenders were given a CRO; use of repeat Orders; and levels of compliance. Some comparison is also given of how similar cases were dealt with by the courts in the year prior to the implementation of the legislation.

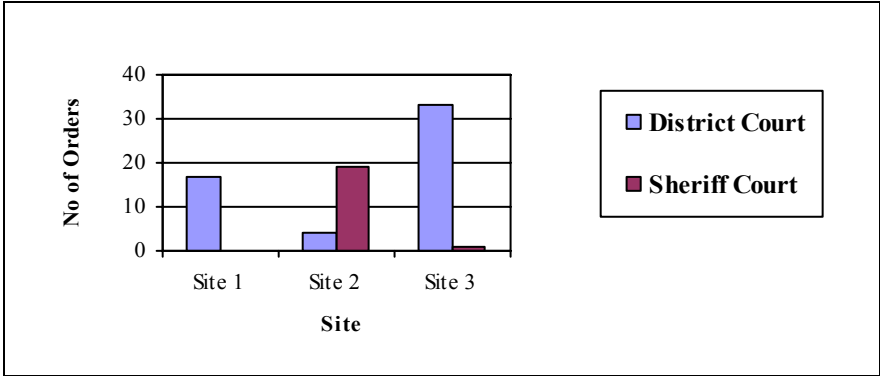
3.2 All 3 pilot sites established a monitoring system for their CRO schemes. There was some variation between the sites as to the monitoring processes employed and the amount of information held on clients. Nevertheless, all sites responded to the request to provide monitoring data which has subsequently been collated, cleaned and analysed. Given the low number of Orders over the pilot period, it has not been possible to carry out detailed statistical analyses of the data.

Number of Orders

3.3 Monitoring data was gathered for the first 20 months of the pilot period (1st May 2005 – 22nd December 2006). During this period, a total of 74 Orders were given to 70 individual offenders in the 3 pilot sites. Four individuals had received Orders on 2 occasions. Of these 74 Orders, 17 (23%) were imposed in Site 1, 23 (31%) in Site 2, and 34 (46%) in Site 3. These numbers represent 11%, 7% and 68% respectively of the original broad estimates of likely numbers of Orders for the first year of the pilot. Possible explanations for this low level of use were sought by the research team and are provided in later chapters of this report.

3.4 In all, 20 (27%) of the 74 Orders were imposed by sheriffs and all but one of these sheriff court Orders were imposed in Site 2. Justices in Site 2, in contrast, gave only 4 Orders whereas, in the other 2 pilot areas, it was justices who used the legislation most (see Figure 3.1).

Figure 3.1 CROs by Site and Court

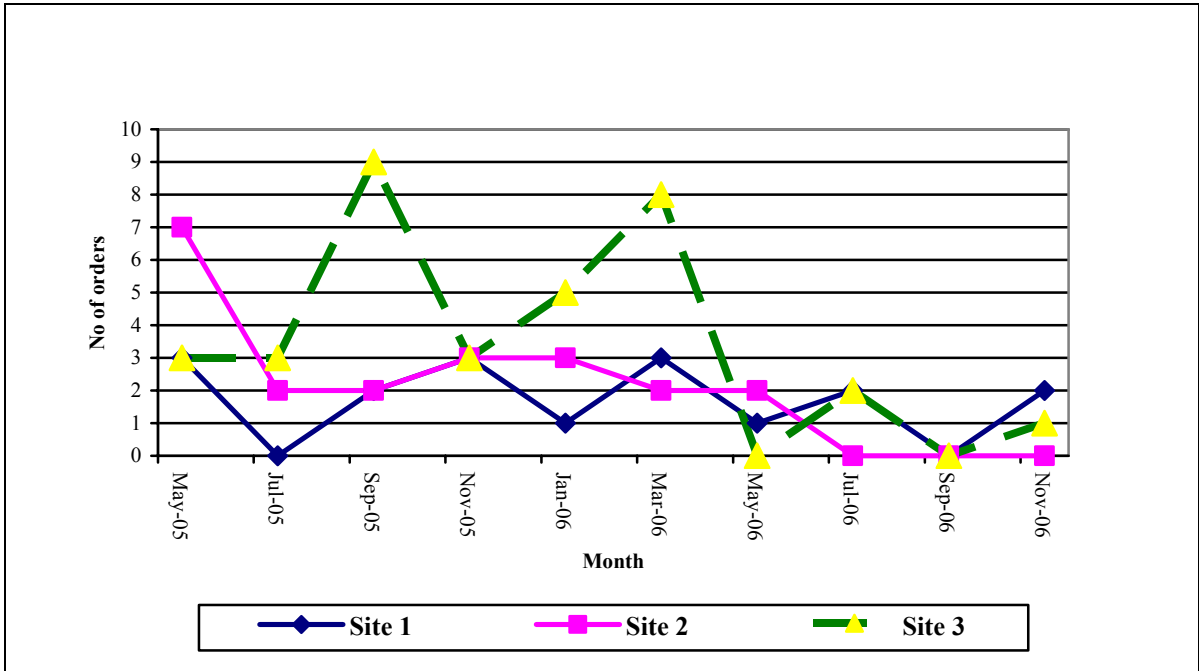


3.5 Staff suggested that the lack of take up by the district court in Site 2 may have been affected by the existence of a local diversion pilot allowing the police to issue a fixed penalty notice under the terms of the *Antisocial Behaviour (Fixed Penalty Offence) (Prescribed Area) (Scotland) Regulations 2005* for a similar range of offences¹⁶. This explanation was certainly given by the sheriff and a justice interviewed in Site 2. In 2005-06, 3,327 fixed penalty notices were given out, mainly for breach of the peace (49%), urinating (28%) and consuming alcohol in a public place (12%) (Eberst & Staines 2007). The published evaluation¹⁷ of this pilot scheme did not provide a breakdown of the types of behaviour leading to these offence charges and it is not, therefore, possible to say with more certainty that this coinciding pilot provides an explanation for the low take up of CROs in site 2.

3.6 Interestingly, unlike sheriffs across the pilots, the justices in Site 2 did not indicate that because they already had the power to issue CSOs they were less inclined to think of using CROs. The annual number of CSOs given by the district court is, in fact, relatively small with 19 in the year 2004-05.

3.7 The pattern of use of CROs over the pilot period is shown in Figure 3.2. The sporadic use could reflect a perceived shortage of relevant cases falling within the legal definition, an explanation given for low numbers by justices in Site 1.

Figure 3.2 CRO Pattern of Use



¹⁶ Including vandalism; breach of the peace; malicious mischief; being drunk and incapable in a public place; riotous behaviour whilst drunk in licensed premises; refusing to leave licensed premises on being requested to do so; urinating or defecating in circumstances causing annoyance to others; playing musical instruments, radios etc to the annoyance of others; and consuming alcohol in a public place.

¹⁷ Ibid.

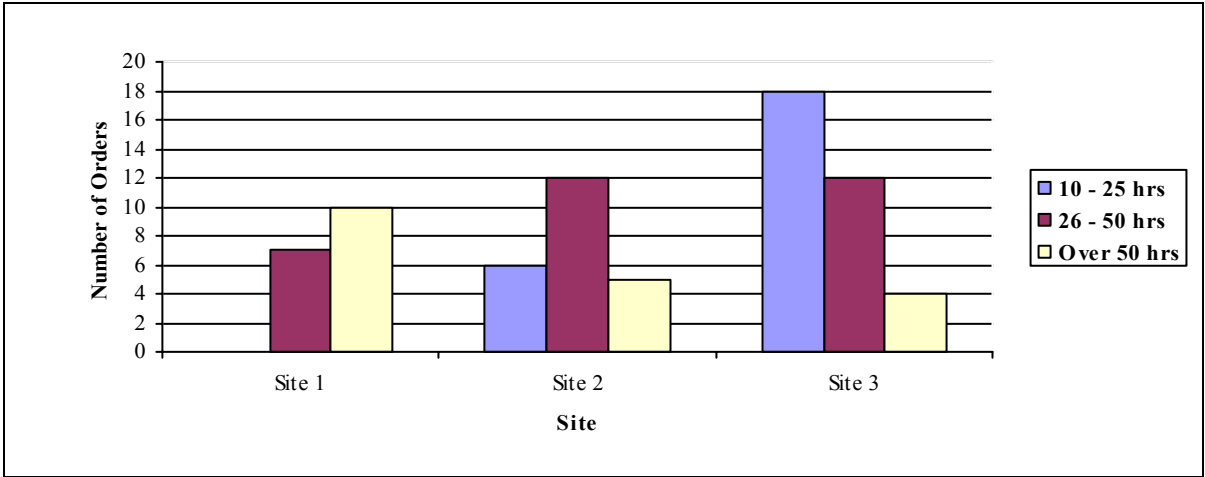
3.8 Such a suggestion does not, however, explain the notable reduction in the numbers of Orders imposed per month in the second year. Site 1 was the most consistent, with a low but regular flow maintained throughout the pilot period. Site 3 in contrast had relatively high numbers per month in the first year and very few at all in the second. Site 2 has also seen a tail off in the numbers imposed, with none imposed since the early stages of the second year.

3.9 The number of hours imposed per Order varied throughout the pilot period (see Table 3.1). The average number of hours per Order is 44. The average number of hours by individual site is: Site 1, 70.5 hours; Site 2, 45 hours; and Site 3, 30.4 hours. The justices in Site 1 arrived at an informal policy, at some point in the pilot, of not making Orders of less than 50 hours and it is the only site to have imposed the maximum of 100 hours.

Table 3.1 CRO Hours

Order Hours	No of CROs						Total	%
	Site 1	%	Site 2	%	Site 3	%		
10 – 25 hours	0	0	6	26	18	53	24	32
26 – 50 hours	7	41	12	52	12	35	31	42
Over 50 hours	10	59	5	22	4	12	19	26
TOTAL	17	100	23	100	34	100	74	100

Figure 3.3 CRO Hours



3.10 Key staff at Site 1 also made it clear to the research team that to meet the aims of the legislation and effect changes in offender thinking and behaviour, they believed that a sufficient time commitment was required. Key staff at Sites 2 and 3, on the other hand, argued that lower hours were appropriate given the general low tariff nature of offending the Order was meant to address. These differing approaches are reflected in the figures given in Table 3.1.

3.11 The imposition of a CRO does not require the sentencer to seek a social enquiry report (SER). Nevertheless, in 7 (9%) of the 74 cases an SER was requested and provided; all were

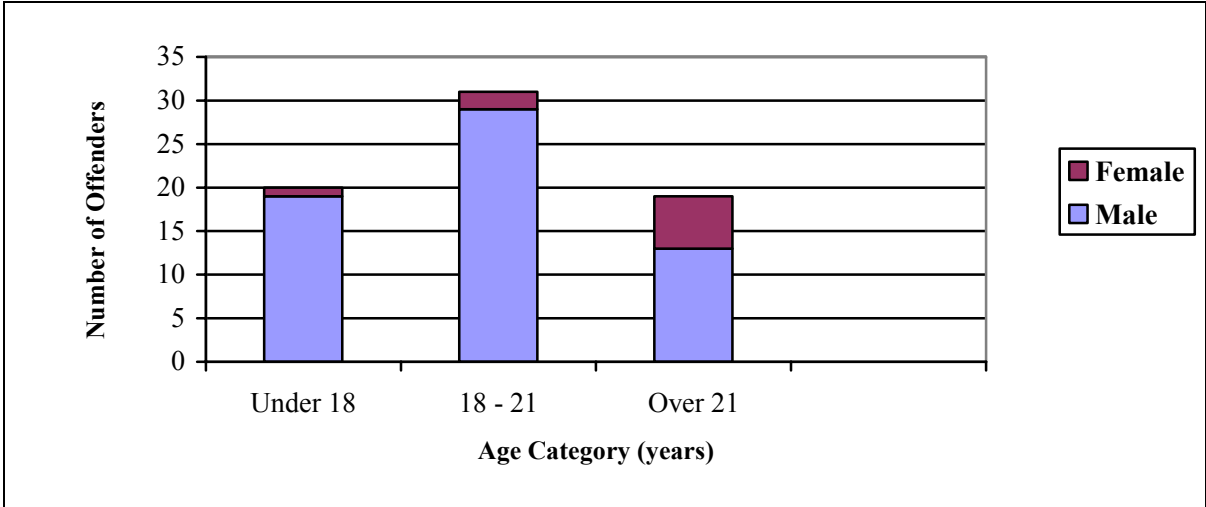
in Site 2 and all except one were requested by a sheriff. A further 3 SERs were required in Site 2 following breach applications. One was requested on health grounds. The reasons for the other 2 are unknown.

Profile of CRO Offenders

3.12 At 61 of the total 70, the vast majority (87%) of the offenders who received a CRO were male, with females constituting just 13% (9). This is similar to the distribution for Community Service Orders (88%); Supervised Attendance Orders (84%); and Probation Orders (82%)¹⁸.

3.13 The majority of those given a CRO fell into the young offender category, with 51 (73%) of the 70 being 21 or younger, although ages ranged from 16 years to 46. Almost one third (29%) were under the age of 18 and the median age¹⁹ was 19 years. Of those under 18, two had been heard at the sheriff court for breach of the peace; one had no previous convictions; and the record for the other was unavailable. Figure 3.4 below illustrates the pattern of distribution of age and gender across the CRO population:

Figure 3.4 Pattern of distribution of age and gender



3.14 Information relating to the ethnic background of the CRO offenders was largely unavailable. Site 2 was the only site to provide such data. Of the 23 offenders at this site, 13 were recorded as White Scottish or White UK and 1 as Mixed Background. Nine were recorded as unknown.

¹⁸ Criminal Justice Social Work Statistics 2005-06, Scottish Executive, <http://www.scotland.gov.uk/Publications/2007/01/29151512/46>

¹⁹ That is, the age in the middle. In this case, therefore, half of the offenders were under 19 and half were over.

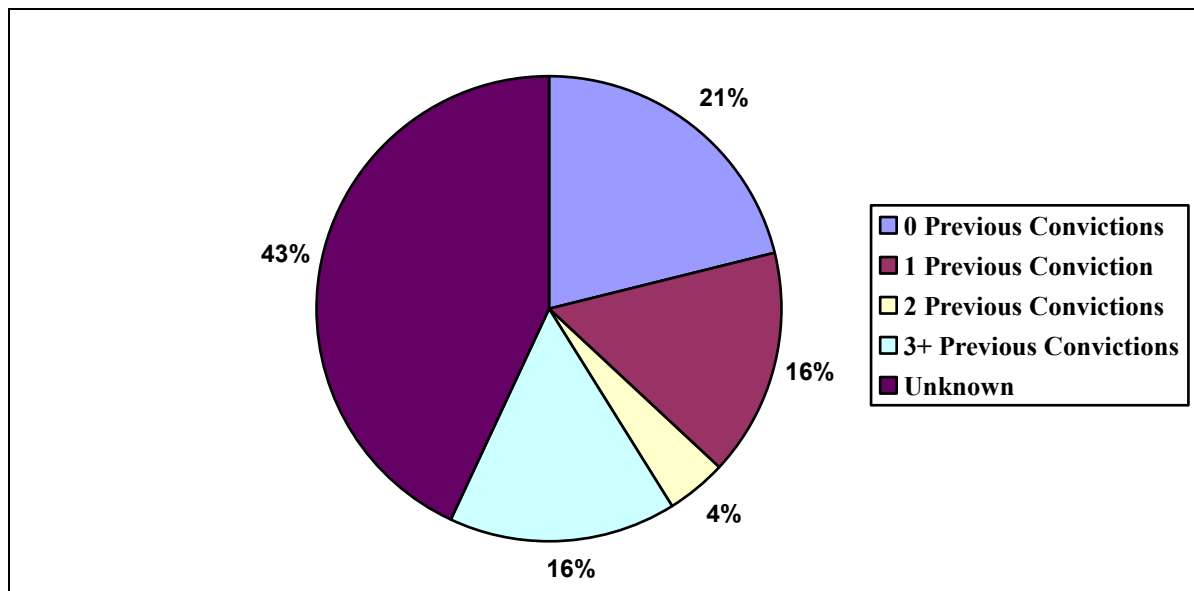
Previous convictions

3.15 Pilot site representatives reported that they had experienced some difficulties in obtaining information on the previous convictions of those given Orders, with the courts being inconsistent in providing this data even when specifically requested. The information provided in Table 3.2 is, therefore, incomplete, with records of previous convictions being unavailable for 30 (43%) of the 70 offenders. As a result, the patterns reported on here must be treated with caution as it is not possible to say whether they represent a true reflection of the population of CRO offenders.

Table 3.2 Previous Convictions

NO OF PREVIOUS CONVICTIONS	NO OF OFFENDERS (70)	% OF THE 40 WHOSE PREVIOUS RECORD WAS AVAILABLE (% ROUNDED)	% OF TOTAL (70) CRO OFFENDER POPULATION
0	15	38	21
1	11	28	16
2	3	7	4
3+	11	28	16
UNKNOWN	30	N/A	43

Figure 3.5 Previous Convictions



3.16 The CRO legislation was provided for relatively low-level antisocial offences and it is consistent to note that over one third of offenders (38%), for whom information was available, had no previous convictions and a further 28% had only one previous conviction. An equal proportion (28%), however, had 3 or more previous convictions. The average number of convictions, where known, was 3.9 but this figure is skewed by 2 individuals with a large

number of previous convictions. As can be seen from the table, the median number of convictions was 2 and the most frequently occurring number (the mode) of convictions in this small population is 1.

3.17 Of the 20 offenders under 18 at the time of their conviction, 5 had no previous convictions and 3 each had a single previous conviction in this age group, previous convictions records were unavailable for 12 of the under 18s. Those more than 6 months short of their 18th birthday could, of course, be referred to a Reporter to arrange a children's hearing to provide advice to the court. If they are already under the supervision of the Children's Hearing System and they have been prosecuted in the sheriff court, they must be referred to a children's hearing for advice. In the absence of an SER, the court may not be aware of whether the young person is currently under such supervision and this potential problem may be all the more acute in the lay district courts²⁰.

3.18 Two sites were able to provide some data on the nature of the previous offences for 13 offenders. This is, of course, only around one in 5 of the full population of CRO offenders. Nevertheless, it is useful to note that the majority of the offences were relatively low level and similar to those for which the CRO was imposed such as breach of the peace and vandalism, although there were some cases of assault and one of wilful fire raising. Information on the nature of previous offence was only available for 1 of the 3 who had previous recorded convictions in the under 18 category. The previous offence was an attempted car theft.

3.19 Separate information on whether offenders had ever received a custodial sentence was sought from all 3 pilot sites but again the sites reported having difficulties in obtaining this information. It appeared that courts were not forthcoming with the requested information. As far as is known, only one offender had served a custodial sentence (2 in fact). Of those whose previous offending record was not available to the research team, it was nevertheless known that none had served a custodial sentence.

The current offence

3.20 Information is available on 74 charges brought against 65 of the CRO offenders. The other 5 offenders' charges are unknown. A breakdown of the offences charged and leading to the imposition of the CROs is given in Table 3.3.

²⁰ The Criminal Procedure (Scotland) Act 1995, Section 49, subsections 1 and 6, provide for a court to either remit the case to, or seek advice from, a children's hearing.

Table 3.3 Offence Charges

OFFENCE	NO OF CHARGES	% OF ALL CHARGES
BREACH OF THE PEACE	38	54
CRIMINAL LAW (CON) (SC) ACT 1995 (PROBABLY VANDALISM)	7	9
VANDALISM	6	8
THEFT	4	5
ASSAULT	4	5
WILFUL DAMAGE TO PROPERTY	4	5
MALICIOUS MISCHIEF	2	3
CULPABLE FIRE RAISING	1	1
FAILURE TO APPEAR IN COURT	1	1
LOCAL GOVERNMENT (SCOTLAND) ACT 1973 SECTIONS 201, 202, 203*	2	3
POLICE (SCOTLAND) ACT 1967 SECTION 41 1 A)**	1	1
ROAD TRAFFIC OFFENDERS ACT 1988 (NO FURTHER INFORMATION AVAILABLE)	1	1
WASTING POLICE TIME	3	4
TOTAL	74	100

Notes to table

* denotes a breach of a Local Government byelaw. One of these was a drink related byelaw

** denotes that this can include resisting, obstructing, assaulting, molesting or hindering a constable in the exercise of their duty

3.21 Cited 38 times, breach of the peace was the most common offence. This charge can encompass a broad range of behaviours but it has not been possible to determine these from the information available to the research team.

3.22 Site 1 was the only site to gather offence descriptions within their internal monitoring system. Using these descriptions and some of the information gathered through the offender interviews, 13 cases were analysed. It was found that at least 9²¹ involved the offender acting under the influence of alcohol and that 8 involved the respondent shouting and swearing. Five involved struggles with police officers or community wardens and one involved the obstruction of traffic.

3.23 The next most common category of offence charged was breach of the Criminal Law (Consolidation) (Scotland) Act 1995. Information on the section of the Act breached was only available for 4 cases. All of these were cases of vandalism and it is likely, given the nature of the Act, that the other cases were also related to vandalism. If we add to these cases those of malicious mischief and wilful damage, then there were broadly 19 likely instances of vandalism.

²¹ It is not clear from the other descriptions whether alcohol was a factor in the offending behaviour.

Compliance with the CRO

3.24 As of 22nd December 2006, 24 (34%) of the 70 offenders had ‘successfully’ completed their Orders across the 3 pilot sites and 14 (20%) were classed as ongoing. A further 2 (3%) were classed as ongoing but were under review: one because of drug addiction and the other on health grounds. Sixteen (23%) offenders had had their Order revoked, 3 following review and 13 following breach application. Altogether, 33 breach applications had been made against 29 (41%) individuals: 10 Orders were reinstated but only one had been completed by the end of the evaluation period. Ten (14%) individuals were awaiting the outcome of their breach application.

