



**Criminal Justice**  
**Unpaid Work Placement Priority Plan**  
**2020-24**

## **Criminal Justice 'Unpaid Work' Placement Priority Plan 2020-2024**

### **1. Introduction**

The Council's Community Service Team started offering work placements for offenders in November 1981 as a condition of the Community service by Offenders Act 1978. These placements have significantly improved the lives of the citizens of West Lothian alongside the offenders themselves.

Over the years, various versions of Community work orders, including Community Service Orders (CSO), Supervised Attendance Orders (SAO) and currently Community Payback Orders (CPO) have delivered partnerships with Community work orders staff that have supported both the Community they are delivered in and the offender themselves (Appendix 1). Some of the organisations involved have included the following:

- Charity Shops
- Church Groups
- One off Environmental projects
- The Scout Organisation
- Almond Valley Heritage Centre.

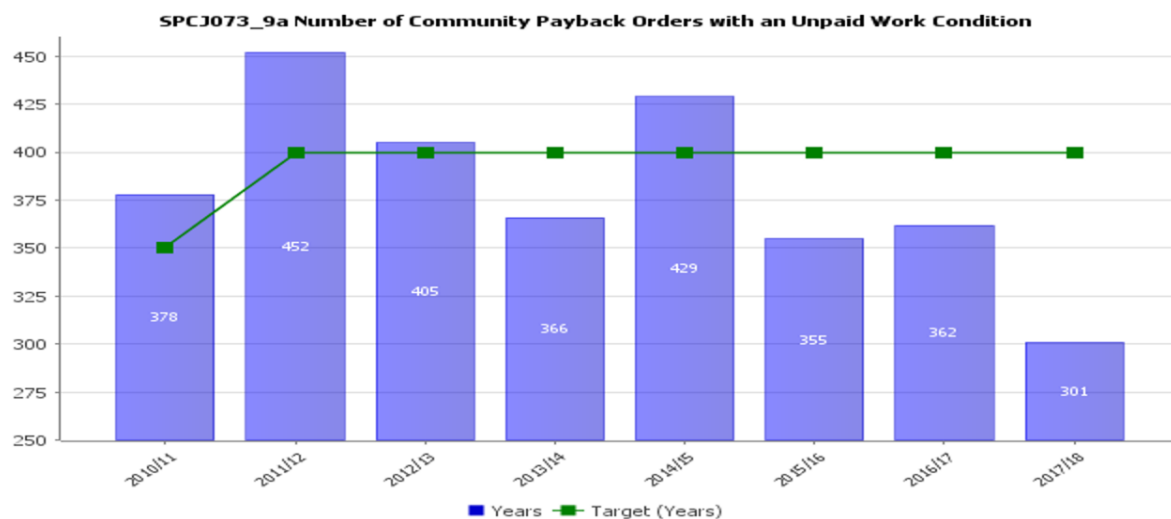
Painting and decorating, horticulture, landscaping, recycling and furniture renovation are just some of the skills offenders have developed through the unpaid work delivered as part of their Community Payback Order (CPO), which has replaced the community work orders mentioned above. West Lothian believes that the Unpaid Work element of their CPO must be meaningful to both the Community and the offender.

For information on how to request help with a project, please see *Appendix 3* of this document. The request form can also be downloaded from the Councils website at the following link: <http://www.westlothianchcp.org.uk/article/3025/Court-Orders-involving-unpaid-work-in-the-community>