3.25 Of the 16 Orders that had been revoked, information on the alternative sentence was known in only 8 cases. One had received 7 days detention and another had received a CSO. Another had been given a Restriction of Liberty Order. The rest had resulted in the imposition of a fine. Despite the small numbers reported on here, the variety of alternative disposals used is notable. Given that the CRO was intended as a response to low tariff offences it is perhaps surprising that offenders were given such high tariff sentences as custody and community service.

3.26 Four (6%) of the 70 offenders had their Orders transferred or abandoned in the pilot period. In 2 cases the offenders had moved out of the site area and in one case the offender was imprisoned for life following a conviction for murder. The final offender successfully appealed his sentence through the High Court of Appeal.

Comparison with Other Community Disposals

3.27 Using the available national statistics from 2004-05²² it is possible to make crude comparisons for the rate of breach of the CRO against other community based disposals. Of the 74 CROs issued in the pilot period, 33 breach applications were made. Four individuals were subject to breach proceedings on 2 occasions, thus a total of 29 Orders were subject to breach application. In all, therefore, 39% of the 74 CROs issued in the pilot period resulted in a breach application.

3.28 The breach rate for CROs is slightly more negative than the approximately one third breach rates for Community Service Orders and Supervised Attendance Orders and markedly more negative than the approximately one in 4 breach rate for Probation Orders.

²² Criminal Justice Social Work Statistics 2004-05 in The Scottish Executive Statistical Bulletin 2006

Fate of the Orders

3.29 Tables 3.4 and 3.5 show the fate of the Orders and the levels of compliance in each site.

Table 3.4 Fate of Orders by Site

Site	Number of Orders				
	Total	Completed	Ongoing	Revoked	Total
1	17†	10 (63%)	3 (19%)	3 (19%)	16 (100%)
2	23	8 (35%)	8 (35%)	7 (30%)	23 (100%)
3	34‡	6 (19%)	19 (61%)	6 (19%)	31 (100%)
Total	74	24	29	17	70

Notes to table

† one Order abandoned due to client's appeal

‡ three Orders abandoned or transferred

Table 3.5 Patterns of Compliance by Site

Site	Number of Orders	Number of Breach Applications	% resulting in Breach Applications (% rounded)	Outstanding Breach Applications
1	17	4	24	0
2	23	11	49	3
3	34	18	53	7
Total	74	33	100	10

3.30 While the number of Orders per site is very small, there is a distinct pattern of compliance. For Sites 2 and 3, almost half of their Orders resulted in a breach application. Whereas in site 1, in spite of a higher average number of hours per order, only a quarter of Orders resulted in a breach application.

3.31 Site 1 also had the highest percentage of completed Orders at about 63%. The corresponding figures for Sites 2 and 3 are 35% and 19% respectively. It is, however, important to re-emphasise that the numbers are small.

3.32 In total, 33 breach applications were made against 29 individuals. Only 1 of these individuals had subsequently completed their CRO. Information on previous offending was available for only 13 of these offenders. Five had no previous convictions, 5 had one previous conviction and 3 had 2 or more. The majority had received relatively short Orders, with 18 given less than 50 hours. Seven were under 18 years old and 6 were 22 years or older. In terms of the offence charged, 11 had committed a breach of the peace. Interestingly however, all 3 cases of wasting police time were in the breach group. Apart from that fact, there is nothing particular that distinguished the offenders who breached.

3.33 Looking at breach applications by pilot area: in Site 1, 3 breach applications were made in the first year and one in the second year; for Site 2, 10 breach applications were made

in the first year and one in the second year; finally, in Site 3, 9 breach applications were made in both the first and second years.

How long were Orders running?

3.34 The Scottish Executive guidance for the implementation of CROs notes that offenders are required to complete their Orders within 12 months and recommends that they be completed within 6 months.²³ Information on the dates Orders were completed was largely unavailable to the research team and it is not, therefore, possible to say how many Orders were completed in the 6 months recommended by the Scottish Executive. This information was not required by the national guidance.

3.35 Forty individuals received 41 CROs in the 8 months between 1st May 2005 and the end of December 2005 and 27 of these were made in the last 6 months of that year. This would leave 14 Orders which could have been running for more than 6 months as at 31 December 2005. It is known, however, that 15 Orders had been completed by the end of the year so it might be said that Orders were not likely to have been over-running the 6 months recommendation.

3.36 Similarly, 33 Orders were made between 1st January 2006 and 20th December 2006, with 7 being made in the last 6 months of the year. Twenty six Orders should, therefore, have been completed by the end of the year if the 6 months recommendation was being followed. In fact, only 9 had been completed by the end of the year and 4 had been revoked, leaving 11 to be accounted for. Fourteen were still running.

3.37 This form of analysis is, of course, very crude. It may be, for example, that Orders made in the early months of 2005 and 2006 were running for well over 6 months while, at the same time, some Orders were completing well within the 6 months.

3.38 Looking at completions in the individual sites (see Table 3.6), all Orders imposed in the period 1st May 2005 to the end of December 2005 in Site 1 were either completed or revoked by the end of that year. Of the 9 Orders imposed in 2006, 5 were completed or revoked, one had been appealed and only 3 were ongoing. Two of the ongoing Orders had been imposed in November and December 2006 and 1 was under review.

²³ National Guidance on the Implementation of Community Reparation Orders Nov 2004 para 3.16

Table 3.6 Completion Rates by Site as at 20/12/2006

Site	Date	No of Orders	Complete	Revoked	Ongoing	Awaiting Breach Outcome	Total Breach Applications
1	1 st May 05 – 31 st Dec 05	8	6	2	0	0	3
	1 st Jan 06 – 20 th Dec 06	9*	4	1	3	0	1
Total		17	10	3	3	0	4
2	1 st May 05 – 31 st Dec 05	15	5	7	3	3	10
	1 st Jan 06 – 20 th Dec 06	8†	3	0	5	0	1
Total		23	8	7	8	3	11
3	1 st May 05 – 31 st Dec 05	18‡	4	4	7	5	9
	1 st Jan 06 – 20 th Dec 06	16	2	2	12	4	9
Total		34	6	6	19	9	18

Notes to table

* denotes one abandoned due to client's appeal and one under review

† denotes one under review

‡ denotes 3 transferred or abandoned

3.39 In Site 2, all but 3 Orders imposed during the period May 2005 to the end of December 2005 were completed or revoked. The outstanding 3 were awaiting the outcome of breach application and had been imposed after October 2005. Eight Orders had been imposed in 2006, none of which had been made in the last 6 months of the year and 6 of which had been made in the first 4 months of the year. However, only 3 had been completed, suggesting that 5 had been running at least a little over 6 months.

3.40 In Site 3, 18 Orders were imposed between May and December 2005, with 15 of them having been made in the last 6 months of that year. Seven were still ongoing at the end of the year, with 5 awaiting a breach outcome. The 2 that were still in process had both been imposed in October 2005. Of the 16 Orders imposed in 2006, 13 had been imposed in the first 4 months of that year but only 2 had been completed suggesting that most had been running for over 6 months.

3.41 The analysis by site suggests that in Sites 2 and 3 some Orders had clearly been running for longer than the 6 months recommended by the Scottish Executive and may be a reflection of problems related to compliance.

Without CROs, What Would Have Happened to the Offenders?

3.42 To gain an understanding of how CROs fit within the criminal justice system and the types of offenders and offences that they are targeting, a small number of similar offences in

the previous year were examined (in Site 1) and the nature of offences and previous disposals of a sample of those currently on CROs were also examined (in Site 2)²⁴.

3.43 In Site 1, CRO cases were predominantly for breach of the peace but there were also a small number of vandalism and assault cases. In Site 2, a sample of 21 cases that had received a CRO was examined. Eight of these were first time offenders. Of the rest, the most frequent previous offences were breach of the peace (5 cases), assault (4), Road Traffic Offences (3), and theft (3). Only one case had a previous conviction for a serious offence; 4 had previously served CSOs; 2 had received SAOs; and one each had received a Probation Order or a Restriction of Liberty Order.

3.44 A small sample of 42 district court cases from 2004, with a variety of offences that may have led to the issue of a CRO, had the Order been available, was examined. One-third of these cases received a fine; a further 21% had their sentences deferred, to be of good behaviour. Most of the remaining cases were either not called or had a warrant issued for failure to attend court. There were only 2 SAOs given and only one case of a custodial sentence imposed (of one week).

3.45 These figures would seem to suggest that CROs are possibly replacing low level disposals for predominantly low level offences and first time offenders. Where they are used, they are replacing fines and deferred sentences.

Summary

3.46 Given the low number of Orders over the pilot period, it has not been possible to carry out detailed statistical analyses of the data.

3.47 During the first 20 months of the pilot period there were 74 Community Reparation Orders and they were given to 70 offenders. Twenty of the Orders were given by sheriffs and almost all of these (19) came from Site 2. The lack of take up by the district court in Site 2 may have been affected by the existence of a local diversion pilot. Justices gave most (50) Orders in Sites 1 and 3.

3.48 Site 3 had most Orders with 34 (46%) and this was 68% of the original broad estimate of likely numbers of Orders for the first year of the pilot. Site 2 had 23 (31%) Orders and these represent 7% of the original number anticipated. Finally, Site 1 had 17 (23%) Orders and these were 11% of the original estimate. Numbers of Orders in the second year of the pilot were smaller than in the first year.

3.49 The average number of hours for Orders was 44 but this varied from 70.5 in Site 1 to 30.4 in Site 3. The justices in Site 1 adopted an informal policy at some point in the pilot to not make Orders of less than 50 hours.

3.50 Though not required by the legislation, in 7 cases an SER was sought.

²⁴ A lack of available data prevented the research team from carrying out both of these exercises for each of the three areas but the analysis still provides an indication of where CROs 'fit' within the range of court disposals.

3.51 Most (88%) of the offenders were male which is similar to the distribution for Community Service Orders (88%); Supervised Attendance Orders (84%); and Probation Orders (82%). The majority of those given a CRO fell into the young offender category, with 73% being 21 or younger. Three in 10 (29%) were under the age of 18 and the median age was 19.

3.52 Previous conviction information was available for only 30 (43%) of the 70 offenders and 65% of these had none, or only one, previous convictions. Only one offender was known to have served a custodial sentence.

3.53 Most of the cases given a CRO had committed a breach of the peace and the next largest offence category was of those with a charge for some form of vandalism.

3.54 At the time of drafting this report (January 2007), 24 Orders had been successfully completed and 16 were still in process. Site 1 had the highest completion rate at 60%, with the lowest at 18% in Site 3.

3.55 There had been 33 breach applications involving 29 (41%) offenders and 10 Orders had been reinstated. At the time of drafting this report (January 2007) only one offender who had been breached went on to complete his Order, while 16 (23%) offenders had their Orders revoked, either after a review (3) or following breach proceedings (13). Ten (14%) individuals were awaiting the outcome of their breach application.

3.56 Of the 16 revoked Orders, one had received 7 days detention, another had received a CSO and another had been given a Restriction of Liberty Order. Five had been fined and for the remaining 8 cases no data was available.

3.57 The breach rate for CROs is higher than the approximately one third breach rates for Community Service Orders and Supervised Attendance Orders and considerably higher than the approximately one in 4 breach rate for Probation Orders. For Sites 2 and 3, almost half of their Orders resulted in a breach application, whereas in Site 1, in spite of a higher average number of hours per Order, a quarter of Orders resulted in a breach application.

3.58 Four (6%) Orders were transferred or abandoned in the pilot period. In 2 cases the offenders had moved out of the site area and in another the offender was imprisoned for life following a conviction for murder. The final offender successfully appealed his sentence.

3.59 There was no obvious evidence of Orders running well over the 6 months that had been recommended by the Scottish Executive but Sites 2 and 3 appeared to have at least some cases that did over-run the limit.

3.60 A brief consideration of comparable cases from the year prior to the implementation of the CRO legislation and of the previous criminal histories of those who have received CROs, broadly confirms that CROs seem to be replacing low level disposals for predominantly low level offences (including first time offenders) and that they would otherwise have been fined or had sentence deferred with a general condition of good behaviour.

CHAPTER FOUR VIEWS AND EXPERIENCES OF THE SENTENCERS

Introduction

4.1 Although the Research Specification ('the Specification') did not specifically ask for a report on the views and experiences of the sheriffs and justices of the peace ('sentencers') in the pilot areas, they clearly play a significant role and, in light of the low numbers of Community Reparation Orders (CROs), their comments are particularly pertinent. This chapter, therefore, provides a summary of the views and experiences of justices and sheriffs from the 3 pilot areas. It is based on interviews with 10 justices, spread evenly over the 3 pilot areas, and 4 sheriffs, with at least one from each area. Two of the interviews were by telephone; the rest were face to face.

4.2 Formal clearance for interviews with sheriffs and justices was obtained by the Scottish Executive. Thereafter, the research team contacted liaison persons who negotiated interviewee participation. The research team simply stipulated its desire to interview a small number of sentencers who had used the CRO legislation and those who had not.

4.3 It is not possible to say much about the representativeness of the 14 interviewees. There may be somewhere in the region of 80 justices of the peace who are eligible to serve in the district courts in the pilot sites. The interviews will, therefore, be more representative of the justices who used the CRO legislation. There are only 13 sheriffs serving in the 3 pilot sites and the views of the 4 who were interviewed will, therefore, be more representative. The data in this chapter is, accordingly, illustrative of the views and experiences of justices and sheriffs in the 3 pilot sites.

4.4 This chapter contributes to a number of the objectives of the evaluation set out in Annex 1 by: discussing aspects of the establishment of the CRO schemes and the impact of CROs on offenders; describing, comparing and assessing the effectiveness of the local processes and procedures and the use and operation of CROs; providing some assessment of the extent to which reparation has been made to communities; and discussing the possible implications of using CRO in other 'prescribed courts'.

4.5 It had been estimated that there could be up to 550 Orders in the first 12 months of the pilots. In the event, there were 74 Orders over the period March 2005 to December 2006. This chapter, therefore, reports on the views and experiences of sentencers to explore the extent to which the low numbers of Orders might be, at least in part, a consequence of their: levels of awareness of the legislation and its consequent procedures; perceptions of the value and viability of the legislation;²⁵ understanding or interpretation of the legislation; being influenced by others such as defence agents.

²⁵ The National Guidance draws attention to the importance of the CRO schemes commanding the respect of the courts (Scottish Executive 2004 paragraph 1.2.3)

Sentencers' awareness of the legislation and procedures

4.6 Sentencers were asked about the extent to which they had known about the legislation before the pilots were implemented: had they been specifically briefed, informed or attended any specific training events?

4.7 In Site 1, 4 justices were interviewed and one sheriff. All the justices were enthusiastic about the legislation; as one of them put it: *"When it came out at first we were jumping up and down with glee."* Each recalled having been very well briefed about the legislation. For these justices there were simply not sufficient relevant cases.

4.8 On the other hand, the sheriff for this area had first heard about the legislation in a letter from the Scottish Executive but he had had no briefing from the Social Work Department.

"...when I saw the community reparation I thought well OK let's see what happens. Well to be quite blunt, nothing happened... [the Council] were not in touch with us, we didn't have any awareness raising exercises at all. Because [the Council]... as I understand ... had decided that this was a disposal more suited to the district court." (IS1)

4.9 This sheriff court, which had given no CROs, had a very small number of sheriffs and the interviewee felt he could speak for his colleagues.

4.10 There appeared to be a marked difference in the degree of preparedness in Site 2 between a sheriff and the 3 justices who were interviewed. The sheriff explained that his Social Work Department was very good at keeping sheriffs aware of developments. The Department was, he suggested, keen to involve a sheriff in what he saw as a "set up committee".

4.11 In contrast, one of the justices from this pilot area explained the fact that he had not given an Order on his "lack of training". He was uncertain as to whether there had been any specific training but recognised that he may have missed it.

4.12 Another justice in this area did not recall any specific training but seemed content with the quality of briefing material which had been provided by either the court clerk or the Social Work Department; he could not recall which.

4.13 The third justice from this area was much clearer about having attended a training session at which the Social Work Department had given a presentation and recalled that she and her colleagues were enthusiastic about the legislation.

4.14 Turning to Site 3, a sheriff recalled that he had heard about the legislation from the Judicial Studies Committee. He had not, however, been briefed at the start of the pilot as he had arrived in his post after the pilot began. He recalled that the legislation had been seen as most applicable to the district courts and that he had not, therefore, felt it was of much value to him.

4.15 One of his sheriff colleagues, who had been in post for much longer, did not recall receiving any briefing from the Social Work Department but had taken his cue from

correspondence from the Scottish Executive which made it clear that the legislation was not “particularly pertinent” to him and was most appropriate for the district court.

4.16 In contrast, the justices interviewed in this area clearly recalled being briefed about the legislation. Two of them recalled being given a talk by a member of the Social Work Department; being provided with copies of the explanatory leaflet for offenders; and visiting the location where the Orders were to be carried out. A colleague believed that the briefing had taken place during a training session at the Scottish Executive but also referred to information provided by the staff of the district court.

Sentencers’ views of the value and viability of CROs

Local viability

4.17 All of the justices and one of the sheriffs interviewed declared early enthusiasm for the CRO legislation.

4.18 The sheriff, from Site 2, had been an integral part of the early planning. For him, the appeal lay in the fact that he would not have to await a Social Enquiry Report before making an Order. The attraction was that “...it had a more instant nature if you like.” A problem identified by the sheriff was the difficulty of finding a suitable community scheme that could be supervised effectively. This problem was compounded, or perhaps made real, by the sheriff’s belief that it was unlikely that there would be sufficient Orders at any one time to make supervision of the offenders cost effective. In turn, this pessimism about numbers derived from the fact that the area had a diversion scheme which was, he felt, effectively siphoning away most of the cases that might have been suitable for an Order.

4.19 It may be indicative of some failure to maintain what had appeared to be effective early communication that the sheriff noted:

“So what they did with the few offenders ... frankly I don’t know. I suspect that they were simply shoved into the community service workshop, which wasn’t the idea of the scheme.” (2S1)

4.20 This belief that the local diversion scheme significantly reduced the options for making CROs was also mentioned by 2 of the justices interviewed from Site 2: “That’s the biggest problem we’ve had in not imposing many” (2JP3). This explanation was also mentioned by stakeholders during interviews (see Chapter 6).

4.21 Despite early enthusiasm, the justices from Site 3 felt that the pilot was less viable in their area because of its location:

“It is way way out of town.” “I think the whole thing has been stacked against us in that the location of it and I thought at the time that this is going to be no use.” (3JP1/2)

“One of the difficulties is that some of the offenders are not from... itself, the centre for these Reparation Orders is on the outskirts of ... but many of the

offenders come from distances away which sometimes makes it difficult.” (3JP3)

Shortage of relevant cases

4.22 The justices in Site 1 had a quite different set of explanations as to why the number of Orders had been lower than expected. One justice, who had made some Orders, felt that the numbers of relevant cases seen by any individual justice were limited. Often, for example, the accused failed to appear. This justice also suspected, however, that some colleagues had not used the legislation because they tended not to attend training events and did “...not fully understand it.”

4.23 For the other interviewed justices in Site 1, a shortage of relevant offenders was also their explanation for their own lack of use of the legislation:

“It is just a quirk of fate really, there just have not been suitable people for one reason or another that has emerged during the course of either the proceedings or the trial...” (1JP2)

4.24 For one of these justices, however, the shortage of relevant offenders was determined by “...the type of work that they [the offenders] were going to get...” (1JP3). This justice, and one of his colleagues, felt that the problem was one of ‘chickens and eggs’: if there was a greater variety of practical work for CRO offenders to carry out there would be more Orders given.

4.25 For another of the justices (1JP4), the main problem was that the legislation was too restrictive. He felt the limitation to specifically antisocial behaviour resulted in far fewer relevant cases and would have wished to use the legislation for breaches of local byelaws prohibiting drinking in public. He also believed that the number of persons pleading guilty by letter significantly reduced numbers.

4.26 It is worthy of note that key stakeholders from Site 3 (reported on in Chapter 6) suggested that the courts had shown a preference for fining vandals to pay for damage, utilising CROs only when the cost was viewed as excessive.

What did sentencers expect in relation to changing offender attitudes?

4.27 One of the objectives of CROs is to engage offenders in activities designed to make reparation and reduce the likelihood of their involvement in ASB in the future²⁶. Such changes were to be brought about by encouraging personal and social responsibility and self respect and by raising their awareness of the impact of their behaviour on others.

4.28 The sheriff in Site 2 was asked whether, when he had given a CRO, he had been consciously thinking about the percentage of the Order designed to change the offender’s attitudes. He replied:

²⁶ See paragraph 1.8 of the National Guidance. Paragraph 2.28 makes clear that that element of an Order which is designed to reduce the offender’s likelihood of future antisocial behaviour should be no more than 10% for Orders over 50 hours and no more than 20% for Orders under 50 hours.

“Not particularly. ... trained social workers will always try to engage with the individual about the harm to victims, about the harm they are doing to themselves in terms of making their employment prospects all the more difficult and generally about the effect on the community of their offending behaviour.”

4.29 The sheriff went on to note that he would not expect a community service supervisor, who is not a social worker, to particularly engage in such activity but he also believed that they might, often simply by example, seek to make the offender aware of “...the benefits of earning a living and ... complying with society’s rules...”. He was also of the view that community service supervisors would often involve a social worker if they had identified problems such as drug misuse or simply a need for child care support. He therefore presumed a similar scenario for CROs but maintained that, beyond that kind of service, “One to one supervision is not cost effective.”

4.30 Overall Sheriffs were sanguine about the potential for CROs to change the attitudes of offenders. One felt that one to one supervision sessions were not economically viable while another thought:

“I have a suspicion, and I can’t put it any stronger than that, that, quite bluntly, the social worker involved will not have the time to spend the so called 10%; they’ll be more concerned about getting the order done.”

4.31 A justice from the same area was less optimistic about the possibility of change:

“Well to be honest probably not. Normally the people who commit crimes, it is very difficult to make them change their attitude towards the crime, it has to come from within. [...] the sad thing about the people we see at the court is that 90% of them are the same people coming back over and over and over again.” (2JP2)

4.32 One of this justice’s colleagues was more optimistic, or at least hopeful:

“My expectation would be that, I don’t know if it’s an expectation or a hope, that it would make the person think and perhaps steer him in a different direction. Whether that happens I’ve no idea.” (2JP1)

4.33 Justice 2JP1 provided more detail on his vision of CROs. He saw Orders applying particularly in the context of young offenders and he saw them bringing the offender into a positive contact with a social worker. This process might give the offender insight into the harm done:

“...and perhaps in some cases might make them think and stay away from crime [might get] ... over to them that life could be different, they could go on a different route, and a better route and perhaps have a better life as a result of that.”

4.34 For this justice, the mechanism of the CRO might provide a means of appealing to the offender’s ‘better nature’. For another justice, in Site 1, the mechanism was more related to breaking bad life style habits: through discipline and through a sense of satisfaction in a job well done:

“...these folk they go about a non-disciplined way of life, [but with a CRO] they actually have to be at such and such a place, at 10 o’clock in the morning which is totally alien to them...[getting] satisfaction from actually doing something rather than vandalising, actually creating something.” (1JP2)

4.35 An important distinction was drawn by this justice and one of her colleagues between reparative work that was constructive and might encourage ambition and work that was simply “soul destroying”.

“Any clown can do that [pick up litter] it is a punishment and I do not see a community reparation order so much as a punishment as a way of a preventative thing.” (1JP2)

4.36 A third element, then, to breaking bad life style habits was the reparative nature of the Order: doing something for the community. The sheriff in Site 2 had looked to a focus on the actual communities where the offending had taken place, in line with the Justice Minister’s announcement that “An individual placed on an Order will be forced to make amends to their local community.”²⁷ But he believed that too few offenders would be on Orders in local communities to make their supervision viable.

4.37 More optimism was felt by a justice in Site 3:

“I think that it is a very good method of the person involved doing something for the community which very often they have either put fear into people perhaps in the streets ... they have perhaps done some damage to property or a person and through doing that work it is doing something for the community.” (3JP3)

4.38 In seeking to change attitudes, many of the justices interviewed saw the value of the CRO as being mainly for young offenders, usually males.

“...if you are talking about young people there is a chance that you stop them from doing that. Older people, it is just a case of you had better fine them their time.” (1JP1)

“Maybe they will just take someone out, just to chat and just to stop and think. Especially younger people before they start down this road...” (1JP3)

“If they have a one to one with a social worker who is trained in working with young people and perhaps getting over to them that life could be different” (2JP1)

“...if you get them young enough I think it could [make a difference] there is a possibility, I think if you get them at 40, there’s no hope.” (3JP1)

4.39 For a sheriff in Site 3, however, that level of supervision to bring about changes in attitudes would be best met through other sentencing options

²⁷ <http://www.scotland.gov.uk/News/Releases/2005/04/04081546>

“I know that it speaks about reparative activities but I would not in broad terms distinguish that in my mind from what I would expect to be undertaken for the Community Service Order.” (3S2)

Other aspects of ‘value’ and ‘viability’

4.40 Clearly, in 2 of the pilot areas the viability of the legislation was seen to have been compromised and, for the third, the volume of relevant cases simply was not as expected. Given their limited experience of using the legislation, it was difficult to identify from the interviews other explanations for low uptake. One issue that did come up during interviews was, however, the level of breaches of Orders.

4.41 The sheriff interviewed in Site 2 who had explained that his area was already running a diversion scheme had this to say in relation to breaches:

“...we tried it in a few cases, we then found that to add to the discouragement about half of the people that we had directed to the CROs had breached them at a fairly early stage by failing to appear...” (2S1)

4.42 A similar note of disillusionment was sounded by 2 justices from Site 3:

“...that [the breaches] was the first indication we had that it actually was not working.” (3JP1)

“...the off-putting part of it so far is that so many have breached the CRO. Now I am not sure why this has happened...” (3JP3)

4.43 The sheriff had little more to say on the matter but the justices in Site 3 made some useful additional comments. Justice 1 and 2 mentioned that a relatively large number of breaches appeared on the same day and that had clearly been a surprise. For justice 3, the major disappointment was that many of the breaches were a result of “the person not turning up” and he believed that more should have been done:

“...there needs to be a bit more discipline if the person does not turn up the first day he is asked to report, perhaps even asking the help of the local police if they are passing where he stays if they could call in just to make it more imperative that the person feels it is important that he should be there whereas I feel that at [Site 3] there is a more lackadaisical approach and it is maybe done by letter and not perhaps a strong enough follow up.”

4.44 This was a view mentioned in interviews with key stakeholders in Site 2, who reported problems in getting those on the placements to turn up for work but this point was not made by those interviewed in Site 3 (see Chapter 6).

4.45 Little was said by interviewees about feedback from their Social Work Departments but it might be speculated that some forewarning and explanation of breaches might allay certain feelings of disillusionment. There is no statutory requirement for Social Work Departments to report back to courts on the outcomes of CROs but one justice felt this could be helpful:

“...when we give a Community Service Order the social work send us a completion and they tell us how the person has got on, and that makes you think well that is good, I think that has done something, so it maybe once that starts to filter through as well. You know this person has really improved or it has been effective...” (IJP3)

4.46 On the other hand, this justice’s colleague noted that they were given feedback by social work staff who were present in the court.

4.47 A CRO is, of course, a low tariff disposal and, as such, the legislation did not require sentencers to obtain an SER prior to giving an Order. One sheriff interviewed did, however, express concern at the prospect of giving an Order without, as he saw it, the benefit of an SER, especially as the Order would involve some element of supervision designed to change the offender’s attitudes toward offending. This was very much a compliment to the Social Work Department, although the sheriff recognised that existing pressures on the Department made this unrealistic.

Sentencers’ understanding and interpretation of the legislation

Views on ‘suitable’ case

4.48 The only example of antisocial behaviour given by the Justice Minister in her press release announcing the pilot in Highland and Inverclyde was the breaking of a window.²⁸ In its web site, the Scottish Executive gives the examples of graffiti and vandalism.²⁹ The legislation is, of course, very specific in defining antisocial behaviour as an act which causes, or is likely to cause, alarm or distress to at least one person who is not a member of the accused person’s household.

4.49 Breaking someone’s house window or spraying paint on their wall may not result in a feeling of alarm or distress by the victim and it is unlikely that a court of summary jurisdiction will have before it any testimony to that effect. It would seem, therefore, to be within the justice’s or sheriff’s discretion to decide whether an unlawful act might have led to some feelings of alarm or distress by, for example, a by-passer, a shop customer or a householder. Three justices interviewed in Site 1 were, however, exercised by what might or might not constitute antisocial behaviour in relation to the cases that came before them. As one of them said:

“Shoplifting is included isn’t it? [...] Sometimes I have a funny feeling my Clerk will say that shoplifting is not really a community reparation order thing you know. [...] If it is not, then one of my suggestions would be possibly that they look at extending it...” (IJP2)

4.50 Clearly, a case of shoplifting might be construed as antisocial within the terms of the legislation if, for example, a particular shopkeeper had witnessed the incident and been

²⁸ See we site <http://www.scotland.gov.uk/News/Releases/2005/04/04081546>

²⁹ See <http://www.scotland.gov.uk/Topics/Justice/criminal/16906/CROs>

alarmed or distressed or was regularly being victimised by the same offender or group of offenders. But without that level of detail, the sentencer is likely to fall back upon the image of antisocial behaviours as forms of vandalism or visible or audible nuisance. It is also within the realms of this kind of doubt that sentencers may be influenced by a defence agent or the court clerk.

4.51 This uncertainty over shoplifting was mentioned by 1JP3 who had discussed the matter with 1JP2. This justice welcomed the potential of the CRO to deal with offenders who might otherwise have been fined and gone on not to pay the fine. He believed that the use of the Order would eventually increase but wanted to see more options for community reparation. He had a clear idea of what might constitute antisocial behaviour but was uncertain about shoplifting.

“At the moment it is really antisocial, breaching the peace, drinking in public, stealing I suppose. I was talking just a minute ago to....and he thought that he could not do it for shoplifting but, I mean, there is causing offence to someone else and causing alarm ... it is maybe something that can be looked at.”

4.52 1JP3 went on to note: *“It is a very broad thing so maybe if they expanded the types of offences ... that would be better”* and later in the interview he speculated that the level of his own personal tariff could be raised:

“You could use it for, say, assault I suppose, it is antisocial, there are lots of things that you could say, [...] I think if you are stealing from a shop it is antisocial because you are not going to pay for it.”

An alternative to the fine

4.53 Most of the justices interviewed emphasised that many of the, particularly young, offenders had no employment and could never be expected to pay a fine. A CRO was a positive alternative:

“... during almost every session I have at the court, I come across at least 70% of the people who do not have ... money to pay ... fines. And say if somebody is in the court for stealing. ... I know that if I impose a heavy fine they will steal again to pay the fine and that defeats the whole purpose. Whereas ...[with a] ...scheme in which they had to do some physical work then obviously first of all they would not need to steal to pay the fine and secondly they will have less time to be mischievous because they are physically occupied doing something else. [...] In my opinion this should very easily replace most of the fines.” (2JP2)

4.54 Using the CRO legislation rather than giving a fine was seen as, broadly, more economical both because it might save an expensive short term in prison and because it might avoid the fines enforcement procedures.

“... it would be a better disposal ... than a fine because ... lots of people down here just do not pay their fines. We can have a Means Enquiry Court for 100, and that is people that have not paid fines and that is very difficult because then there are not many options left open to you. That is where you get them coming up and

saying ... I am not paying it, I want to go to prison on Thursday and get out on Saturday.” (1JP3)

4.55 That particular justice suggested that the CRO legislation should be widened to make it an alternative to SAO because it had the merit of getting some, reasonably fit, young offenders, to do “...*something useful rather than just sitting in a classroom sort of thing*” and he was supported in that view by 1JP4 who would like to see the scope of the CRO extended so that he would not have to use SAOs so regularly as he knew that their failure often resulted in a custodial sentence.

4.56 Another justice was sufficiently keen on the potential of the CRO, as he saw it, to do something useful for young offenders that he speculated that there might be some merit in curtailing some of the powers of the police to give on-the-spot fines to young people under the age of 20, or perhaps 18 (2JP1) and allowing more of such cases to come to court. He did not, however, see the CRO as a general alternative to the fine: “*It’s an alternative to a fine in a small group of people but not in general.*”

4.57 While the sheriffs would not have disagreed with the view of CROs as an alternative to a fine, the relevance of this option for them was more questionable.

“... a Community Reparation Order is basically a form of community service, that is the way I think about it, and I realise it is not according to the legislation but in reality the punters out there would see it as that. It is really a Supervised Attendance Order actually [...] a fine on their time ... that is exactly what it is. It is just that you have not gone through the process of them defaulting on the fine, you have gone straight to a Supervised Attendance Order.” (3S1)

4.58 For this sheriff, however, a CRO was designed for what he termed “*bad laddies*” who were “*going through that stage of doing really incredibly stupid things*”. He believed they were probably under 16 or, perhaps, 18 or 19 and had not been drinking but simply did something “*for the laugh ... so that is all district court stuff.*”

4.59 This interpretation was echoed in reverse by another sheriff who said:

“... if I had a young offender with an alcohol related offence resulting in vandalism, I would be hoping that perhaps a period of deferral or a period of probation or the saving up for a fine or making a Compensation Order, ... would jolt him into realising that coming to court was not a very sensible thing to be doing ... very often with alcohol ... it tends to be only after he is starting to build up something of a schedule of previous convictions ... that it is possible to be clear about there being an alcohol issue to address and that he is willing to acknowledge there is a problem ...” (3S2)

4.60 That sheriff recognised that he might see a young person, perhaps still of school age, who had no independent means:

“I suppose that is one example where you might finally sort of say, well if you have no money you can at least pay us back in some other way and 10 hours of graffiti cleaning or whatever would be useful, but again I think probably the lower end of such vandalism goes into the district court so we have not really

seen that terribly often. The ones we see are just a little bit further up the scale.”

4.61 Finally, another sheriff wanted to see legislation that would bring in a lower level CSO:

“For goodness sake why can’t we give people 10 hours work for the community, it’s so much better than imposing a fine, when they’re on benefits, that they don’t pay, and then there’s all the administrative process of pursuing them ... The only problem being, what’s the sanction?” (2S1)

Is the Community Reparation Order just a low tariff Community Service Order?

4.62 One might speculate, of course, that some sheriffs will use a community service order even when they do not have a custodial sentence in mind. One sheriff, when asked whether he would use CROs more if he could stipulate longer hours, replied:

“I do not think it would make any difference to me. I would just call it a Community Service Order, because I am not with ... the reparation part, because so many of them are going to breach it anyway.” (3S1)

4.63 Another sheriff wanted to reverse the suggested process and have CSOs with fewer than 100 hours and which could be given without first having to have a report from the Social Work Department. The offenders would, he suggested, ideally not work with those given a standard CSO. The sheriff saw this as allowing him to constructively intervene earlier in a criminal career:

“I’m a great believer in early interventions and most of the time in court we find ourselves intervening with things far too late” (2S1)

4.64 A third sheriff interviewed acknowledged that:

“...some kind of non-custodial disposal which need not be a direct alternative to custody is a useful addition to the sentencing armoury and perhaps we fudge it a bit, at the moment [...] but even then it is a significant encroachment on an individual’s time and there has to be a suitable attitude to make it worthwhile and so I think that there would again have to be some provision for resources for background material [an SER]” (3S2)

4.65 The fourth sheriff was very clear that he had all the powers he needed. He had, he said, great faith in the staff operating the CSOs and he did not see a need for CROs when he had CSOs. If he wanted to give a lower level sentence to a CSO *“I’d rather think in this court we would use probation with conditions attached.” (1S1)*

4.66 The justices in Site 1 had agreed amongst themselves that they would not give Orders of less than 50 hours. One of them explained this:

“...I don’t think any less than 50 is any good. It has got to be 50 to make an impression. Some impose 100 and have been successful.” (1JP1)

4.67 This justice went on to note that she would expect the Order to be completed in 6 months.³⁰

Do others influence sentencers for or against CROs?

4.68 It has already been noted that one justice suggested that his clerk of court had influenced him against using a CRO in a case of shoplifting. Interviewees were not specifically asked about the advice they might have had, on a day to day basis, from their clerks or social work staff but some did, nevertheless, raise the matter.

4.69 One justice who explained his lack of use of the Order on his not having had any training for it gave this account:

“I said to [the clerk to the court] ‘What do I do with him?’ I mean I cannot admonish, that’s not what his defence agent was asking for ... he does not have any money to pay a fine... I don’t want to admonish him because that would send totally the wrong message, if somebody does not have the money then that does not mean that they have a free hand to commit ...crimes, so what do I do? He said that I could impose [a CRO] or you can defer ... and in that particular case I decided to defer sentence... and I thought, well, if I knew more about it [CRO] then I would have done.” (2JP2)

4.70 Conversely, 1JP2 recounted the following experience:

“Sometimes my Clerk has appeared and I say, ‘what about a Community Reparation Order’, and he [has said] ‘I do not really think it’s appropriate for you to do that because the breach of the peace could hardly be construed as antisocial behaviour’. If somebody has thumped someone, well I suppose that is antisocial but there is a line to be drawn, and I kind of accepted it. I do not always accept their advice, and sometimes I just go my own way.”

4.71 Another justice sought advice from the Social Work Department.

“What we would do here, is if I am thinking of imposing a CRO then I would ... defer for half an hour or so, the social worker comes over from the sheriff court almost right away, talks to the accused and if they think that they are suitable they will say so and the thing gets imposed.” (2JP1)

4.72 Some of the sentencers were specifically asked whether defence agents might have influenced them for or against Orders. Five justices, covering all 3 pilot areas, said they had not been influenced while 2 said they had.

4.73 Two of the justices who had not been influenced made the following comments:

“This has not come up in their suggestions and sometimes they are a wee bit

³⁰ “...it is strongly recommended that orders should normally be completed within 6 months.” Scottish Executive 2004 Paragraph 3.16.

taken aback when that course of action is taken.” (3JP3)

“No, they always look rather surprised.” (1JP1)

4.74 On the other hand, 2 justices reported:

“...they go ‘I think in this instance it is not a good disposal’. I have been talked out of it twice.” (3JP1)

“I quite often ... say to an agent ‘I am thinking on a Community Reparation Order or a Supervised Attendance Order for your client’ and the agents quite often have said, ‘well your Honour, with respect, I would put a plea before you that you do not do this because Mrs So and So has got 2 children, she has just found out there is one on the way’ and it goes from that to someone that has a very serious alcohol addiction, and I tend to reverse my view then and send them for counselling or something.” (1JP2)

4.75 While these instances might demonstrate, perhaps, that some defence agents have talked sentencers out of making a CRO, it would be equally valid to argue that they have simply provided the kind of supplementary information that sentencers require in order to utilise their discretion. It is a fact that defence agents play this role on a regular basis in advising the court, for example on their client’s ability to pay a fine. It cannot be said from this limited evidence that defence agents are seeking to unnecessarily avoid CROs for their clients.

4.76 In the view of some of the justices, defence agents were unfamiliar with the CRO legislation and one justice felt this might account, in some small measure, for the low number of Orders given; presumably on the basis that a defence agent might actually suggest a CRO to the court. This was supported to some extent by a justice in another area who maintained that lawyers endorsed the general idea of community sentencing and encouraged the use of SAOs for their clients in the means courts. In that instance, of course, they are seeking to keep their client out of prison.

4.77 In looking for explanations for the low use of the Orders, some thought was given to whether procurators fiscal (PFs) might be indirectly influencing the number of Orders by a policy of diverting low level antisocial behaviour cases away from the courts.

4.78 Procurators fiscal were, of course made aware of the CRO legislation by Crown Office. One district fiscal had been invited to an awareness raising event. He commented that that had been informative but that the main relevance for PFs was in breach proceedings. Neither of the PFs from whom the research team obtain comments believed that the legislation had any impact on their practices or their prosecution policy.

How do sentencers view the future for the CRO?

Justices

4.79 The justices interviewed were unanimous in their support for the legislation, although their views on when it would be appropriate varied.

“It’s useful I think for people who maybe have one previous case. [...] I think that the candidate that we look for is a youngster. Perhaps at the end of his school career and therefore not on benefit [...] for that small group it’s a very useful tool and I certainly wouldn’t like to see it disappear.” (2JP1)

“In my opinion this should very easily replace most of the fines.” (2JP2)

“I really felt it was a very good option instead of fining...” (3JP3)

“Any form of vandalism I would certainly use the CRO, but I have not had a case of vandalism and it is amazing because for a while there we had a whole case of them.” (1JP2)

4.80 As a consequence, the justices made it clear that they did not want to see the legislation abandoned and some recognised a need to work at increasing its use.

“I just hope that she [the Minister] does not wipe it out.” (1JP1)

“We would like to see it being a success I must say that.” (3JP2)

“I think the way it is planned, the way it is drawn up, its objectives, I think all these things are good, it is just putting it into practice, making bigger awareness to those at the sentencing end and the legal end and strengthening the follow up where the CRO has been imposed to make sure the person knows how important it is for them to turn up. [...] we should think about it more ... at the time... and perhaps we should make more of it and perhaps it should come up again at the next Justices’ training. Just to remind us and encourage us to use it more perhaps.” (3JP3)

“...I’ll be very sorry if the powers that be decide to withdraw this. I think it’s valuable and it’s worth working on and it’s worth working with.” (2JP1)

Sheriffs

4.81 The small number of sheriffs interviewed did not find much merit in the CRO for their sentencing needs.

“...it was frankly a daft idea”

“Stop making law for a wee while would actually be quite useful take a breath, to take a big step back [...] so I would get rid of it is the only sensible answer and let’s look at the existing schemes which work reasonably well. These could be always better resourced but there’s quality work being done there that’s worthwhile and deserves to be supported.”

“...once you have been doing the job for a while, I have been doing it nearly ...years, you then set a certain pattern that you just do not even realise you are doing, but you do get into that pattern of sentencing and you get to the stage

where, after a few years, it is rare to find something new, it is all the same stuff, so the pattern emerges. That does not mean that you do not deal with them as individuals...

"...if they are 16 or 18, 19 and they just do some incredibly stupid things, perfectly sober as well, they are not drinking, ... it is for the laugh, and it is that kind of thing... so that is all district court stuff."

"I think there is potentially a place for this but maybe not as large a place as they fondly hoped when they introduced it."

4.82 Some sentencers were asked whether they had a 'wish list' of new sentencing options or procedural changes. There were few suggestions but those that were mentioned were:

"I would like more disposals, which did not mean people going to prison or not paying fines. I mean, restriction of liberty, we do not have that. We would very much like it..." (IJP1)

"I would like to be in a position to be able to say like they do for the football supporters, you report to ... Police Station at 3 o'clock on Saturday." (IJP2)

"The current situation in relation to extracting compensation of payments from people's benefits is absolutely and utterly useless." (sheriff)

"It was a grave error... to cut down the maximum penalty for breach of the supervised attendance order from 3 months to 30 days." (sheriff)

"I am surprised that it never seems to get floated ... the suspended sentence there have been times when I have really felt that would be a great asset to put someone totally back on their own willpower, commitment to society, however you want to phrase it, but they have done something that merits loss of liberty but they can have a chance to redeem themselves and stay out of trouble..." (sheriff)

Summary

4.83 The chapter is based on interviews with 14 justices of the peace and 4 sheriffs. In general, justices had welcomed the new disposal whereas 3 of the 4 sheriffs had felt it was mainly for the district court.