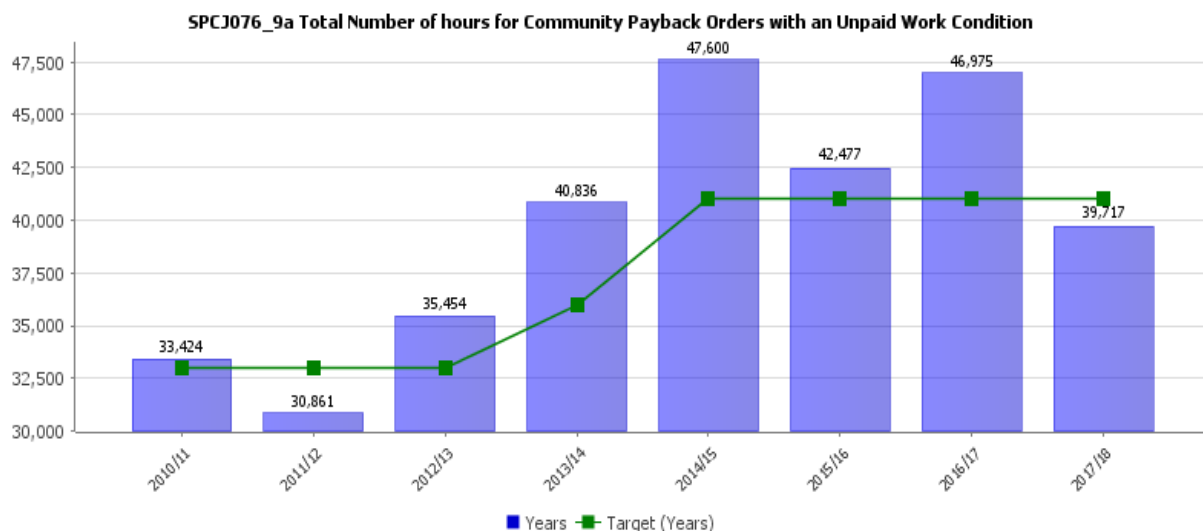
### **2. The need for a priority plan**

Since our last strategy, *Criminal Justice 'Unpaid Work Placement Strategy 2011-14* was published there has been a shift in the landscape on how unpaid work is ordered and delivered in relation to Court orders. CPOs have now replaced the previous other court orders in relation to unpaid work. These included Community Service Orders (CSO), Unpaid Work condition of a probation officer, Supervised Attendance Orders (SAO) and Procurator Fiscal Work Orders. During the period 2015-16 there had been an increase in unpaid work being completed as part of a CPO (See table 1.1). However it has been recognised since 2016 there has been a slow decline in the number of hours worked as part of CPOs.

In response to both The [Community Justice \(Scotland\) Act 2016](#) and West Lothian Council's [Community Justice and Community Engagement Strategy](#), this priority plan supports West Lothian Council to ensure that our priorities relating to unpaid work as part of a CPO align closely with its Local and National Priorities in supporting its citizens. It is important that unpaid work, as part of a CPO, is continued to be used to support both the offender and their community. The number of unpaid work hours will also be a focus of the council as there has been a decline in recent years (see table 1.2). The eight priorities of West Lothian Council have also taken from the corporate plan 2018/19-2022-23 have also been considered (See Appendix 4).



*Table 1.1 – Community Payback orders issued in West Lothian Council with Unpaid Work condition.*



*Table 1.2 – Total Number of hours for CPO with an unpaid work condition.*

### 3. Legal basis our work

The [Community Payback Orders \(Prescribed Persons for Consultation\) \(Scotland\) Regulations 2011](#), made under section 227ZL of the 1995 Act, prescribe the persons and classes of persons which local authorities must consult annually about the nature of unpaid work and other activities to be undertaken by individuals subject to CPOs in their area.

Further to the above, The Community Justice (Scotland) Act 2016 now places a duty of co-operation on community justice partners (as defined by section 13) which includes local authorities, to work together to plan and decide how services are tailored locally, having regard to the National Strategy for Community Justice. This includes services which deliver CPOs. Such cooperation may include the sharing of information, providing advice and assistance, organising activities to prevent unnecessary duplication of effort and jointly funding activities where it is practical to do so.