4.84 The extent to which sentencers said they had been briefed about the nature of, and procedures for, CROs in their areas varied. A sheriff in Site 2 had very much been a part of the development of planning and thinking. In contrast, the sheriffs interviewed in Sites 1 and 3 could not recall being briefed by their LAs.

4.85 Justices across the 3 pilots appeared to have been briefed well and recalled a variety of training sessions during which they had been informed of the main features of the pilot. Perhaps because of the level of briefing, justices were very keen on the legislation, mainly because it gave them another sentencing option.

4.86 Sentencers gave a number of suggestions as to why they thought there had been fewer Orders than anticipated in their area. In Site 1, justices wanted to use the legislation but felt they had seen far fewer relevant cases than might have been expected. If this notion is added to the hint that some of their justices colleagues had missed the briefing and training and were, therefore, not thinking about the legislation, we may have a clue as to why usage was low in a site which has a high completion rate for Orders as well as some clear enthusiasm for the legislation.

4.87 The main suggestion for low usage in Site 2 was the existence of a local diversion scheme utilising fixed penalty notices. Paradoxically, the suggestion given by sheriffs in the other 2 sites that they did not need CROs because they already had other disposals such as the CSO, was not used by the justices in Site 2 who could, anomalously, sentence to a CSO. Justices in Site 3 felt their CRO scheme was located poorly, on the edge of town, and that this contributed to low numbers of Orders.

4.88 Sheriffs were sanguine about the potential for CROs to change the attitudes of offenders. Nevertheless, sheriffs did believe that aspects of community service could effect changes in offenders and justices were openly optimistic that a CRO might appeal to an offender's better nature, particularly young offenders. To that extent, for some justices, the nature of the task was important: it had to be constructive and the reparative nature of CROs was crucial.

4.89 There was some concern among sentencers in 2 of the sites about what they saw as high breach levels. This may, in part, reflect the fact that they had heard about them all at the same time. Nevertheless, by the end of the evaluation there had been 33 breach applications out of the 70 Orders made, with 16 actual revocations and 10 breach hearings pending.

4.90 Some justices were uncertain about the types of offences for which they could legitimately use a CRO. Some, for example, wondered about the antisocial content of shoplifting and one had been influenced by his clerk against using a CRO for such a case. There was also doubt over the use of the legislation where the offence had been an infringement of local bylaws against drinking in public.

4.91 That many offenders, particularly the young unemployed, could not, or would not, pay a fine, was a strong reason in the minds of sentencers for utilising CROs. For one justice, this went so far as to suggest 'net widening' by limiting the powers of the police to use on-the-spot fines for some young offenders. There was some preference for CROs over SAO in that the former required physical work, often out of doors, and which had the potential to impart some skills to the offender.

4.92 Generally, sheriffs did not see any merit in a CRO as a lower level CSO. One sheriff argued strongly for CSOs with smaller hours and without a requirement for a report on suitability. Sheriffs generally, however, were content with utilising CSOs flexibly as a 'shot across the offender's bows': a warning that custody was a real possibility, even if it was not an inevitability.

4.93 While there is undoubtedly room for influence from defence agents, there was no evidence that defence agents had set their minds against CRO. If anything, the view was that agents had not been particularly aware of the legislation.

CHAPTER FIVE IMPACT OF CROs ON OFFENDERS: WHAT THE OFFENDERS SAID

Introduction

5.1 This chapter addresses objective 6 of the research specification which required the evaluation to assess the impact of CROs on offenders. The objective specifically referred to the aims of the legislation to “provide constructive reparative activities...for offenders with the aim of increasing their awareness of the adverse effects of antisocial behaviour on the victims...and the local community, and encouraging personal and social responsibility and self-respect.” This chapter will provide some answers to questions about the impact on offenders in terms of reparation and personal change.

5.2 The material in this chapter is based on 17 face to face interviews with offenders.³¹ A great deal of effort was put into trying to boost the number of interviews with offenders given a CRO. To maximise the research benefits of the interviews, the decision was taken to speak to offenders towards the end of their Orders and while they were attending their placement. It gives some informal indication of the problems experienced by activity supervisors that 22 interviews with offenders were not carried out because the offenders did not turn up to their placement, despite the interview forming part of their compulsory hours³².

5.3 In the event, therefore, it was not possible to purposefully select the interview sample to ensure it was, as near as possible, representative of the full population of offenders given CROs. In the event, however, the research team arrived at a reasonably representative sample. Annex 3 provides a profile of the interview respondents.

5.4 As in the CRO offender population, the interview sample demonstrates a wide age range of 16 to 35 years, with the majority of respondents aged under 21 years. The median age of the sample is 18 years. The majority (16 of the total 17 respondents) are also male. The offence charges broadly reflect the most common categories found in the wider population and the full range of hours imposed is also covered. Although not presented in the table in Annex 3 it should be noted that all respondents were of White Scottish or White UK background.

5.5 Given the compliance issues highlighted by the number of offenders not turning up for the evaluation interview and, of course, for the Order itself, it is arguable that the sample of offenders interviewed represent a more compliant subset of the population as a whole. However, information on the enforcement procedures used against the sample was gathered and the extent to which these procedures had been utilised is noteworthy. From the table presented in Annex 3 it can be seen that all bar 2 respondents had received some level of warning, with 2 having got as far as breach proceedings.³³ Thus, while they demonstrate a greater degree of compliance with the evaluation, they do not necessarily represent a more compliant subgroup overall. Nevertheless, caution must be exercised over the reliability of the findings given in this chapter.

³¹ Six interviews were conducted in site 1, 7 in site 2 and 4 in site 3.

³² 1 in Site 1, 1 in Site 2, and 20 in Site 3.

³³ Necessarily the two offenders interviewed who had been breached had had their Orders reinstated and not revoked. Seeking interviews with those revoked was not feasible in the evaluation timescale.

5.6 The interviews provided the opportunity to gather additional information. It is interesting to note that there is a half and half split between those respondents who were unemployed and those who were in full time employment or training. This is perhaps unexpected given the expression of interest by sentencers in using the disposal for those without the means to pay a fine. However, whether this pattern is representative of the broader population is unknown.

5.7 Due to the young age of the offenders given CROs it was decided to use the interview to enquire about previous involvement with the Children's Hearings System to get a better idea as to their background. Interestingly, none of the respondents reported previous involvement with the Children's Hearings System. Given the sensitive nature of the subject, the accuracy of these responses may be open to dispute but it is still worth noting in light of the lack of previous convictions of the younger offenders in the sample here.

5.8 A final interesting point to note is the 3 respondents who reported current or past drug use. This is potentially an issue in relation to the suitability and the advisability of imposing an Order without prior assessment. Having said that, one of these cases had completed the Order by the end of the evaluation; the other 2 were still running.

5.9 The small sample size of those interviewed means that the research team has not sought to differentiate between attitudes and perceptions of the respondents by such factors as age and sex and so on as any conclusions would not be robust. The focus of this chapter is, therefore, on any identifiable differences in attitudes and perceptions of the group as a whole. Given the nature of the study as an evaluation of the piloted approaches, where relevant the respondents have been differentiated according to site.

5.10 With the agreement of the Scottish Executive and the 3 pilot areas, the research team sought to encourage the pilot sites to adopt CrimePics II (Frude, Honess, and Maguire, 1994) as a means of measuring offenders' views on their offending and on the problems they may have with money, relationships, their temper, drink and drugs and so on. However, by the time the sites were able to agree to use the measure, and had been able to acquire it, a number of offenders were already well into their Orders. Crime Pics II had begun to be used in the pilot sites but no data was available within the timeframe of the evaluation for the two important time periods, that is, before and after the Order. Changes in attitudes and self-perceptions, such as personal and social responsibility and self-respect are, of course, difficult to identify, let alone measure. Given the small number of Orders throughout the pilots, the research team has been unable to make any firm statements about the levels of any change in feelings of responsibility and of self-respect.

Profile of offences and the link with alcohol misuse

5.11 Sixteen of the seventeen offenders interviewed had been drinking alcohol at the time of the offence. As can be seen from the table presented in Annex 3, 11 of the 17 respondents had been charged with a breach of the peace. A further 2 offenders were charged with breach of the peace and assault. During the interviews the research team was able to find out more about the events that led to the charges. A breakdown is given in Annex 4. While breach of the peace is a broad charge that can encompass many forms of behaviour, an examination of the detail presented in Annex 4 shows much similarity between the actual events leading to

the charges.

5.12 Seven of the 13 breach of the peace cases involved ‘altercations’ with local police officers or community wardens. Six of these seven cases had resulted from the respondents’ drunk and disorderly conduct in a public space. Some respondents reported having disputed the legitimacy of the officers’ or wardens’ attempts to move them along or break up their group. Three respondents had directed verbal abuse or violence towards police officers.

5.13 These are potentially interesting cases to consider in view of the terms of the legislation. It may be, from the admittedly one-sided information available, that the charging of the respondents did not follow directly from their drunk and disorderly behaviour attracting attention or complaint but, rather, from their subsequent reaction to the police or community warden contact. This raises the question of whether or not the behaviour prior to police/warden contact was serious enough to merit a criminal charge. In that case, did the behaviour charged amount to antisocial behaviour as defined by the legislation? As one of the offenders put it “I’m paying for the way I handled the comment [the police made].” (201)³⁴.

5.14 The next most common category of offence (3 of 17) was vandalism or wilful or reckless damage to property. Each of these cases involved the damage of private property.

5.15 The anomaly of the group of 17 is the respondent charged with assault and robbery in the sheriff court. Given the gravity of the combined charges in this case, it does not, on the face of it, appear to fit well with the low tariff criteria of the CRO disposal. The respondent was only 16 years old at the time of the offence, with no previous convictions and had no independent source of income. The incident leading to the charges involved a fight between the respondent and a group of girls of a similar age on a busy main road in the local area. It was, therefore, potentially witnessed by a number of people. It is likely that it is this combination of circumstances that led to the use of a CRO in this particular case.

5.16 As noted in para 5.11, 16 of the 17 respondents reported drinking at the time of their offence. The outstanding case involved driving under the influence of drugs, although the respondent maintained he had merely taken a stabilising dose of methadone at the time of the alleged offence. Varying degrees of drunkenness were referred to by the respondents, some perhaps downplayed and some perhaps exaggerated, but nevertheless the ubiquity of alcohol misuse in the cases is clear:

‘Merry but not unsociably drunk³⁵’ (102)

‘On the verge of being drunk. Really drunk.’ (303)

‘...we were all pretty steaming³⁶ ...’ (203)

‘Steaming.’ (204)

³⁴ (201) refers to an interview, in Site 2, with offender number 1.

³⁵ The decision was taken in consultation with the Scottish Executive not to try to reproduce local vernacular.

³⁶ A euphemism for being heavily intoxicated.

5.17 Four respondents claimed to have been so drunk at the time of their offence that they could not remember the events leading to their charge:

'I can't remember, I was drunk.' (202)

'I woke up in the cells the next morning and didn't know what I was doing there.' (205)

5.18 It is evident that alcohol misuse is an underlying issue amongst the sample of offenders in this study. None of the pilot authorities had included formal alcohol awareness work in the set up of their CRO schemes but the district court in Site 3 had recommended Alcohol Awareness work be undertaken by one of the offenders. Supervising staff followed up the recommendation by providing alcohol awareness work as part of his CRO activity programme. Another offender at this site had been offered a similar opportunity but had declined. Given the evidence of alcohol precipitated behaviour in this study, such work may have provided an appropriate response. Alternatively it could perhaps form a useful component of future schemes if the disposal was to be rolled out on a national basis.

Offender understanding of the CRO

5.19 If a CRO is to have an impact on an offender, it might be suggested that it is important, though perhaps not crucial, for the offender to understand the process he or she was getting in to. Perhaps not unexpectedly in the pilot phase of CROs, none of the offenders interviewed said they had heard of them before being given their Orders.

5.20 Twelve of the 17 recalled first hearing of the Order when they were sentenced by the justice or sheriff. Two offenders were unclear as to when they had found out, or heard about CROs. Three stated that their lawyer had explained the possibility of receiving a CRO to them prior to sentencing. Nine offenders in total had received legal representation or advice in court, and the remaining 6 from this group had been advised by their lawyers that they should expect to receive a fine or a CSO.

5.21 After sentence, all offenders said that they had been briefed face-to-face by the CRO teams at the pilot sites about the CRO and the requirements placed on them. There was some understandable tendency to see the CRO as a form of CSO, possibly related to the CRO staff using 'community service' as a short hand for unpaid work for the community.

"I just got told that the start of it would be alcohol awareness and the rest would be community service." (302)

"I just thought it was like a different version of community service." (206)

"When they explained what it was they said it's just the same as community service ... what's community service and what's community whatever it's called, know what I mean?" (106)

5.22 Twelve³⁷ offenders were asked what they thought the Order was supposed to achieve, both for the community and for themselves. This generated a variety of responses. Five were able to discuss the Order in terms of their making reparation to the community and that they were to come away from the CRO having learned more about themselves and their behaviour:

“It is meant to like help you is it not? Like, stop us...I’m no sure actually. It’s meant to help you and it helps the community too cos you’re like doing things. It is meant to help you behave I suppose.” (204)

5.23 Two further offenders recognised that the Order was supposed to help prevent future offending. For example, one said:

“...just to help them hanging about [to] stop causing trouble.” (105)

5.24 A further 2 identified the purpose as relating to the community. For example:

“Just, everybody just paying back what they’ve done to the community.” (104)

5.25 Four respondents described the Order simply in terms of punishment and 3 of them could not see any gain for themselves or the community at large. One talked at length about offenders being likely only to adhere to the terms of the Order to avoid a more severe punishment.

Experience of the CRO

5.26 Respondents were asked to talk about the various experiences they had had whilst on their CRO. Questions covered their reactions to their placements, their relationships with the CRO staff and any positive or negative feelings.

The CRO activities

5.27 Offenders were provided with a variety of different activities whilst on a CRO and this section will focus on the offenders’ opinions of these activities.

5.28 Offenders who were interviewed were asked if they had been offered any choice over the activity they would be doing to complete the CRO hours. In 2 sites it is known that there were limited placements available and, consequently perhaps, no such choice was offered to the offenders. Where any choice did exist, it was a choice between broadly similar tasks, such as between landscaping or site clearance.

5.29 The response to whether or not they would have liked a choice was mixed. Seven offenders were happy with the activities to which they had been allocated. Three others, however, stated that they would have liked a choice. One would have welcomed the opportunity to do an indoor activity as he said he suffered from bad hay fever. Another would have liked to have completed his Order alone as he found the group he had to work with intimidating.

³⁷ This question was not included in early (pilot) interviews: this section therefore relates to 12 respondents.

5.30 In Site 2, offenders had been offered a broader range of activities to choose from and, from interview responses, this was clearly welcomed. However, availability of placements was difficult to guarantee so not all respondents had the same degree of choice. Three said they had not had any choice. One offender who had been given a choice said that the site staff had made efforts to get him activities that related to skills he already had, for example painting and decorating and library work, and this had been appreciated.

Offenders' reactions to their placements

5.31 In an effort to gauge whether offenders had had a positive or negative experience, they were asked whether they had gained any satisfaction from their placement. There was a clear division in answers between those who had gained something and those who had not. There was also one respondent who claimed to be indifferent as to his experience. Eight respondents claimed to have enjoyed their placements, or to at least have enjoyed elements of them. One had not been pleased with the work but had been pleased to have learnt new skills:

"I didn't like doing it but it was good to know." (104)

5.32 Some offenders had found the overall experience better than they had expected:

"I thought at the start it would just be boring, but once you got into it, it was good, yes." (105)

5.33 Another had been pleased with the end result:

"I liked getting rid of graffiti because it made the area look better." (201)

5.34 Of the 8 who said they did not get anything from their placement, 3 claimed to have seen the placement as just something that had to be done to get the hours completed. They had resented the imposition and it appeared that they had probably adopted a pragmatic outlook from the beginning:

"I don't think most people like to come to these things, it just has to be done." (302)

"...I don't think it's meant to be fun and exciting...I don't think that you need to enjoy it." (206)

5.35 Three other respondents had not enjoyed the nature of the activity they had been given. For example:

"Gardening...I hated it." (204)

5.36 It is perhaps interesting to note here that the work undertaken by the 8 who were negative about their placement was of a broadly menial nature. Activities included litter picking, sweeping leaves, painting, gardening (which according to the offender involved mostly weeding) and general clearance work. One was undertaking office work that involved a variety of basic tasks.

5.37 Two described their experience as negative for different, but important, reasons. One, who was employed full time, had not welcomed “the hard work” or the timing of his Order. It was clear he resented having to give up his free time on a Sunday to carry out the required hours.

5.38 The other expressed concern about his fellow group members being out of control and bad tempered about the work:

“When a couple of boys were being asked to do something then getting in a temper, throwing their boots about...they were into drugs and that sort of thing.” (303)

5.39 The respondent in question here was only 17 years old when convicted and had been charged with vandalising a pub sign. He clearly stated that he saw himself as different from the troublemakers in his group. The appropriateness of his being placed in such a group, given risks of contamination, is questionable.

5.40 All respondents were asked if they believed their CRO work to have been useful or productive. Some felt the work they had been given was menial and unproductive. Again, all who responded in this way had undertaken menial tasks such as litter picking and clearance work. For example:

“Was the work useful? Not really. When we get put onto brushing the paths, half the time they are [already] clean.” (303)

“There is no point sweeping up leaves when you can get leaf blowers.” (301)

“I didn’t mind helping the community but sometimes I think that the school kids should pick up the litter themselves.” (302)

Relationships with Supervising Officers and Activity Supervisors

5.41 The nature of the relationship between an offender and a supervising officer has been demonstrated by research to be a potentially significant factor in how successful a period of supervision might be (Farrell, 2004). From information from the Activity Supervisors there was evidence to suggest they were attempting to be a positive influence on the offenders by what can be described as ‘pro-social modelling’ (Trotter, 2000; Cherry, 2005), that is, acting as a positive role model of behaviour, work ethic, time keeping and so on³⁸.

5.42 All but one offender voiced varying degrees of praise for their Supervising Officers and the one respondent who did not offer praise had no negative comments to make either.

³⁸ Pro-social modelling has been described as involving “...areas of practice such as challenging antisocial attitudes and behaviours, ensuring a transparent fairness in the allocation of work and application of rules, explaining both the task in hand and any decisions taken during the work, having a positive attitude to the purpose and work of ... and respectful attitude to the offenders.” Bedfordshire & Cambridgeshire Pathfinder at <http://www.crimereduction.gov.uk/workingoffenders/workingoffenders6.htm>.

The respondents typically felt they had been treated fairly and with respect for the duration of the Order:

"I thought it would be that I was just a criminal but they didn't [make me feel like that]." (207)

"X is good, I like X, she's sound." (204)

"I think we have been treated really well." (302)

5.43 Another common theme was that the Supervising Officers had gone to great lengths to accommodate the respondents' needs throughout their time on placement. In particular, those who had encountered difficulties in combining the demands of the Order with their employment commitments, or who had had a health problem, had welcomed the flexibility and support of the site teams.

5.44 At Site 2, an offender praised the Supervising Officer on the additional support she had provided. This Supervising Officer had reportedly taken time with each offender and discussed any problems they were experiencing outside of the CRO. Two respondents at this site discussed at length during the interview about how the Supervising Officer had helped them to talk through their problems with drugs and alcohol and had encouraged them to tackle their problems or rethink their approach:

"I've had a past with drugs and that and I am not fully away from that yet, but I spoke and she gave me more insight into what it would be like without it, if you know what I mean. [...] sometimes when you speak to people it is much better." (203)

5.45 This young offender went on to state that she would like the Supervising Officer to help her come off drugs as she felt she had proved more helpful than her previous drugs counsellor.

5.46 Two of the sites had regular Activity Supervisors working from a single centre for the CRO placements. Site 1 had placed a focus on the possibilities for pro-social modelling and offenders were keen to voice their approval of one supervisor in particular:

"...yes, I really got on with him." (105)

"He was good to talk to...easy to work for." (101)

"Brilliant." (102)

5.47 When asked what it was about X that appealed to them, respondents described his fair attitude – *"It was fair...we were treated fairly..."* (103) - and his willingness to pitch in and do his share of the workload alongside the group.

5.48 From what the offenders said, it appeared that X had struck a key balance by getting 'on the right side' of his supervisees while also being able to maintain the necessary discipline. This balance was recognised by some of the offenders:

“He was good to talk to but if he wanted the job done he would say.” (104)

“If you gave him nothing to moan about he was ok with you but if you mucked about he sorted you out...if I was moaning he would crack a joke to make you forget, if in the huff he cracked a joke. His attitude didn’t change.” (102)

5.49 Respondents were asked whether their Activity Supervisor had taught them anything that they would take away from their time on the CRO. All except one of the offenders referred to their appreciation of learning the new skills they had been taught in order to do their work, for example mono-blocking or gardening skills.

5.50 One respondent also said he had learned what it was like to see how someone could work hard – “X was a grafter”³⁹ (103). Another mentioned how, every week, X had passed on advice to stay out of trouble.

5.51 Whether or not he was talking of the same person, it is informative to note that a sheriff from this pilot, in the context of CSOs said:

“...in particular there was one man who was the ...supervisor who was absolutely incredible and all the guys [offenders] loved him.” (1S1)

5.52 Site 3 also had a fixed centre from which Activity Supervisors worked. Offenders from this site typically offered little feedback on their supervisor and expressed indifference as to their treatment. It appeared from their comments that the supervisor for these respondents had been less ‘hands on’ in his approach.

“...just stands there or sits in the van and does paper work.” (303)

“... sits in the van. At least we know [the supervisor] trusts us to do the work.” (302)

5.53 Only one positive comment was offered and that was that the supervisor had made good conversation with one respondent.

5.54 When asked if they had learned anything from their supervisor the feedback was minimal:

“No, I don’t think so.” (303)

5.55 Site 2 had different arrangements, with offenders being placed on an individual basis wherever possible. Consequently, the respondents at this site had experienced various supervisors. Three offenders gave positive feedback suggesting broadly similar qualities to those illustrated by X in Site 1:

“Yes, he’s good...” (204)

“He was brilliant...if you did the work and worked hard you got respect...if you mucked around it would have caused problems.” (201)

³⁹ A conscientious worker.

5.56 Two other offenders did not feel they could say very much about their supervisors and gave indifferent responses. Nevertheless, one of them had valued the skills he had been taught.

5.57 Two further offenders were in the middle of their Orders and had had various problems in securing a regular placement. Consequently they had had limited experience of working with any one individual supervisor and did not have much to say about them.

5.58 Appreciating their supervisors does not, of course, mean that offenders will believe they have learned anything positive from them or from CRO staff and the experience in general. Seven offenders did, however, claim to have learned something from at least one member of staff they had encountered. Five of these said that it was work related skills that they had learned whilst on the Order, with one adding that his supervisor had set a good example for how to treat people. The other 2 discussed the influence their supervising officers had had on their thinking about their problems with alcohol and drugs.

5.59 Six offenders claimed to have learned nothing from the CRO staff and a further 4 did not know whether or not they had learned anything. Two of the 4 were in earlier stages of their Orders than the other 2.

Problems experienced by offenders on their placements

5.60 Interviewed offenders also discussed any difficulties that had arisen whilst they were on their Order. Ten reported that they had experienced no difficulties or problems. Of the 7 that said they had, 3 reported difficulties in actually doing the work or in getting up in the morning to get to their placement.

5.61 Two reported that their Order conflicted or compromised their commitment to their jobs. One of them had found it difficult to adjust to having his weekend eaten into by the requirements of the Order but had said that, over the course of the Order, he had simply got used to it. The other claimed that an injury to his back, sustained whilst on the Order, had compromised his ability to work and as a result had cost him his job. It was not possible within the terms of this study to verify the latter story, although it does highlight potential health and safety concerns for the future.

5.62 Another offender stated that he had experienced transport difficulties in trying to get to his weekend placement. He lived in the most rural of the pilot areas and, as a result, he had had to rely on his parents for transport to and from his placement.

5.63 A further respondent also had what he saw as a serious problem with his placement. In his area, he said, gang problems were rife and this had spilled over into the work placement when rival gang members had been placed together. He had become involved in fighting and was removed from the team to work in an individual placement at a different location.

5.64 The respondent in the incident outlined above was 17 years old, the same age as the respondent referred to in para 5.38, and the case in point further illustrates the potential of the group situations to foster contamination of young offenders convicted of relatively minor offences.

Awareness of the community benefits of the reparation

5.65 Respondents were questioned on the perceived benefits of the work they had been doing. In site 1 the respondents had generally felt the work had been useful and they were able to identify the direct beneficiaries of the various projects:

“The nursery yes, the nursery...the children.” (104) [a nursery school]

“Just everybody that goes that way.” (106) [a site clearance]

5.66 When asked if they had had any contact with any of the beneficiaries, only 2 said that they had. The respondents described how members of staff at the nursery school they had been working at had come to talk to the work group and offer cups of tea. One of the offenders had received praise for his work on more than one occasion and had welcomed this appreciation.

5.67 Another respondent who had not met any direct beneficiaries during his time on the Order had heard from a friend that the work he had done had been of benefit to the local community:

“She said we gave a good job...that made me feel good.” (101)

5.68 Those who said they had had no feedback were asked if they would have liked the chance to meet those benefiting from their work. The offenders thought they would have liked recognition for the work they had done although one did not feel this was particularly realistic:

“Somebody’s not going to come up to you when you’re doing community service...ask you what you’re doing and say thank you, do you know what I mean, that’s what I think.” (106)

5.69 Responses from the offenders in Site 3 suggested that a lack of appreciation of an Activity Supervisor might be linked to a lack of understanding of the community benefits of the work carried out. When asked who was benefiting from the work they were involved with, 3 offenders could not identify any beneficiaries. One stated he would actually have liked to do work where he thought somebody might benefit, *“like an old person’s garden”* (302). When asked if they would like to meet beneficiaries of their work, only one stated that he would.

5.70 In Site 2, the question of community benefits elicited a variety of responses, perhaps because of the varied nature of the placements. Two offenders were unable to identify any beneficiaries. One of them thought the only benefit of her work, in a local library, would be her own gaining of experience. The other, who had been decorating a theatre, merely stated *“the court will be pleased”* (202) and regarded the main benefit to be that the placement had kept him out of prison.

5.71 On the other hand, 5 offenders were aware of the benefits of their work to either specific individuals or to the community at large. One had been gardening for an elderly lady and had been able to meet her after completing the job. While the offender expressed

embarrassment at the situation – he said the lady had been so pleased by the result of the work that she had cried - he had felt good that she was “*proud*”.

5.72 The remainder had not met any of the beneficiaries, having been on more general community based placements, but all felt that they had achieved, or were going to achieve, good results on worthwhile tasks. When asked about feedback or meeting the beneficiaries, 2 had expressed a desire to do so in order to gain acknowledgement and complete their sense of achievement. One, however, discussed his reservations about doing so as he wanted to be seen as a “*normal worker*” (201) rather than as an offender.

Awareness of ‘making amends’

5.73 Offenders were asked if they felt that the work they were doing or had done had helped to make up in any way for their offence; responses were mixed. Two offenders appeared to be able to identify that their work represented constructive reparation to others:

“In a way yes...I put something back.” (101)

“Well I broke a fence up at an old folks home so I suppose yes.” (204) [the work placement had involved gardening for an elderly lady]

5.74 Six other offenders felt their work placements helped make up for what they had done but did not see this in terms of a philosophy of reparation to victims or the community. This small group believed they had made up for what they had done by paying a ‘fine on their time’ or by enduring the activities as a form of punishment.

“A bit more than made up for it!...what I did was so small and I have to do 40 hours!” (301)

5.75 A further 2 offenders said that their participation on the CRO had made up for their offence but offered no explanation as to why they thought so.

5.76 Five other respondents claimed that their work placements had not made up for their offence. Three of these did not believe that they had committed acts that required them to make reparation. For example:

“I don’t think that I caused any damage...I can’t really make it up.” (103)

5.77 Of the remaining 2, one argued that he saw no connection between the work on his placement (painting and decorating) and the offence he committed (breach of the peace). The other disputed whether his work placement represented work for the community or free labour for the local council:

“Not really because I thought I’d do something in the community but basically I’m doing it for the council.” (303)

5.78 The final 2 respondents did not know if their activities would make up for their offence. These responses probably illustrate the disjunction in offenders’ minds between who they offended against and who the beneficiary is of their work on placement. Only 2 of the

17 respondents believed their work on the CRO constituted constructive reparation. For offenders to better understand the nature of the Order, or to consider their activities worthwhile for the purposes of the Order, there may be merit in making efforts to secure 'appropriate' work placements.

5.79 It may also be the case that providing offenders the opportunity to meet with, or receive feedback from, the beneficiaries of the work could go some way to fostering an understanding of reparation. It is notable that the two offenders who were able to identify the reparative element of their activities had both had such beneficiary contact (see 'Awareness of the Community Benefits of the Reparation' for more detail).

Learning from the CRO

5.80 The 17 offenders were asked about what, overall, they thought they had learned from the CRO experience and if it had had any influence over their future behaviour. Nine of the offenders believed they had changed in some way since having their CRO imposed. One had found the experience of going to court for sentencing very intimidating and had claimed to regret the offence as soon as it was committed. It is, of course, arguable that any sentence could have had the same effect as the respondent in question was 16 years old with no previous offending record.

5.81 Four offenders claimed that their behaviour had been influenced by the CRO experience. For example, 2 offenders discussed how they had learned to check their tempers and avoid trouble:

"How to hold my temper and keep my mouth closed...learned how to keep myself from getting into situations...I've got quieter, more mellow." (102)

"Aye, I've learnt just to keep my mouth shut." (105)

5.82 Another highlighted the success of his alcohol awareness work at keeping him "off the drink" and teaching him how to alter his binge drinking habits (please see para 5.12 for further details). As a result of this he had seen a change in himself:

"I'm not as aggressive anymore." (302)

5.83 The fourth offender in this group discussed how he had come to realise the impact that antisocial behaviour had on the community:

"Before graffiti and litter would not have bothered me. Now I see what it does to the community." (201)

5.84 Of the 8 respondents who did not believe they had changed since the imposition of their CRO, 2 recognised a need to change but felt that their current circumstances were not allowing them to do so:

"I do [see a need to change behaviour] but...it's just I'm still young, I still want to have a laugh with my mates" (204 aged 16)

“It’s when I’m drunk...not really, couldn’t stop drinking.” (202)

5.85 A third offender acknowledged a need to change his behaviour but could not identify anything that had, so far, stopped him from doing so. He identified his behaviour as just a normal part of his *“drunken night on the town”* (201), claiming he did it every weekend.

5.86 Of the remaining 5 offenders who did not believe they had changed, 2 did not see a need to change themselves or their behaviour, although they both stated that perhaps they would reconsider their behaviour when faced with police officers or community wardens. Both had blamed the actions of such officials for precipitating the behaviour that had led to their charges.

5.87 The final 3 offenders did not see a need to change themselves because they regarded their offences as merely silly drunken mistakes. They argued that their behaviour had been a one-off occurrence that would not happen again.

Reoffending

5.88 Offenders were asked if they had broken the law again since they had started their CRO. Seven claimed they had not. Of these, 5 discussed how they had altered their behaviour in some way to enable them to keep out of trouble. Two described how they had stopped going out as much as they used to:

“I just stay in my house now, just stay in the house...just avoiding trouble.” (104)
[staff at this site indicated this respondent had actually been arrested for a more serious offence the week before his research interview]

“I have mostly been at home since.” (303)

5.89 One offender stated that he did not want to break the law again and so had made a conscious effort not to. A further 2 had decided to avoid the types of situations that had led to their initial charge:

“I go the opposite way if I see the police.” (102)

“I’ve been out and involved in a couple of things where fights and that have started and I’ve just kind of walked away.” (105)

5.90 Another respondent discussed his efforts to come off drugs, which he felt had led to his offending behaviour. The final respondent felt that he had grown up since committing his CRO offence and also discussed at length his upset at the murder of a friend and the imprisonment of his peers for murder:

“Honestly, seeing my mate killed up the [local area] like everybody’s been kicked into touch a... bit, know what I mean?... I got 2 mates in for murder, for fighting with a guy, just a daft fight over nothing... My pal’s mum and that ... tore [her] to shreds, know what I mean?...I can’t be bothered with it anymore.”(106)

5.91 Of the 7 offenders who said they had not reoffended, only 3 could state that they would not offend in the future. One did not know and 3 thought it was unavoidable in certain situations:

“Yes, probably yes. In fact definitely...things like breach of the peace you don’t know but, we go to nightclubs every week and get daft....” (106)

“I would have to yes...they [community wardens] just think they’ve got authority cos they’ve got a red t-shirt on.” (104)

5.92 Ten offenders (59%) stated that they had broken the law since commencing their CRO. Some of these were reluctant to discuss the details of their behaviour although a range of charges were discussed, from what was described in terms of petty antisocial behaviour to attempted murder. One also stated that although she had not been charged, her drug abuse constituted law breaking and in that respect she had not changed.

5.93 Of the 10 who had broken the law, 6 were optimistic that this would not, or was unlikely to, happen again. One had been frightened by an attempted murder charge that had recently been brought against him. It appeared that this had been a ‘reality check’ as to the gravity and the consequences of his behaviour. Two were looking to their future and saw offending as hindering their plans. One wished to join the army and the other had a baby on the way. The remaining 3 described the help they had received for drug and alcohol abuse and how the resolution of these problems had resulted in their stopping offending. Nobody from this group had been required by their Order to address their drug/alcohol abuse.

5.94 Of the 4 who predicted that they would continue to reoffend, 2 claimed this would be a result of them encountering similar situations to those that had led to the imposition of their CRO. Situations were described as going out drinking with friends, being drunk and getting angry. One offender was unsure as to what might lead to future reoffending and the final respondent stated that although he would try to avoid offending he was likely to get into trouble again because *“the police know me”* (103).

5.95 This self-reported data on re-offending is the only information gathered on this issue over the evaluation period, relates to a limited timescale, and is obviously potentially biased. Nevertheless, over half (58%) of the offenders admitted to some reoffending since their CRO began. The research team does not have comparable figures on self-reported reoffending rates for similar community based disposals, although reconviction data is available. For the year 2001, 42% of those given Community Service (including SAOs) and 60% of those given Probation (including RLOs and DTTOs) were reconvicted within 2 years (Scottish Executive, 2005). It might be argued that CROs compare reasonably favourably, particularly given how young the offenders were. Numbers are, however, very small and there may be a compliance bias in the sample of offenders interviewed.

Awareness of the effects of antisocial behaviour

5.96 Given the objectives that CRO activities ought to increase offenders' *'awareness of the adverse effects of antisocial behaviour on the victims of that behaviour and on the local community'* and *'reduce the likelihood of their future engagement in antisocial behaviour'*⁴⁰ one might expect that those who had been on such an Order would have some understanding of antisocial behaviour and its effects.

5.97 All respondents were asked if they thought the behaviour that had led to the imposition of their CRO was antisocial. This question identified an important division amongst the respondents. Thirteen believed that their behaviour had been antisocial, but 4 respondents did not accept that this was the case.

5.98 Amongst those who accepted the behaviour leading to their CRO was antisocial, 5 acknowledged the effects of it on others:

"Because you're causing hassle in the street for the neighbours or whoever lives there." (204)

"Obviously the people ... that were just sitting in their houses and they had to listen to us." (105)

"Because there was loads of noise. It was quite late at night and there could be people sleeping." (203)

5.99 The interviews suggest some possible successes in the 3 pilot areas in the respondents' identification of the likely consequences of their offending behaviour⁴¹. For example, 2 respondents stated that they had not regarded their behaviour as antisocial at the time, but on reflection they recognised it as such.

5.100 On a more negative note, 8 of those who had accepted their behaviour as antisocial struggled to provide any explanation of why they thought it was so or exactly what it was about the behaviour that was 'antisocial'.

5.101 Following the first run of interviews, this lack of explanation from respondents became very apparent. It was decided, therefore, that respondents should be asked, in a more general sense, what they understood to be antisocial behaviour. Eight respondents were asked this question and most demonstrated limited understanding of the concept. Five identified the phrase with specific forms of behaviour:

"Playing your music too loud and stuff like that" (204)

"...causing riots in the street and that, just stuff like that." (205)

"To me it is just people that cause offences with neighbours and playing loud music and things like that, smashing cars up..." (106)

5.102 However, none of these respondents identified *why* such behaviour was termed antisocial. Two further respondents explicitly stated that antisocial behaviour was behaviour that had an impact on other people but were not forthcoming on what the impacts may have

⁴⁰ Para 1.8.5 of the National Guidance

⁴¹ Whether this is a direct consequence of the work completed on the CRO is unknown. The nature of the data gathered does not allow such an assessment to be made.

been. None of the 8 respondents identified possible adverse effects of antisocial behaviour on individuals or the community.

5.103 If the intention of the CRO is to steer offenders away from engaging in antisocial behaviour in a general sense, as opposed to simply discouraging them from the specific behaviour that led to their being charged, it could be argued that more work is required to foster the increased *'awareness of the adverse effects of antisocial behaviour on the victims of that behaviour'* as outlined in the guidance.

Forced to make amends

5.104 No consent is required for the imposition of a CRO and so, legally speaking, unlike community service, CRO clients are forced to make amends. While only 4 offenders did not accept that their behaviour had been antisocial, the issue of involuntary involvement and the expectation of personal change from such work raises potential challenges for practitioners. This is not to argue that work with reluctant clients cannot be effective. However most commentators suggest, (for example, Trotter 1999) that working with a client's own goals is more likely to lead to positive outcomes than working with goals that are imposed.

5.105 Examination of the responses of this subgroup of 4 revealed an interesting pattern. All felt aggrieved at their charge and discussed what they saw as injustice at the hands of the police. One clearly believed he had been singled out by the police and had been punished for behaviour that others would 'get away with' (301). Further discussion revealed that the respondent believed he was under excessive police surveillance as he was a known troublemaker in his local area.

5.106 The other 3 respondents, also charged with breach of the peace, argued that the police had played a major role in their getting into the situation leading to their charge. For example one of the respondents, who had been charged with breach of the peace and assault, explained that a fight had broken out in a bar he had been in with his friends. One of his female friends had gotten involved in the fight and when the police arrived to break it up the research respondent alleged that 2 officers wrestled his female friend to the floor using what he saw as unnecessary force. He attempted to get the police officers off his friend and saw his actions as justifiable in the circumstances. He explained:

"Personally, I don't think it was [antisocial] ... but that's what the police thinks so ...[Why do you think that what you did was not?]....Doesn't take two men to grab a wee skinny lassie by the throat d'you know what I mean?"(106)

5.107 The other 2 respondents in this category saw themselves as subjected to unfair police attention:

"Police were just looking for a fight" (202)

"The police were prejudging me on the basis of my methadone" (201)

5.108 These 4 cases are outlined to demonstrate the potential difficulties for CRO staff working with clients who resist the label of antisocial. As it happens, 3 of these offenders had completed their CROs and the fourth was still in place having been breached and then reinstated.

Victim awareness

5.109 The specific theme of victim awareness, rather than awareness of antisocial behaviour more generally, was most explicitly addressed in Site 1 where a discrete Victim Awareness module was run. This utilised a video about the experiences of 5 victims and a range of relatively serious offences involving housebreaking, a stabbing, assault and a bank robbery. This was followed by an open discussion on how the offenders felt about what the victims had suffered, for example, in physical, psychological, emotional and financial terms.

5.110 The 6 offenders from that site were asked what they had thought about the session and some thought it was “alright”. Some were more detailed:

“Yes, it was quite surprising that stuff happened, seeing the victims, and the stuff that has happened to them [...] it was all quite serious...I think there was a couple ... with people breaking into OAP flats and things like that. I think there was a couple of people getting slashed and things like that.” (105)

“Most of them got stabbed and that, just walking about the streets doing nothing, minding nobody’s business!” (104)

5.111 When asked how the crimes depicted in the video compared to their own CRO offence, respondents generally felt that the focus of the video was on much more serious offending behaviour. Two offenders, in fact, were scathing about the video and one described it as “a waste of time...pointless...didn’t tell you anything you didn’t know.” (103)

5.112 The other offender believed that his local youth culture would require anyone who viewed it simply to laugh it off.

“Just stupid, the whole thing is stupid [...] It’s just the way it is down here. Anybody who comes to watch that video, I guarantee you they would go home and tell their mates what they just watched and start laughing about it, that’s just the way it is. Everybody watching that has come in like me and watched it and said right, he’s gone and told the police that and gone to court instead of just dealing with it himself. That’s what every single person in there will say.” (106)

5.113 All 17 respondents were asked to identify the victim of their CRO offence. Ten respondents were able to clearly identify the victims in their cases but 6 denied any victim existed⁴². Unsurprisingly, perhaps, the 4 who denied the antisocial behaviour element of their case all fell into the latter category of respondents.

5.114 Seven of the 10 who identified the victims of their crimes said it was those that they had either directly targeted with their behaviour, or those whose presence they had been immediately aware of at the time:

“The police...I was shouting at them.” (103)

“I didn’t know whose car it was, just lashed out and that was it. It could have been

⁴² Only 16 respondents are referred to here due to a problem with the recording in one interview.

anybody's...it could even have been somebody that I knew." (304)

5.115 Six of these respondents had also shown a limited understanding of antisocial behaviour, identifying a set of behaviours or acts associated with the term but being unable to identify the adverse effects of it on individuals and the 'community'.

5.116 Three respondents who were able to identify the victims of their offences were also able to discuss the possible wider impact of their offences on those they had not been aware of at the time. For example one acknowledged that people in the houses in the area where he had committed his Breach of the Peace would have been troubled by the noise. He also acknowledged that the presence of his group of friends hanging around the streets may have been intimidating and may have prevented people from leaving their house to go to the local shops. It is perhaps unsurprising that all 3 had been able to describe antisocial behaviour in terms of its adverse effects.

5.117 Of the 6 respondents who denied that any victim existed, each was involved in an altercation with the police or local community wardens when charged with their offence. Each was keen to protest the legitimacy of their case (and the legitimacy of their being placed on a CRO) on the basis of the behaviour of those who had apprehended them. *'Naebody, everybody just gave as good as they got.'* (104) was a typical response from this subgroup.

5.118 Two of the 6 described themselves as known to the police and therefore more likely to attract police attention when out on the street. Both felt they had been singled out for acts (both cases were breach of the peace charges for shouting in public areas) that others would have 'gotten away with'. Another 3 felt again that they had been unfairly singled out for minor acts, expressing the view that the police or community wardens had either been looking for a fight or for something to do. Again, all cases involved breach of the peace charges for disorder in public areas. The final respondent in this subgroup had been charged with breach of the peace and assault for actions he had taken against 2 police officers. This respondent was aggrieved by the charge as he saw his actions as necessary to help his friend (see para 5.106 for full description of the situation):

"...the way they grabbed her, you'd think, you know what I mean, you'd think she was a man or something the way they grabbed her so I don't think that was right." (106)

5.119 It is not for the research team to dispute the facts of the cases or to question police practice, but what needs highlighting here is that the change in attitude that the CRO is aiming to produce may be difficult to achieve when the CRO is used in response to challenges to police authority without a specific focus on these issues.

5.120 In terms of the success of the Victim Awareness module employed in Site 1, the nature of the data gathered does not allow any acknowledgement of victims on the part of the offenders from this site to be attributed to their participation in this. Nevertheless, it is noteworthy that of the 6 respondents from this site, 3 denied there was a victim to their offence. Although numbers are very small, this is a substantial proportion (50%) of the total subset who denied any victim. Of the 3 that did identify victim/s of their offences it is also interesting that one believed the victim to be the police.