CPO legislation allows Criminal Justice Services to encourage offenders to take part in 'Other Activities' as part of their Unpaid Work condition of their CPO, with the provisos that this should not be more than 30% of the total hours, or more than 30 hours in total. Other Activities include however are not limited to the following:

- Training courses
- Adult based Education
- Access to Alcohol and drug rehabilitation
- Group work sessions
- Engagement with Employment services

#### **4. West Lothian Council 'Unpaid Work' priorities 2019-2024**

##### **4.1.1 Meeting appropriate demands made by local communities**

Community payback orders give a particular focus on the need for unpaid work activity to take account of the needs of local communities. **Community Payback Orders – Public Consultation** (See *Appendix 2*) has been prepared to address this. We consider it appropriate that West Lothian Council's Criminal Justice Social Work Service (CJSWS) aligns its planning with the nine multi member works of the council.

It has been previously demonstrated by the council that it will use unpaid work as part of a community payback order as resource to address urgent concerns raised local councillors. This was demonstrated through several projects including landscaping, gardening, supporting vulnerable people move home and more specifically the Broxburn canal project and erosion repairs along the union canal in Almond Valley Park. Alongside this, the council aims to continue to work with NETS and Land services to increase the range of work undertaken to clean up West Lothian's communities and improve rural pathways in all 9 of the multi-member wards. This aligns with the Councils priority to continually improve roads, paths and parks in line with West Lothians Growing population.

##### **4.1.2 Reducing the Risk of Poverty and Social Exclusion.**

Unpaid Work delivered through community payback orders can support an offender to become more included in their local community or the community they have offended in (Appendix 1.1), in turn also benefiting the community. By making an effective contribution to their local community or community they have offended in, offenders can be better placed to access local services on completion of CPO unpaid work element. Services such as, Employment support, volunteering services and advice services may both Minimise Poverty, the cycle of deprivation and promote equality and improve the employment position in West Lothian. This priority has been developed alongside the narrative of the council's [Anti-Poverty Strategy 2018-23](#).

The CPO can have one or more conditions when issued. The Scottish Government is clear that the objectives to support the offender and their community when referring to 'Community Payback' are as follows:

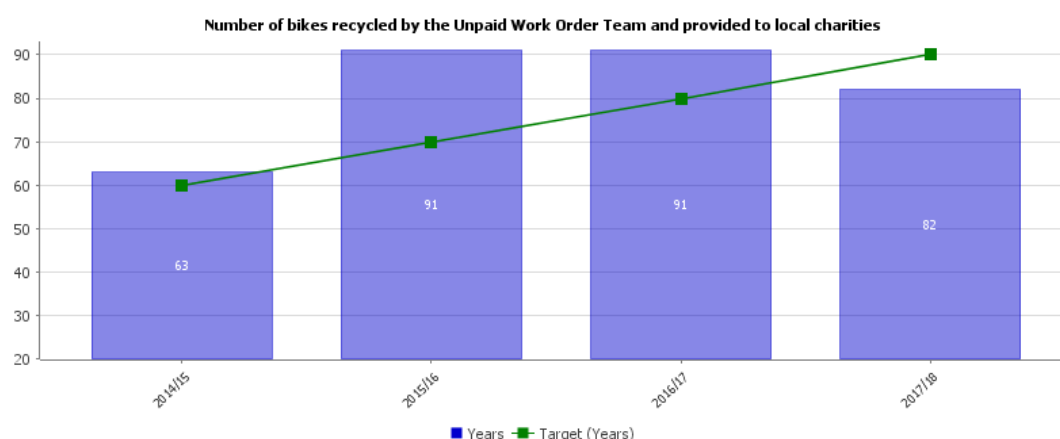
- to provide courts with a community based penalty which has the potential to achieve a positive outcome in respect of the individual's likelihood of reoffending
- to ensure that courts have access at all times to a community sentence for use as a first response which requires the individual to undertake unpaid work for a specified number of hours in the community

- to provide a high quality community based intervention which balances pay back to the community with opportunities for individuals to address their offending behaviour whilst supporting them towards positive change
- to provide individuals with an opportunity to gain the skills and access the supports required to lead positive lives and desist from offending.