Reflections on the CRO

5.121 Offenders were asked whether or not they felt the CRO had been the right sentence for them. This led to a clear division amongst the respondents. Seven believed their CRO had been appropriate. Three of these stated that they would have had difficulty paying a fine and thus preferred the CRO option:

“Yes, I’ve not got a job to pay a fine ...” (104)

“I am not really good with money basically” (203)

“Seeing as I wasn’t [working] this was probably the best thing.” (304)

5.122 The other 4 simply discussed that the CRO had been a fair deal in the circumstances and that they were happy as a result.

5.123 Nine offenders, however, felt that the CRO had not, in their view, been the right sentence in their case. All claimed that they would have preferred a fine. Five were able to provide reasons for their preference, such as *“too many hours”* and *“it would have been easier”*. One, who was employed full time, resented having to give up his Sunday. Another in this group discussed his problems with drug abuse at the time of his sentencing and said he would have preferred a fine, in spite of his financial difficulties, although he believed that now he had resolved his drug issues he was able to put in the hours.

5.124 The final respondent gave a mixed response. He argued that he initially thought the CRO had been the right disposal for him but had changed his mind as the Order had progressed. He had been sent to Alcohol Awareness on the recommendation of the court and stated his appreciation for the work that had been done here in helping him address his problems. However, when put out on placement his positive impression had waned as he had failed to see what this had achieved.

Future plans

5.125 Offenders were asked if they had any plans for their future. Twelve said they had made plans, with 5 seeking further education or apprenticeships in specific trades, for example, beauty therapy and as an electrician. Two planned to seek help with their drug problems before making their applications but were seeking help with that goal in mind. A further 4 wished to continue with their current job or training and one wished to join the army.

5.126 Of the 4 who wanted to continue in their current job or training, 3 discussed longer term goals, such as continuing to work for the company providing their apprenticeship and finding work outside the local area.

5.127 The remaining 2 respondents in this group stated that they would be seeking employment. One had come off drugs and wanted his child to come back to live with him and the other had a baby on the way that he wanted to be able to provide for.

5.128 Five offenders could not identify any future plans or goals. Three were 17 years old and their age is probably an understandable factor in their uncertainty. The other 2 were 20 and 22. Two offenders were in full time employment but the remaining 3 were unemployed. All had broken the law again since receiving their CRO. None of the 5 believed they had changed since starting their Orders.

Perception of fairness of the order

5.129 Offenders were asked if, in terms of the hours they had received, they thought the CRO had been a fair sentence. Thirteen stated that the number of hours they had received was fair, although 4 of these respondents volunteered that their perception of fairness was predicated on their relief at not getting a heavier sentence. One was pleased to have avoided a custodial sentence and the remaining 3 had been warned that a greater number of hours were likely in their cases.

“It was fair...I thought it would be more probably... getting community service - 120 hours.” (103)

5.130 A further 2 offenders felt that the number of hours received was fair in relation to the charge, but disputed the charge itself. On this basis, the sentence overall was perceived as unfair:

“No it was very fair, what they gave me for what I was charged with, but I just thought I shouldn’t have been charged with it in the first place, d’you know what I mean?” (106)

5.131 Four offenders did not think the number of hours they received was fair. One felt the sentence had been too heavy in relation to the charge:

“I thought it was a bit steep for breach of the peace.” (102)

5.132 Another thought the imposition of a fine on his time was too much:

“I would rather pay the fine...too many hours.” (H01)

5.133 The final 2 thought their sentence was too harsh when compared to sentences that other offenders had received for similar offences:

“Not really because a boy at the same time smashed windows in a car. So he got 20 hours and I got 60.” (303)

“...well I’ve read in the paper.. that people doing a lot worse things than me and getting the same amount of hours so it was a bit surprising.” (105)

Summary

5.134 Thirty nine offenders placed on a CRO were approached for interview and successful interviews were achieved with 17. Though smaller than planned, the 17 were a reasonably representative group based on such factors as age, previous convictions and current offence.

5.135 Obtaining focused information from a group of relatively young offenders was a difficult task. Many of the replies to questions were limited. Nevertheless, the interviews provided some rich insights into how the offenders viewed their sentences, their supervisors and their placements.

5.136 The 17 offenders interviewed considered their offences to be of a minor nature. 16 of 17 offenders had been drinking alcohol at the time of their offence. Most (13) accepted that their behaviour at the time of the offence had been anti-social. However only 2 recognised its adverse impact on the community.

5.137 All offenders said that CRO staff had explained the nature of the Order to them at some point after they had been sentenced.

5.138 The small number of Orders given in the pilot period meant that some problems were experienced by LAs in finding suitable placements for small groups of offenders. This led to some offenders being placed in circumstances that, at least in their eyes, were not suitable and related to health issues, feelings of intimidation or encounters with rivals.

5.139 For some of the offenders, there had been some reasonably pleasant rewards from their placements. For some this was acquiring skills; for others, a sense of achievement.

5.140 Eight of the offenders felt they had not got much from their placement; others had simply not enjoyed the nature of the work. Some tasks were unquestionably tedious and menial and were seen simply as a punishment and a fine on their time. Other had had problems getting to their placements and some complained of the Orders taking away part of their spare time. For one offender who had problems getting to his placement, the fine was, in effect, on his parents' time as they had to take him by car.

5.141 CROs are intended to be about more than being a fine on time and the fact that all but one of the offenders had praise for their Supervising Officer, might suggest that the arrangements made in each pilot had the potential to motivate and change offenders. Some offenders described building a relationship with their Supervising Officer which suggested they had been something of a role model. Similar accounts were given of Activity Supervisors.

5.142 Activity Supervisors, though not professional social workers, and Supervising Officers can have an important impact on offenders in terms of being a role model. Site 1 had placed particular emphasis on pro-social modelling and this technique appeared to have had a degree of impact on offenders in relation to their impressions of one particular Activity Supervisor. All were able to identify the elements that combined to make his treatment of them a positive experience and their ability to recognise the value of those characteristics is an optimistic finding. Offenders in Site 2 were also able to speak positively about a Supervising Officer. Site 3 had a different story to tell about Activity Supervisors who appeared not to get involved with the offenders.

5.143 One authority made use of a victim awareness module using video material and brief discussion to emphasise the change requirement. The offence illustrations seemed much more serious than the offences committed by the participants. Only in one instance did issues relating alcohol misuse or substance misuse feature in practice.

5.144 Few offenders could report feeling that their placement had made amends to the community for their offences. Only 2 had had any contact with the beneficiaries of their work during their placements. It was noted, however that offenders took positive account of any praise they received, directly or indirectly.

5.145 Nevertheless, a number of the offenders said they believed they had changed by: learning to control their bad tempers; controlling their alcohol consumption; staying out of trouble by staying at home more; and recognising that graffiti and litter were a public nuisance. Some offenders accepted that they needed to change but simply felt they were not yet ready to do so or could not avoid the kinds of situations that got them into trouble. To some degree, these might be seen as achievements in self-awareness.

5.146 In terms of what the offenders thought about being given a CRO, 3 had been relieved not to have had to pay a fine. Others would have preferred a fine, suggesting perhaps that the Order had achieved its purpose of being seen as a fine on time.

5.147 Given the relatively young age of many of the offenders, it is noteworthy that 12 could talk about their future plans and that these were often predicated on ceasing to get into trouble. This degree of future orientation, coupled with goals attainable through law abiding behaviour, can be an important step towards ceasing to offend.

5.148 For some offenders, their placements had been constructive and, for some, their work had made reparation. There were some suggestions of awareness of the adverse effects of their antisocial behaviour and there were reasons to believe that many of the offenders were aware of the need for them to take personal responsibility for their behaviour and their lives. It is not possible to say to what extent this awareness had been raised or instilled directly through the Orders.

CHAPTER SIX

WHAT OTHER STAKEHOLDERS HAD TO SAY

Introduction

6.1 The research team consulted with a number of other stakeholders including senior personnel in key strategic partner organisations such as the police, the District Courts Association (DCA) and the Association of Directors of Social Work (ADSW); community stakeholders who had been involved and consulted prior to the implementation of CROs;⁴³ and community representatives.⁴⁴

6.2 The purpose of these consultations was to provide some answers to: objective 1 which sought a description of how the CRO schemes were established; objective 2 to assess the effectiveness of ongoing consultations with communities; objective 4 which required a description, comparison and assessment of the use and operation of CROs; and objective 11, to explore the implications of CROs for other courts.

The Value of CROs

6.3 Interviews with representatives of the District Courts Association (DCA), Association of Directors of Social Work (ADSW) and the Association of Chief Police Officers Scotland (ACPOS)⁴⁵ suggested they saw the implementation of CROs as having been Ministerially driven. The partners also believed, however, that they were “*well linked in*” with the Scottish Executive on criminal justice matters, that they were able to provide their perspective on criminal justice policy and, therefore, “*nothing ever comes out of the blue*”.

6.4 There was some belief that the CRO does not fit comfortably with the other disposals that currently exist in the criminal justice system. Consultees felt, for example, that it was not entirely clear how the CRO differed from the CSO and they felt it was confusing for the courts as well as the public. In short, there was a belief that what the Scottish Executive intended CROs to be was not widely understood.

6.5 The partners believed that there was a need for greater clarity as to whom CROs apply and how the Order fits with other community disposals. Clarification should then, they suggested, be conveyed to the courts in a cogent manner. Without this, there was thought to be little merit in rolling out CROs nationally.

6.6 One partner argued that Scotland was “well off” in terms of community disposals and was not sure why this range of disposals should continue to increase. CROs are only one of a number of options that courts can use, so the low numbers were, perhaps, not so surprising, it was thought.

⁴³ Fire services; the police; a Day Centre; representatives of LA Youth Justice; LA Children’s Service, LA Housing Department, Council Tenant Participation Office; NCH Scotland; Procurator Fiscal’s Office

⁴⁴ The research team does not claim that the stakeholders or community representatives spoken to are representative of their population groups, rather they provide some general views and opinions about ASB in general and CROs in particular. As explained later in the report, attempts were made to maximise numbers at focus groups but there was a low level of interest, probably because of the lack of knowledge that representatives in the community had of CROs given the low numbers.

⁴⁵ A senior representative in each of these organisations was interviewed

6.7 When prompted, the partners did think that the CRO could be of benefit for offenders and communities as it was visible and tangible in making offenders “*put things right*”. It was also thought capable of giving some reassurance to victims and communities that the authorities can do something useful and could also help offenders to realise that there was a real victim resulting from their actions and that this might help them to modify their behaviour. It was pointed out that a CRO could be particularly effective “*if a person is on the fringes of starting to offend ...*”

6.8 Partners seemed to feel that there are fewer ethical issues with CROs compared with some of the other new orders, such as ASBOs and ISMS. The CRO, it was felt, does not involve the same ethical concerns arising from tagging or curfews.

6.9 The partners were aware of the low numbers of CROs in each of the pilot LAs. They were not clear, however, why they had been so low. One partner argued that CSOs should be seen as a high tariff alternative to imprisonment but that courts were using it instead as an alternative to fines. In this environment, it was thought that the introduction of CROs was “*confusing*”. It was suggested that it was a problem for professional staff and the courts to work out in what instances CROs should be used.

6.10 There was, however, also a belief that when used CROs have led to successful outcomes in a number of cases. However, it was accepted that without significant numbers, it was difficult to determine success. It was recognised, however, that the lack of numbers has made it difficult to arrange specific community tasks for those on CROs.

6.11 It was thought that there could be more visible ways to demonstrate the impact of CROs to the communities, such as graffiti clean-up or litter pick-up activities.

6.12 One partner suggested that courts located in the areas where the actual antisocial behaviour was taking place would tend to be better at dealing with it and at identifying specific and targeted programmes, whereas those in locations removed from the behaviour tend to be less well equipped to deal with it.

6.13 One partner suggested that CROs could have greater impact if they were tied into the work of APEX Scotland which had good contacts with community service type providers and, generally, its programmes had a positive impact on offenders.

Community stakeholder consultations

6.14 Stakeholder discussions took place in each of the pilot LAs between 19th December 2006 and 15th March 2007, and were based on topic guides.

6.15 The purpose of these discussions was to fulfil objective 8 of the specification which required an exploration of public perceptions of the impact of CROs on antisocial behaviour and the extent to which agencies had become more successful in tackling such behaviour.

6.16 Community contact was deliberately delayed in the hope that there might be a gradual increase in Orders against which to assess the community views. In the event, of course, there were far too few Orders in each pilot location to be able to anticipate much, if any, public knowledge and awareness.

6.17 As an alternative, therefore, the discussions were used to explore the extent to which communities were engaged in implementing CROs, particularly in terms of being made aware of the disposal and in offering suggestions as to particular tasks and activities for those on the Orders to complete. More broadly, perceptions of CROs, other interventions, and views on crime and antisocial behaviour were also examined.

6.18 For each focus group, around 8-12 community stakeholders were invited to attend. Groups ran when at least 6 respondents agreed to participate. However, not all those that agreed to attend actually did so.

6.19 The results discussed here are not, therefore, intended to be representative but, rather, to give an illustration of what community stakeholders in each of the areas thought about CROs and the wider ASB agenda, and their involvement in the consultation process that each LA had to undertake.

6.20 The focus group for Site 1 was held on 19th December and had 3 attendees (from various community centres). The Site 2 focus group was held on 15th January and featured 3 representatives from the police and organisations where offenders sentenced to a CRO had been placed. The Site 3 focus group was held on 20th December and involved 3 council representatives from different teams and a representative from the Procurator Fiscal's Office.

Perceptions and awareness of antisocial behaviour

6.21 Perceptions of ASB were varied, with some consultees believing that it was increasing and others thinking that it had not changed in recent years, but that there was simply greater awareness of it.

“People are more aware of anti-social behaviour due to the attention it has been given in the media.” (Site 3)

6.22 It was, however, accepted that this was a difficult concept to measure and on which to record data.

6.23 ASB was seen as taking the form of vandalism, noise nuisance, littering, underage drinking and minor assault, however, it could also involve activities such as loitering or “hanging-out” where no actual offences were committed, but did lead to people being intimidated.

6.24 Such behaviour was believed to be caused by young people, through boredom and a lack of affordable activities and places to go. ASB was also seen as resulting from drug misuse, particularly among adults that led to raucous, loud and disruptive behaviour and which, in turn, created anxiety for local residents who saw it as creating a chaotic environment in which young people were being brought up. It was also highlighted that those reporting ASB were often afraid of recrimination.

6.25 Community policing was seen as effective while it was there, but when it moved away the problems returned, highlighting the lack of resources available in the public sector for tackling these problems.

The community consultation process

6.26 In Site 1, it was felt that a great deal of consultation had been undertaken and the community stakeholders were involved in setting up projects for those on CROs. It was stated that the LA delivery team provided community partners with good advice and contacts in order to get work they needed completed cost effectively. However, there was a perception that too many groups and organizations were involved and that this had created practical difficulties in implementing an initiative like CROs.

6.27 There were said to have been 2 sets of workshops/meetings in Site 3, which were not believed to have been well attended. The consultees claimed that they received no feedback on these sessions, whereas they had expected regular updates. The initial consultations were seen as effective. However, there was felt to be something of a communications problem between the Council and the community stakeholders as both saw this as a forum to outline what they were each doing rather than about creating the mechanisms for joined-up working.

6.28 In Site 2, there was little recollection about the consultation process among the participants. An open day promoting CROs to potential placement providers was the only event highlighted.

Implementation of CROs

6.29 In Site 1, the LA team responsible for delivering CROs was seen as very effective. It was also thought to be disciplined, managing those on the Orders effectively. For example, the offenders were returned to workshops if they misbehaved in outdoor work and they were not allowed mobile phones or cigarettes while doing work. The LA delivery team also seemed to be aware of community concerns. For example, ensuring they were careful about who they sent to a children's centre to work in the grounds. One of the most efficient aspects of CROs was thought to be that if the offenders did not turn up to work, then there was the underlying threat that they would be taken back to court and issued with a more serious punishment.

6.30 Activities highlighted included building a new landscaped garden and painting railings around a children's centre, which the centre could not have afforded to do itself. This was seen as being a very positive development by the community, with offenders not simply being punished, but engaging in activities to benefit their community as well as learning skills. Much of the project work seemed to be manual as those on the Orders were not allowed to use equipment.

6.31 In Site 3, the general view was that CROs were superfluous as the under 16s would be picked up by the Children's Hearings System and there was already a range of measures available for young and adult offenders.

"They are a solution to a problem that does not exist. There are other [inter-agency] systems and services in place that work well and would have benefited more from the funding".

6.32 CROs were compared unfavourably to a mediation project that was set-up at the same time.

“In terms of process, CROs are too long-winded when compared to mediation.”

6.33 For much the same reason, they were also compared unfavourably to other summary justice measures such as fines and compensation orders. Curfews were also supported.

“They are a right inconvenience to them [ASB perpetrators] and as good a way of monitoring their behaviour as any.”

6.34 Where they are used in Site 3, stakeholders believed that this was through the district courts rather than the sheriff courts and for cases such as vandalism when the offender had no means to pay a fine. However, as they involve a relatively small number of hours, it was not clear to stakeholders how they could rehabilitate offenders.

6.35 In Site 2, there is an established inter-agency partnership working to tackle ASB and CROs were seen as one part of the armoury for the overall partnership. The Community Safety Partnership team played a large role in arranging placements and was pivotal in engaging with those on the Order and the placement organisations. One stakeholder group, however, said that it had offered to provide placements for offenders but after waiting some time for people to be assigned, those on the Orders did not turn up for work. Activities here seemed to be more basic from the stakeholders’ knowledge, for example, placements for litter picking and painting over graffiti.

Effectiveness of inter-agency working

6.36 In Site 1, generally there was felt to be a lack of joined-up working from all the various groups (for example, council, community centres, the police) who have to deal with young people in the area. There was criticism of a lack of spending on frontline resources to help deal with acute community problems caused by ASB and a lack of affordable activities for young people. Instead, there seemed to be continual increased funding for drug and alcohol abuse facilities that already receive funding.

6.37 Inter-agency projects were, generally, felt to be working well in Site 3, but the most significant problem seemed to be the lack of communication between the different organisations. There was also felt to be too much bureaucracy, in the form of working partnerships, and too little action, which was too slow in reacting to problems caused by ASB when they did manage to get round to it.

“The consequence needs to be close to the event for it to be a deterrent.”

6.38 In Site 2, it was generally felt that inter-agency liaison was working well but could be developed further. The close working relationship between the police and a number of other agencies was highlighted, in particular the LAs antisocial behaviour team. The police were also in close contact with the Council’s Fast Response Team to deal with graffiti (such calls were usually dealt with within an hour, it was stated).

Impact of CROs

6.39 In Site 1, it was felt that the success of CROs was dependent on buy-in from sentencers.

“If the courts do not issue CROs, then there is little point in them.”

6.40 The most appropriate use of CROs was seen to be in dealing with smaller ASB offences such as being drunk and disorderly and vandalism.

6.41 It was believed that those on the Orders seemed to enjoy the work and had developed skills. This was also thought to have been a factor in the perception that the vandalism had not been repeated.

“Since they finished working on the garden, the [children’s] centre has not been vandalised again.”

6.42 However, there had been some negative press coverage that referred to those on the Orders as “criminals” instead of highlighting the good work that had been done and this had caused some disquiet. One consultee said that a problem for CROs was that not enough people knew about them.

“They are a bit of a secret. They [the LA delivery team] have to call round looking for work or projects to do when it should be the other way round.”

6.43 In Site 3, none of the consultees was aware of CRO activity in their area. CROs were seen as having had little impact in the location due to their low use and the variety of other methods for dealing with such problems. There was a perception that many of the CROs that had been given had later been breached. A perception that is borne out by the facts.

6.44 None of the consultees had experience of the impact of CROs in Site 2. Instead, the discussion focused on how well the programme was being managed, and opinion on this was divided. Criticisms of the management focused on not arranging placements effectively and not getting those on the placements to turn up for work. However, it was accepted that health and safety considerations meant, “...there are a lot of hoops to jump through to organise something like this.” It was also seen as a danger that those on CROs undertook work that other people could be paid for, leading to jobs being taken away from local residents. It was further argued that the existence of the Fast Response Team in the city meant that the community would be unlikely to notice the impact of CROs in terms of the tasks offenders were asked to carry out.

6.45 There was a belief in Site 2 that CROs were in a grey area between a severe sentence and no sentence. They were felt to be useful in some specific circumstances, in particular in dealing with young first-time offenders but more guidance from the Scottish Executive on when and how CROs could be used would be helpful to community partners.

Community discussions

6.46 Community discussions in each of the pilot LAs were carried out between 20th December 2006 and 1st March 2007, based on topic guides.⁴⁶

6.47 The purpose of these discussions was, again, to respond to objective 8 of the specification and also to see how the community and their representatives perceive CROs and other interventions as well as to gain their views generally on crime and anti-social behaviour in their areas.

6.48 The Site 3 focus group was held on 20th December. It involved 4 community councillors from across the area. The Site 2 focus group was held on 15th January and featured 7 representatives from community safety partnerships, residents' groups, community councils and residents. The Site 1 focus group was held on 1st March 2007 and featured 4 community councillors from three different areas.

Perceptions and experiences of antisocial behaviour

6.49 Generally, it was perceived that the main sources of ASB was youths under 16, with the problems exacerbated by alcohol and usually taking the form of vandalism, littering, loitering, intimidation and minor assault. It was perceived that those who reach 18-19 either grew out of it or had money to go out to a pub or club at night. It was also noted that young people were increasingly mobile and tackling ASB in one area did not solve the problem, as the perpetrators moved to a different area. ASB was seen as a very difficult problem to tackle given that interventions are not perceived as being effective.

“Young people have no fear of retribution.” (Site 1)

6.50 However, some group members felt that “perception is worse than reality” and that young people hanging about in groups can generate the perception of ASB to members of the community even if they are not actually committing any incidents of ASB.

6.51 In one area, the issue was raised that it was all too easy to blame groups of youths for ASB incidents.

“There have been a few cases in my areas where the damage was caused by adults, but the subsequent damage was not reported until gangs of youths were seen in the area.” (Site 3)

6.52 The communities did not believe that CROs had made any difference to ASB since they had been implemented.

6.53 In Site 2, it was felt that the problem was getting worse. A particular point highlighted was the problems now faced by those working in the public services in the city, for example the fire service, where they are faced with the threat of physical violence and equipment theft from vehicles.

⁴⁶ A village trust; a Federation of Tenants' Association; a Safer City Initiative; 6 Community Councils

Causes of antisocial behaviour

6.54 As most ASB was seen to be a result of young people, the lack of activities for young people in the area was seen a major cause of ASB, with young people roaming the streets and causing ASB incidents and distress. Lack of community cohesion, poor parenting and negative peer pressure influences were also seen as causes.

6.55 ASB among adults was generally seen as being drug-related, with ASB problems escalating as drugs became more prevalent, especially in some of the larger areas.

Agencies responsible for tackling antisocial behaviour

6.56 In Site 2, there was awareness of the dedicated ASB team, community safety wardens, the Community Intelligence Unit and the Community Safety Partnership. All were seen as being able to provide positive experiences for young people to guide them away from ASB. The courts and procurators fiscal were also seen as having a significant role to play in enforcing the law and making sure that perpetrators “did not get away with it”. However, it was claimed by a number of consultees that many sheriffs were distant from experiences of ASB and this impacted on their decision-making. A solution put forward was to train one sheriff in each area in the issues around ASB to ensure more empathy with the community and more consistent sentencing.

6.57 In Site 1, there was a perception of a lack of joined-up working between the various agencies responsible for dealing with ASB. Police response times were mentioned as a major concern. There was also criticism of the ASB strategy and the ASB Taskforce, which were seen as reactive rather than proactive in dealing with ASB. Social workers were also criticised for being “too soft” on young people. Those consulted in Site 1 said that they favoured a panel-based system to consider selecting appropriate tasks for those on the Orders, involving community representatives, Social Work and the Procurator Fiscal’s office.

6.58 It was argued in Site 3 that the community itself had a responsibility in tackling ASB and that there was, perhaps, too much focus on agency solutions.

Knowledge and understanding of CROs

6.59 No one among these consultees, in any of the 3 sites, had any direct experience or knowledge of CRO cases. Consultees in Site 1 remembered the launch of the pilot but said that they had heard nothing about CROs since (although they were keen to have further involvement). They thought that CROs had little impact and little visibility.

6.60 There was an awareness of CROs in Site 3 but it was perceived that although the principle of CROs was supported by the community, there were practical difficulties in implementing them, for example, in finding suitable work for those on CROs. There was a general feeling that the community was not being kept informed about developments on CROs and other parts of the ASB agenda.

6.61 In Site 2, there was some limited understanding of the nature of CROs and their participative and rehabilitative elements were felt to be important, potentially making them a better measure than fines. It was noted that offenders under 16 would be unlikely to receive a CRO through the court as they would, wherever possible, be seen within the Children's Hearing System.

Perceptions and experiences of other ways of tackling antisocial behaviour and youth crime

6.62 Community safety wardens and community police were seen as being very useful in tackling ASB and youth crime, particularly by engaging with young people in a "light touch" and non-punitive way. However, it was pointed out that they tended to move around problem areas and, once they left an area, the problems returned. Engaging with young people in this type of way was perceived as being important in reducing ASB as "they resent being dictated to."

6.63 It was also suggested in Site 1 that ASB punishments were a "badge of honour" to many young people and there was a perception that they were being rewarded rather than punished for their behaviour.

6.64 Curfews and tagging were widely supported, particularly when ASB was "getting out of hand". It was also thought to lead to effective joined-up working between the police and housing teams.

6.65 However, one consultee did raise the danger that court sentences can exacerbate a problem.

*"They can put a black mark against their name and close doors for a young person. What if they wanted to join the army and now couldn't? They sometimes just need to be given a chance and a bit of interest and concern shown in them."
(Site 3)*

6.66 In Site 3, it was claimed that the courts had shown a preference for fining vandals to pay for damage caused and only when there was a cost that was viewed as excessive would an Order like a CRO be issued. There seemed to be support for avoiding the courts altogether, for example through imposing on-the-spot fines.

6.67 There did seem to be support for imposing community reparation on those committing acts of ASB but, it was argued, these measures could be enforced by the community or those responsible for the young people who have committed ASB.

"There was a case where the parents of the vandals bought paint and made them whitewash over the damage." (Site 3)

6.68 Other suggestions for tackling ASB included:

- removing the perception that bad behaviour is rewarded with field trips, etc.
- attempting to tie-in housing provision with good behaviour contracts that secure tenancy agreements
- the police being more firm with establishments selling alcohol to young people by

- closing them until the next opening period
- young people in school to be taught about “respect” and “citizenship”.

6.69 Doubts were expressed about mobile CCTV units and the extent to which they deterred people from committing ASB or just relocated the problem.

The best ways of informing communities about initiatives like CROs

6.70 Existing community networks were thought to be the most effective avenues, although it was acknowledged that attendance and interest is limited, it was thought that better communication between community groups and other agencies could widen the knowledge and use of CROs.

6.71 Effective use of local press to highlight “good news” stories and to “encourage community spirit” was also highlighted.

6.72 However, one consultee did not see informing communities as an issue.

“It is not necessarily about informing communities, but about authorities enforcing things. Communities just want to see something working.” (Site 3)

Summary

6.73 Some of the perceptions observed from the discussions and focus groups on which this chapter has been based endorse findings from earlier chapters. For example, there was some feeling that the distinction between CROs and CSOs was not clear and that this may have caused confusion to courts but also for the public. In addition, a stakeholder group said that it had offered to provide placements for offenders but none turned up for work.

6.74 Communication problems were identified between one LA and its community stakeholders, with both seeing consultation as the means to outline what they were each doing rather than as a mechanisms for partnership working. In another LA there was a perception that too many groups and organizations were involved in the consultation and that this had created practical difficulties in implementing CROs.

6.75 Sometimes, however, perceptions were at odds with what other had said or experienced. For example, social workers in Site 1 were criticised for being “*too soft*” on young people. There was a view in one site that police and community wardens who took a ‘light touch’ approach to young people were effective because young people “*resent being dictated to.*” Some of the offenders interviewed for this study, however, blamed their court appearance on what they saw as anything but a ‘light touch’.

6.76 In one location, it was thought that there could be more visible ways to demonstrate the impact of CROs to the communities, such as graffiti clean-up or litter pick-up activities. One offender interviewed for the study had welcomed being involved in cleaning up graffiti but others resented tasks such as picking up litter.

6.77 ASB was believed to be caused by boredom in young people and drug misuse by adults. It was felt by some that ASB had increased but some others expressed doubts about whether ASB had actually increased.

6.78 The principle of community reparation was generally supported but there were believed to be practical difficulties in implementing CROs. There was also some confusion as to where CROs sat within the wider criminal justice system.

6.79 Views of the consultation process varied by area, but only stakeholders in Site 1 seemed to recollect it fully and positively. The lack of feedback after the consultations was criticised.

6.80 Only in Site 1 was there knowledge of CRO activities. The general lack of visibility of CROs and the practical difficulties of organising suitable work for those on CROs were believed to have had a detrimental impact on their take-up.

6.81 Reactions to CROs seemed to fit well with the relative successes in Site 1 and the relative lack of success in Site 3. Thus, the most positive experiences of CROs were in Site 1, where the LA delivery team was seen as being engaged with the local community and where there was clear evidence of CRO activities having benefited the community. CROs were thought as having a role in Site 2 but a relatively small one in terms of the overall ASB strategy. Finally, Site 3 stakeholders saw CROs as being superfluous, with other measures seen as being better placed for dealing with the types of offenders that CROs were intended to target.

CHAPTER SEVEN COST ANALYSIS AND ROLL OUT

Introduction

7.1 This chapter provides a response to objective 10 of the specification by presenting an analysis of the funding for the provision of CROs in 2005-06 and 2006-07 in each of the pilot local authorities compared against what was actually spent in those years (the expenditure figures for 2006-07 will only cover part of that financial year). The detail focuses on the additional funding that the pilot LAs received from the Scottish Executive to implement CROs, rather than additional costs to other bodies such as the courts and the police. This is because the research team believes that the additional costs of CROs lie in LA functions and should not, for example, lead to large increased costs for the courts over other types of summary disposals.⁴⁷ The figures were collected and verified with the LAs themselves. The analysis is also based on discussions with the LAs.

7.2 Also provided are expected and actual unit costs information per CRO case and some broad comparisons are made with the costs of alternative sentences. Finally, estimates are provided of the possible costs for roll-out of the programme nationally.

7.3 As each LA is following its own model in implementing CROs, and has been doing so to different timescales, variety in the results is to be expected.

Funding data

7.4 Table 7.1 outlines the funding that each of the pilot LAs were provided with to deliver CROs, broken down into various elements. This can be compared with what the LAs actually spent in 2005-06 (Table 7.2). This information is broken down in a similar way.

Table 7.1 Funding data

Breakdown of costs*	Site 1 05-06**	Site 1 06-07**	Site 2 05-06**	Site 2 06-07**	Site 3 05-06	Site 3 06-07
Staff costs					£69,511	£74,645
Premises					£1,875	£1,913
Transport					£6,340	£6,462
Other					£5,384	£5,486
Total	£222,899	£132,000***	£248,000	£248,000****	£83,110	£88,506

Source: Local Authorities

Notes to table

* No breakdown of costs for training, equipment, communications, or utilities available

**Totals only. Full breakdown of data not provided

*** Initial grant allocation of £163,084 reduced to £132,000

**** Figure may be reduced

⁴⁷ Although higher breach rates of CROs may lead to higher costs for the courts, the number of Orders is unlikely to make this a significant consideration.

Table 7.2 Expenditure data

Breakdown of costs*	Site 1 05-06	Site 1 06-07*	Site 2 05-06	Site 2 06-07**	Site 3 05-06	Site 3 06-07***
Staff costs	£101,023	£36,181	£140,409	£62,430	£38,345	£30,333
Training	£1,090					
Premises		£12,000			£1,875	£1,275
Equipment	£31,975					
Transport	£11,177	£1,923	£8,480	£572	£4,946	£3,930
Communications	£500		£1,306	£631		
Utilities	£2,720	£1,200	£1,432	£1,216		
Other	£6,797	£254	£10,213	£120	£4,889	£3,870
Total	£155,282	£51,558	£161,840	£64,969	£50,055	£39,408

Source: Local Authorities

Notes to table

* Up to end of October 2006

** Up to end of September 2006

*** Up to end of November 2006

7.5 There has been an under spend in all of the sites in the first year of CROs. Site 1 spent 70% of its budget in 2005-06, Site 2 spent 65% and Site 3 spent 60%. The breakdown that is available for Site 3 indicates that this is a result of under spending on staff costs (55% of total staff budget has been spent). This might suggest that it has not been possible to get the required staff in place at the outset of implementation. Results for the first half of the second financial year show that 45% of the budget has been spent in Site 3 and 39% in Site 1. This suggests that each of the areas will spend around 90% and 80% of their budgets this year. This indicates improvement, although a continuing under spend. Account also has to be taken of the fact that the provisional budget has already been cut in Site 1 for this year. The proportion of budgeted staff costs in Site 3 in 2006-07 to be spent is likely to be over 80% on current projections and this seems to be the predominant factor in the improvement in the under spend figures.

7.6 In terms of expenditure, staff costs are the main costs in each of the areas (87% of all costs in Site 1, 77% in Site 3 and 65% in Site 1 in 2005-06, with a similar picture emerging for 2006-07). Capital costs (for premises, equipment, etc.) are low, suggesting use is largely made of existing facilities.

7.7 Despite the under spend in 2005-06, the budget for CROs increased by 6% in Site 3 in 2006-07. Site 1 cut back its budget significantly after the first year, with a reduction of over 40%.

7.8 Table 7.3 provides details on unit costs: expected (as per funding requirements and the expected number of CRO cases) and actual (as per the expenditure figures and actual numbers of CRO cases). Some caution needs to be exercised on the broad comparisons. For example, it is known that areas were implementing CROs at different paces, skewing under spend and unit cost differences.

7.9 There were differences in expected unit costs on CROs between the pilot LAs at the outset, with figures ranging from just over £700 in Site 2 to just under £1,700 in Site 3. This is to be expected given that the different areas will have different infrastructure requirements and different models of delivery, as well as being very different in terms of geography. However, with the exception of Site 3 in 2005-06, expected unit costs have borne little relation to actual unit costs. Actual unit costs have increased significantly in Sites 1 and 3 for 2006-07 to date as the rate of case numbers has fallen. Actual unit costs in Site 1 have been substantially greater than expected, running at over £14,000 for 2005-06, although this has fallen to around £8,500 for 2006-07 to date. It is the lack of cases that would seem to be the cause of this as implementing and running a CRO programme does require set-up costs, in particular getting the staff in place to service the programme. However, as Site 1 expected 150 cases per annum and has instead received only 17 over a one and a half year period, this marked discrepancy is predictable.

Table 7.3 Unit costs

	Site 1 05-06	Site 1 06-07	Site 2 05-06	Site 2 06-07	Site 3 05-06	Site 3 06-07
Expected cost per CRO	£1,486	£880	£709	£709	£1,662	£1,770
Actual cost per CRO	£14,117	£8,593	£8,518	£16,242	£1,615	£13,136

Source: DTZ analysis of LA data

7.10 Table 7.4 provides some broad comparisons for alternative disposals. It is difficult to make pure comparisons given that the methods used for these estimates vary between the different studies that attempt to calculate them.

Table 7.4 Unit costs

Sentence	Unit cost
Antisocial Behaviour Orders (ASBOs)*	£2,250-£2,500
Community Service Orders (CSOs)**	£1,432
Drug Treatment & Testing Orders (DTTOs)***	£3,200-£7,600
Probation Orders (POs)**	£1,157
Restriction of Liberty Order (RLO)+	£5,064
Supervised Attendance Orders (SAOs)++	£750-£1,000
Custody – 7 days++	£626
Custody – 6 months**	£16,600

Notes to table

* Scottish Executive estimate of legal costs of £2,250, see <https://www.scotland.gov.uk/Publications/2003/09/17863/23804> For the wider UK, the Home Office estimates an average cost of £2,500.

** Estimate provided in Scottish Executive (2006).

*** Figure for Scotland is £3,168 for 6 months DTTO from McIvor et al, (2006). For England and Wales, estimate of £5,200-£7,600 provided by the National Audit Office (2004).

+ From McIvor et al, (2006).

++ Provided in the Reid Howie Associates Scottish Executive report (2006).

7.11 When compared to these figures, the current unit costs of CROs would seem to be unacceptably high. The unit costs in Site 1 in 2005-06 were almost on a par with a 6 month custodial sentence. One would expect the unit costs of CROs to be considerably less than the unit costs of an Order with intensive support and reporting requirements, such as DTTOs, and probably on a par with SAOs; at the most being comparable with CSOs (which tend to last for a longer time and therefore require more resources). Therefore, on this evidence, one would expect the unit cost of CROs to be around £750-£1,500, which is broadly in line with initial expectations. It remains the case that a capacity has had to be built in each of the areas to implement and deliver CROs and this capacity has been built using the additional funding. However, it would appear from these figures that the low numbers of those on the CROs means that the programme is not currently providing value for money. To do this, CROs should have been running at or near the expected number of cases in each of the areas.

Implications for roll-out

7.12 An approximate estimate has been made of the funding required for any national roll out of CROs. Working on the assumption that the expected unit cost was broadly correct, one can assume that the unit cost for national roll-out is around £1,000. As a proxy for the number of offences in each LA in Scotland that may lead to a CRO, the research team took breach of the peace offences in stipendiary magistrates and district courts for the year 2003.⁴⁸ For the urban areas, we estimated the number of CRO cases based on the ratio of breach of the peace offences for Site 2, multiplied this by Site 2's expected 350 cases and then by £1,000 to estimate costs. For example, there were 432 such offences in Site 2 in 2003 compared with 1,518 in Glasgow, this is a ratio of 1:3.5, meaning that Glasgow would have an expected number of CRO cases of 1,230, requiring funding of £1,230,000.

7.13 This exercise can be repeated for the rural areas (using Site 3 figures as a basis for calculating the ratios) and for mixed urban/rural areas (using Site 1 figures).⁴⁹ Table 7.5 provides details on the expected number of CRO cases for each LA together with estimates for funding required.

7.14 These estimates are made using proxy measures and, as a result, are only indicative. They indicate the expected costs and CRO numbers were the programme to be implemented and operated economically, efficiently and effectively. In this scenario, a cost of around £7 million would be anticipated (see Table 7.5).

7.15 However, the number of actual CRO cases has been considerably less than originally anticipated, therefore the research team has also made an attempt to estimate national roll-out costs and CRO numbers if CROs had been rolled-out nationally and achieved similar results as the pilot areas.

7.16 A two-stage approach was undertaken. Firstly, account was taken of the under spend by applying a figure of 65% to the estimated cost (as paragraph 7.5 demonstrates, the pilot areas spent 60-70% of their initially allocated budgets, which seemed to have been set to meet VFM considerations). This, therefore, takes account of the implementation difficulties in spending the set budget. To gain a measure of how many CRO cases this would translate

⁴⁸ Provided in Reid Howie Associates (2006).

⁴⁹ Based on the Scottish Executive Urban Rural Classification.

into, the actual expenditure was taken over the 18-month period for which expenditure data was available (£523,112, Table 7.2) was divided by the actual number of cases (74) in this time to obtain an actual unit cost figure for CROs across the 3 pilot areas. The adjusted expenditure figure was divided by this actual unit cost figure to obtain an estimate of the number of CRO cases for each area if roll-out had proceeded as it did in the pilot LAs. Table 7.6 provides these revised figures for expenditure and CRO numbers if roll-out nationally occurred as it had in the pilot areas.

7.17 This table shows a considerably lower number of Orders nationally (around one-tenth of what was expected), but expenditure of just over £4.5 million to roll-out this far more limited programme nationally (due to the costs still required to set-up and operate the programme).

Table 7.5 Number of expected CROs and funding per LA (for programme to achieve VFM).⁵⁰

LA	Number of expected CROs	Estimated cost
Aberdeen City	223	£223,000
Aberdeenshire	21	£21,000
Angus	265	£265,000
Argyll & Bute	34	£34,000
Clackmannanshire	91	£91,000
Dumfries & Galloway	18	£18,000
Dundee City*	350	£248,000
East Ayrshire	286	£286,000
East Dunbartonshire	102	£102,000
East Lothian	64	£64,000
East Renfrewshire	45	£45,000
Edinburgh, City of	259	£259,000
Eilean Siar	2	£2,000
Falkirk	171	£171,000
Fife	227	£227,000
Glasgow City	1230	£1,230,000
Highland*	50	£83,000
Inverclyde*	150	£223,000
Midlothian	79	£79,000
Moray	115	£115,000
North Ayrshire	165	£165,000
North Lanarkshire	1095	£1,095,000
Perth & Kinross	289	£289,000
Renfrewshire	83	£83,000
Scottish Borders	120	£120,000
South Ayrshire	333	£333,000
South Lanarkshire	739	£739,000
Stirling	115	£115,000
West Dunbartonshire	123	£123,000
West Lothian	136	£136,000
Total	6,980	£6,984,000

Notes to table

* Budget figures for 2005-06 accepted.

⁵⁰ Figures for the Orkney Islands and the Shetland Islands are not available as number of Breach of the Peace convictions in the aforementioned courts is not available. Numbers of estimated CROs are likely to be very low given their small populations.

Table 7.6 Number of expected CROs and funding per LA (for programme if roll out represented actual numbers).⁵¹

LA	Number of expected CROs	Estimated cost
Aberdeen City	20	£145,000
Aberdeenshire	2	£13,000
Angus	24	£172,000
Argyll & Bute	3	£22,000
Clackmannanshire	8	£59,000
Dumfries & Galloway	2	£12,000
Dundee City*	23	£162,000
East Ayrshire	26	£186,000
East Dunbartonshire	9	£66,000
East Lothian	6	£41,000
East Renfrewshire	4	£29,000
Edinburgh, City of	24	£169,000
Eilean Siar	0	£2,000
Falkirk	16	£111,000
Fife	21	£148,000
Glasgow City	113	£799,000
Highland*	34	£50,000
Inverclyde*	17	£155,000
Midlothian	7	£51,000
Moray	11	£75,000
North Ayrshire	15	£107,000
North Lanarkshire	101	£712,000
Perth & Kinross	27	£188,000
Renfrewshire	8	£54,000
Scottish Borders	11	£78,000
South Ayrshire	31	£217,000
South Lanarkshire	68	£481,000
Stirling	11	£75,000
West Dunbartonshire	11	£80,000
West Lothian	13	£89,000
Total	665	£4,549,000

Notes to table

* Actual figures for 2005-06 accepted.

⁵¹ Figures for the Orkney Islands and the Shetland Islands are not available as number of Breach of the Peace convictions in the aforementioned courts is not available. Numbers of estimated CROs are likely to be very low given their small populations.

Summary

7.18 This chapter has presented an analysis of the funding of CROs pilots in 2005-06 and 2006-07, comparing it against what was actually spent in those years.

7.19 There was an under spend in all 3 sites in the first year, with Site 1 spending 70% of its budget, Site 2 65% and Site 3 60%. The indications are that this is a result of under spending on staff costs.

7.20 There were differences in expected unit costs between the pilot LAs at the outset, with figures ranging from just over £700 in Site 2 to just under £1,700 in Site 3. However, with the exception of Site 3 in 2005-06, expected unit costs have borne little relation to actual unit costs because of the lower than expected numbers of Orders. It has been suggested in this chapter that one might look to CROs unit cost being around £750 to £1,500.

7.21 Calculations have been presented (assuming that the unit cost for national roll-out might be around £1,000) of the likely cost if numbers were to be in line with the original estimates for the 3 pilot sites. That figure would be around £7 million. If numbers of CROs nationally were closer to the figures actually arising in the pilots, then the estimate would be just over £4.5 million.

CHAPTER EIGHT SUMMARY AND CONCLUSIONS OF THE EVALUATION

8.1 Each of the 3 pilot areas was able, successfully, to establish a CRO scheme for both their sheriff and district courts within the required timescales and attempted to meet the specifications required by the Scottish Executive. Undoubtedly, given the similarities, existing expertise in running community service was important to establishing, managing and administering the pilot schemes. The available funding allowed adequate staff resources to be appointed to provide personal and activity supervision and increased capacity for unpaid work in the community. However a number of aspects of the initiative proved problematic.

8.2 The number of Orders made did not, however, reach those predicted except in Site 3 where the expectation was for 50 and 34 were made. Given this fact, the nature of the evaluation had to shift somewhat towards addressing why numbers were so much smaller than original estimates. Nevertheless, the research team believes that a number of lessons have been learned from the pilots.

Engaging with stakeholders

8.3 CRO staff in all 3 areas had initiated efforts to fulfil the requirement to consult key stakeholders, including local communities, on the kind of work to be undertaken by offenders. Contact was made with sentencers, with the dual aim of raising awareness of CROs and, in some cases, coming to some agreement about the parameters of its use (Site 2). However, from what sheriffs said in interviews, the Local Authorities in 2 sites had not engaged very effectively with them. Earlier and more effective liaison might have generated greater numbers and more varied CRO placements which, in turn, might have encouraged sentencers more in using them.

8.4 Each site had adopted broadly similar techniques for progressing their early liaison with courts and communities, such as the provision of presentations and open days. Efforts were made to establish inter-agency liaison via Community Councils, through existing Community Safety Partnerships and through local groups such as area Neighbourhood Watch schemes. Staff in all 3 sites felt, however, that there had been less ‘interest’ than they might have expected.

8.5 It was suggested that because of the nature of community organisations and their wide-ranging responsibilities, these bodies were only able to engage with the work of the CRO scheme to a very limited degree. Nevertheless, despite a mixed response and low attendance at events, each area was able to establish sufficient local community links to place offenders by identifying highly visible local projects (Site 1), by using individual placements (Site 2) and by incorporating activities into the work of existing CSO and SAO schemes (Site 3). In Site 1, in particular, stakeholders recalled positively the consultation processes used.

8.6 CROs, with the same exception noted above for Site 1, did not achieve a high public profile in local communities or with community groups. Communication channels to existing community organisations did not prove a straightforward way to provide information to the community or to gain community support.

Use of CROs

8.7 CROs, as expected, were used primarily for young men under the age of 21 (no young people under the age of 16 received a CRO), often first offenders, who had been involved in relatively low level offences; only 12% of Orders had been for female offenders. The offences targeted were consistent with the policy focus of anti-social behaviour, although some may have related as much to the law enforcement techniques of police and community wardens as to the anti-social behaviour which had drawn community warden and police attention in the first place.

8.8 Findings from this evaluation suggest that the place of CROs as a vehicle for unpaid work was unclear and needs to be reviewed in the light of other available options. District courts welcomed the provision and perceived it as a constructive response to low tariff offences for people unlikely to be able to pay a fine. Sheriff courts already had CSOs which they use as they consider appropriate.

8.9 All sheriffs interviewed felt that CROs had little if anything to offer them as a sentencing option. Scottish research, statistical data and the accounts of some of the sheriffs interviewed for this evaluation suggest that, in practice, sheriffs use CSOs across a wide range of offence types and sentencing circumstances. The introduction of CROs to sheriff courts as an additional low tariff reparative option, where CSOs are technically a high tariff alternative to custody requiring consent, did not, therefore, prove successful.

8.10 All the justices interviewed expressed some enthusiasm for the new Order, particularly for young offenders as it provided them, in 2 sites, with access to reparation through unpaid work which was not generally available. Some justices, however, were uncertain about the kinds of cases for which they could use a CRO. Without a background report from social workers, sentencers have to use whatever information is available about the offender and the offence. In one of the sites, a screening checklist had been drawn up which might have been seen as excluding offenders which the legislation did not intend to exclude. Aids for sentencers may be required to assist them to use the disposal appropriately.

8.11 Some justices seemed reluctant to use the discretion given to them to decide that the offence before them had an element of antisocial behaviour. It may, therefore, have been helpful for justices in their preparation to have been given examples of possible antisocial scenarios including antisocial elements within offences, such as shoplifting, which at face value might not have seemed appropriate for a CRO.

8.12 The existence of a large scale diversion (fixed penalty) pilot in Site 2, may have contributed to the low usage of the Order in that location compared to initial predictions. The other sites had other explanations for low usage. In Site 3 the location selected for the scheme, on the outskirts of the town, seemed to be a very real deterrent. Justices considered this location difficult to access for some offenders who lived outside of town. Offenders might ordinarily not see a problem in getting public transport from their home to the centre of town but the journey from town to the CRO scheme proved more difficult.

8.13 Finally, for the justices in Site 1, their enthusiasm could not be matched by the numbers of what they saw as relevant cases. A combination of this reported slump in numbers, with a strict or narrow interpretation of what constituted a 'relevant' case, a

tendency for accused persons not to turn up to court, and the fact that some justices had missed training sessions, possibly contributed to the low level of use of CROs.

8.14 The viability of CROs was questioned, in principle, by sheriffs and in practice by the low usage by justices. The predicted numbers across sites are unlikely ever to be realised without further clarification of the applicability of Orders and the function of unpaid work as a low tariff reparative option. This was made clear by a number of key stakeholder and community representatives interviewed for the evaluation.

Promoting individual change

8.15 Offenders were subjected to an average of 44 hours attendance at a CRO location, spread over at least 6 months, where they would have had an average of just over 4 hours of personal attention to address their offending behaviour. To have effected a measurable change would have been unexpected. What we learned from the interviews with the offenders, however, was that some: had respect for their supervisors; recognised that they were sentenced to make some amends to the community; had learned some basic skills; had been forced to exercise some personal discipline; some of them had plans for their futures.

8.16 The explicit expectation that CRO practice should achieve, as an outcome, changes in the kinds of attitudes identified by research as associated with offending behaviour (criminogenic needs), created differences in practice and expectations across the pilot areas. In general, the unpaid activity was the main vehicle for seeking to achieve such changes; the assumption being that participants would gain a positive understanding of the impact of their offending through making amends to the community and through, in effect, the pro-social modelling of staff. In one site, practitioners recognised that more would likely be needed and included attendance at a short victim awareness module as part of the requirement. This resulted in noticeably longer Orders in that area (an average 72 hours compared to a general average of 44 hours overall) in order to provide sufficient time to achieve change and to have a positive impact on the offenders.

8.17 There was evidence that some Supervising Officers and Activity Supervisors had, indeed, 'impressed' a number of the offenders both with their fairness and in their willingness to offer advice and support. There was no clear evidence, however, that this had the kind of impact that might encourage offenders to desist from offending.

8.18 Around half of the offenders interviewed said they had valued the experience of the Order and felt they had learned something positive from it as intended; others simply saw it as a punishment and a fine on their time that had to be completed. Only a small number had a sense of community benefit from the work. In Site 1 where a nursery and a school project were undertaken, offenders had the greatest sense of there being a beneficiary and of having contributed positively to the community. This same area required attendance at a victim awareness module and had the longest Orders and the highest compliance and completion rates. This may reflect existing practice experience that to achieve positive change outcomes, the constructive or skilled based nature of the work, having some awareness of the beneficiary, and staff role, time and skill are likely to be important ingredients.

8.19 Opportunities for constructive and visible reparation to the community were limited. Most offenders were engaged in work gangs or individual placements cleaning graffiti or

gathering litter. Two major exceptions to this related to projects in Site 1 involving creating play areas for a local nursery and a primary school. The attitude and experience of participants in these schemes were noticeably more positive than elsewhere, both in perceiving the direct benefits to the community and in participating in a skilled activity.

8.20 The impact of a court disposal on individual offenders is, at the best of times, very difficult to assess. In the case of CROs, the problem is particularly acute. It had been proposed by the research team that the pilot sites might be encouraged to adopt a specific, if modest, measurement tool. In the event, by the time it was adopted, there was no time to utilise it for the evaluation. There were, however, so few Orders that it would have been problematic to try to generalise from such a measurement tool about something as fundamental as a change in attitudes.

8.21 Over half of the offenders felt they had changed as a result of having a CRO imposed. However, just over a third felt that the imposition of a CRO was not a fair response to the low seriousness of their offence, particularly to breach of the peace. Over half (59%) of the small number interviewed, admitted to having broken the law since being placed on CRO.

Costs

8.22 Costing CROs in the context of a very low uptake inevitably produces unacceptably high unit costs. The dilemma becomes whether or not to build on what are high start-up costs in the hope of encouraging a high take-up rate later. A national roll out of CROs is likely to cost in the region of £7million to produce about 7,000 Orders at a unit cost of £1,000. This is around the level anticipated by initial Scottish Executive funding and local authority estimates of CROs and would represent value for money. However, if the orders experienced similar problems in implementation as occurred in the pilot areas, national rollout is estimated at costing £4.5 million for around 665 orders at a unit cost of £6,800.

8.23 The findings may suggest that the costs and administrative arrangements of providing opportunities for unpaid work may be better integrated within existing community service provision with clearer objectives set for the kinds of experience required to achieve different outcomes, including making amends, personal change, community awareness and perceived benefits. Policy and practice guidance is required to indicate the appropriate application of this method across the range of offences and court jurisdictions.

Conclusions

8.24 Each of the 3 pilot areas succeeded in implementing a scheme for CROs within the terms of the specification set. However key elements such as providing constructive opportunities for offenders to effect changes in behaviour proved problematic. The low uptake and the size of the study sample is too small to generalise with confidence. Nonetheless, the available data provides some evidence to suggest that if CROs were rolled out nationally, district court justices may make use of this relatively costly disposal for people, particularly young people, committing minor offences, thus replacing deferral of sentence or as an alternative to fines, that is, primarily like a CSO, as a fine on time rather than necessarily for the additional explicit purpose of changing attitudes. This might result in a net-widening effect.

8.25 The ambition of providing unpaid work across a wider ‘tariff’ spectrum than previously available, incorporating district courts, seemed to be welcomed by key stakeholders. However, overall the study findings raise questions about the clarity of purpose of the CRO policy and the viability of distinctive CRO provision as currently presented.

8.26 A distinctive feature of CROs was the policy objective that the Order should have a change impact on low level offenders’ attitudes towards their offending and their victims rather than simply be a fine on their time which is the case for CSOs. The structure and nature of the Order made this almost impractical and it could be argued undermined a key objective for the Order. In one pilot, the hours were noticeably higher than in others, ostensibly in recognition of the need for ample time to have such an impact and outcome.

8.27 SERs and consent are not required for the Order and, as a consequence, limited advice was available to courts, particularly district courts, who may have limited experience on the implications of a change requirement.

8.28 Policy guidance providing a model of change, practice standards for the courts and practitioners, and advice on data generation are likely to be required to ensure consistency of practice, for what can be considered a ‘high level’ change objective within a ‘low tariff’ order.

8.29 The operational assumption in 2 of the pilot areas was, generally speaking, that the work experience would be ‘beneficial’ in its own right and effect positive change. One authority made an effort to ‘lever in’ a victim awareness module using video material and brief discussion to emphasise the change requirement. However, neither the structure, content, sequencing nor duration could be deemed suitable for the intended purpose. Research (e.g. Lipsey 1992, McGuire 1995) has highlighted the importance of structure, sequencing and duration of interventions aimed at changing attitudes and behaviour and that getting these wrong can be counter productive (risk and programme integrity principles).

8.30 The link between types of offenders and placement varied across sites. If unpaid work is explicitly intended to assist participants better understand the consequences of their behaviour as well as making good to the community, there should be greater attempt to link the types of offences committed and the type of work placements. The opportunities available need to be meaningful, at least symbolically, to the offender and to the community.

8.31 Previous Scottish research has highlighted that having a sense of the ‘beneficiary’ in their endeavours is important to the impact on offenders (McIvor 1992), and there were good examples of this in the pilots. For example, skilled work improving the external facilities of a community nursery gave a strong sense of satisfaction to participants in that they had paid back to the community and had also gained a sense of worth from the experience. This sat in marked contrast to rather meaningless rubbish collection within a Local Authority office yard, which generated resentment in some cases and in others resigned acceptance that it was simply a punishment to be endured and completed with little or no value.

8.32 Compliance was an important challenge in delivering CSOs and despite a standard disciplinary protocol across all sites, compliance and completion levels varied greatly between the different jurisdictions suggesting different practice cultures and attitudes towards CROs.

8.33 The nature and type of offence seemed important to offenders in relation to the purposefulness of the Order. Some offenders expressed confusion and resentment as to why they were engaged in community work for having, for example, sworn at a policeman or wasted police time. The evidence suggests that these kinds of incidents in particular, and most offences resulting in CSOs, were often associated with alcohol misuse. Only in one instance did issues relating to alcohol misuse or substance misuse feature in practice.

8.34 Almost a third (29%) were young people under the age of 18, appearing mainly in the district court. This is an age group that the UK in general, and Scotland in particular, has been criticised for dealing with routinely in adult criminal proceedings (EC 2005; UNCRC 2002). The absence of a requirement for an SER before imposing a CRO meant that the district court had no access to advice on how best to deal with this 'sensitive' age group.

8.35 There was no evidence of specific procurator fiscal guidance for dealing with this age group in regard to CROs, other than the existing international guidance (Havana rules 1990) recommending the use, where possible, of diversionary measures for young people under the age of 18. If CROs are to continue to be used mainly in district courts, consideration of the value of an SER and specific guidance to procurators fiscal for this high profile group may be important in fulfilling Scotland's international obligations under UNCRC and its associated guidance.

8.36 The unintended consequence of one of the CRO pilots coinciding with a fixed penalty diversion scheme and possibly resulting in low numbers in that area, might suggest that this category of offender can be effectively dealt with through diversionary measures. For those who fail to pay 'on the spot' fines, diversion to unpaid work may provide an equally effective and cheaper alternative to a CRO in the district courts without the possible negative amplification effects of a full adult criminal conviction.

8.37 The concept of making amends through unpaid work is perceived positively by sentencers, community representatives and offenders alike. Unpaid work is an approach with wide ranging applicability and can be used across a sentencing continuum from alternatives to custody, through to diversion from prosecution. Unpaid work can be used as a punishment with no particular positive expectations or it can be the basis for constructive, disciplined and skilled activity.

8.38 CROs were implemented quickly and showed a number of design and implementation weaknesses. These included problems of engaging effectively with sentencers, raising awareness in the community, policy objectives that required more than simply unpaid work to achieve success, and a narrow target population for whom non-court alternatives could be made (and are) available. These issues, combined with lower take up rates than anticipated, raised questions about the viability of free standing CRO provision as piloted. Integrating unpaid work across a continuum of disposals and within a policy framework which includes community reparative and restorative provision may allow greater coherence in philosophy, clarity of purpose, and more flexible use of unpaid work in the community for both serious and minor offences.

ANNEX 1 RESEARCH OBJECTIVES

1. Describe the establishment of the CRO schemes in the pilot areas (including arrangements for initial and ongoing consultation with communities, range of placements, staffing, supervision, enforcement, liaison with courts, etc.)
2. Assess the effectiveness of ongoing consultation with communities
3. Describe, compare and assess the effectiveness of the processes and procedures adopted in each of the pilot courts (including enforcement, supervision, management, funding, inter-agency working, local authority monitoring of the pilots, etc.)
4. Describe, compare and assess the use and operation of CROs in each of the pilot courts, including
 - the nature and extent of any assessment process prior to a CRO being made
 - characteristics of offenders (including previous convictions)
 - details of offence
 - terms of CROs
 - use of repeat orders
 - types of activities or programmes and matching these to offenders' needs/abilities
 - inter-agency issues, etc.
5. Explore levels of and reasons for non-attendance and failure to comply, enforcement action, court reviews, breach of CROs and consequences of breach - considering age, gender, ethnicity and other factors – and identify factors which appear to promote successful completion of CROs
6. Assess the impact of the CRO on offenders (see CRO objective iv)
7. Assess the extent to which reparation is made to the community
8. Explore public perceptions of the impact of CROs on antisocial behaviour within the pilot areas and the extent to which agencies have become more successful in tackling antisocial behaviour
9. Compare the differences for the under 16 age-group with those over 16 in all of the above and consider the impact which the introduction of CROs has made on the Children's Hearing System
10. Identify and cost pre-existing alternative disposals, and compare with CROs
11. Explore the implications of using CROs in other 'prescribed courts' in Scotland, in terms of process, procedures, delivery, cost and outcomes.

ANNEX 2 CRO INITIAL INFORMATION AND SCREENING CHECKLIST

Client Name: _____

Age: _____

DOB: _____

Summary:

The Community Reparation Order is for people appearing on summary procedure at either the District or Sheriff Court which included an anti social component. The orders are aimed at relatively minor or low level offenders who do not have an extended pattern of offending.

The aim of the order is to make reparation or amends to the community, but not a specific individual or group of victims, by engaging in constructive activities to develop responsibility and awareness of the impact of their behaviour on others.

An order can be imposed on those aged 12 years old or above for a minimum of 10 hours to a maximum of 100 hours.

No assessment or consent is required, but this form allows for an initial screening to ensure the target group agreed by the SWD and the Courts in Dundee is being met.

	Screening Questions	<u>No</u>	<u>Yes</u>
1.	Is the person aged more than 25?		
2.	Have they more than one previous conviction?		
3.	Does the present or one previous offence involve violence?		
4.	Are they subject to any other community based disposal? Probation, CS, SAO, RLO , other (if yes please circle)		
<i>NB</i>	<i>If yes to any of the above then they do not meet criteria for CRO</i>		
5.	Is there any obvious significant substance misuse problem?		
6.	Is there any significant health problem?		
7.	Do they have any significant caring responsibility?		
8.	Is there any other factor that would restrict attendance at activities e.g. employment?		
	Please elaborate if yes to any of questions 5 to 8		
9.	<i>Is the person willing to undertake the order?</i>		
10.	<i>Based on the above is the person considered suitable for the order?</i>		
11.	<i>If known what was the disposal of the court?</i>		

Please return all completed forms to the SSW for the CRO team.

ANNEX 3 PROFILE OF INTERVIEW RESPONDENTS

Code	CRO Index Crime	No of Hours	Enforcement Action Taken	Gender	Age	Status	Previous Convictions	Health Problems
101	Breach of the Peace	80	Breach	M	18	FT Employed	0	None
102	Breach of the Peace	100	One formal warning	M	21	FT Employed	11	None
103	Breach of the Peace	50	Final warning	M	20	Unemployed	2	None
104	Breach of the Peace	60	None	M	17	Unemployed	0	Hayfever
105	Breach of the Peace	100	One formal warning	M	18	FT Employed	0	None
106	Breach of the Peace & Assault	50	One formal warning	M	19	Unemployed	0	None
201	Breach of the Peace	50	Final warning	M	28	FT Employed	0	Past drug use
202	Breach of the Peace	25	One formal warning	M	22	Unemployed	3	None
203	Assault & Robbery	50	One formal warning	F	18	Unemployed	0	Past drug use
204	Vandalism	70	One formal warning	M	16	FT Training	0	None
205	Breach of the Peace	40	Breach	M	35	Unemployed	9	Drug user
206	Breach of the Peace	50	Final warning	M	16	Unemployed	0	None
207	Breach of the Peace	50	One formal warning	M	17	FT Employed	0	None
301	Breach of the Peace	40	Final Warning	M	17	FT Employed	0	None
302	Breach of the Peace & Assault	50	Final Warning	M	19	Unemployed	0	None
303	Wilful Damage to Property	60	Final Warning	M	17	FT Employed	U/K	U/K
304	Reckless & Wilful Damage to Property	30	None	M	16	Unemployed	0	None

ANNEX 4 PROFILE OF ANTISOCIAL BEHAVIOUR ELEMENT OF RESPONDENTS' CHARGES

CODE	CRO INDEX CRIME	ANTISOCIAL BEHAVIOUR ELEMENT OF CHARGE
101	Breach of the peace	Chased another male through local shopping centre brandishing a bottle
102	Breach of the peace	Out drinking with friends at night and shouted 'fuck there's the polis'
103	Breach of the peace	Drunk and disorderly in public place, shouted at police
104	Breach of the peace	Drunk and disorderly in public, argued with community wardens
105	Breach of the peace	Loitering in public place whilst drinking, argued with police when asked to move on
106	Breach of the peace & assault	Fought police officers trying to break up an incident in a nightclub whilst out drinking with friends
201	Breach of the peace	Stopped by police when driving on methadone. This resulted in argument
202	Breach of the peace	Fighting in the street whilst drunk
203	Assault & robbery	Fighting in the street whilst drunk. The fight victim's mobile phone was stolen in the incident
204	Vandalism	Broke a fence at home for the elderly whilst running away from police. Was drunk at time
205	Breach of the peace	Shouting at hospital staff whilst drunk. Had been found drunk by police who had taken him to local hospital
206	Breach of the peace	Kicked a police car whilst drunk
207	Breach of the peace	Smashed a bus stop window whilst drunk
301	Breach of the peace	Shouting at person in town centre whilst drunk
302	Breach of the peace & assault	Fighting with dad whilst drunk
303	Wilful damage to property	Punched a pub sign whilst drunk, had intended to punch another boy
304	Reckless & wilful damage to property	Kicked a car a number of times whilst drunk

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