The ongoing priority plan will account for these objectives to ensure that an offender, on completion of an Unpaid Work placement, as part of their CPO, will have the best opportunity possible in becoming part of their local community. Some examples of this have been the continued work with West Lothian Foodbanks and continued delivery of Dignity Boxes.

#### 4.1.3 Protecting the build and natural environment.

Although there has been investment made into new ways of recycling the council continues to face challenges in reducing landfill waste in terms of both sustainability and cost. The Community Payback team has an established and effective project operated with Housing and Building Services where it continues to give back to the West Lothian community. Some of these projects include: A partnership with West Lothian Housing, where evicted and abandoned tenancies are cleared and furniture is recycled, gardening work in several local sports clubs and churches, the maintenance of the Blackridge to East Calder cycle path and the West Lothian Bicycle re-use project.



*Table 2.1 – Number of bikes recycled and provided to local charities by the West Lothian Unpaid Work Hours Team.*

#### 4.1.4 Reducing the Impacts of Anti-social behaviour

As stated in the Corporate Plan 2018/19-2022/23, reducing crime and improving community safety is key to the Council's vision. The Council has been developing policy and practice to address anti-social behaviour in our community. With dedicated a Community Safety Unit (CSU) and Safer Neighbour Hood Teams (SNT), in both the East and West localities, the council works closely with Police Scotland to ensure the safety of our citizens is priority. The Council also recognises there is always more to be done. Unpaid work in relation to CPOs can be used as an effective way to reduce reoffending and create social cohesion between the offender and the community in which their work is carried out.

As previously stated 'other activities', which can be used as part of a community sentence, should support individuals to access help and support to overcome issues

such as reliance on drugs and alcohol and other negative influences that may make an individual want to reoffend.

## **5. Consultation and Review of the Criminal Justice 'Unpaid Work' Placement Priority Plan 2020-2014**

West Lothian Council has a legally defined responsibility to consult widely and to report on the operation of its Community Payback scheme. This includes the nature in which Offenders carry out their Unpaid Work element of a CPO. This document appears to be a useful baseline for establishing our practice, but the detail of this will only emerge during the first year of our consultation with a wide range of partners.

We will inform and consult in a range of ways detailed in Appendix 2. The outcome of consultations will be reported on an annual basis, with the report being made publicly available. This will be available on the Council website, and, if requested, in a paper format.

A public consultation, hosted on the West Lothian Health and Social Care Partnership website, was held in over July and August 2019. A total of 447 individuals responded to the consultation on the priorities in the plan. The findings were noted:

Priorities	Those in agreement with Priority
Meeting the demands of the local community	95.3%
Reducing the risk of poverty and social exclusion	91.6%
Protecting the built and natural environment	95.4%
Reducing the Impacts of Anti-Social Behaviour	91.6%

## **Appendix 1.**

Information taken from the Scottish Governments report, *Community Payback Orders Practical guidance published in Jan 2019*. Full report can be accessed at following link: <https://www.gov.scot/publications/community-payback-order-practice-guidance/>

What is a Community Payback Order (CPO)?

Key features of a CPO include:

- A Community Payback Order (CPO) is a sentence of the court.
- A CPO can be imposed in addition to another sentence e.g. a CPO can be imposed alongside a fine.
- Monetary penalties (e.g. fines, compensation orders) and deferred sentences remain available to the court as disposals separate from CPOs.
- There is no minimum age for a CPO (other than the age of criminal responsibility) except where an unpaid work or other activity requirement is made in which case the individual must be aged 16 or above.
- Where an individual is under 18 years of age, the court can remit back to the children's hearing system for disposal. The CPO is not however available to the children's hearing system as a disposal.
- CPOs can be made for a period of between 6 months and 3 years other than an order consisting solely of an unpaid work or other activity requirement. The latter requirement must be completed within 6 months (3 months for a level 1 requirement) unless the court determines otherwise at the point of sentence.
- No requirement, other than an unpaid work or other activity requirement will be in operation longer than that of any offender supervision requirement.
- Where existing provisions require to be extended to allow for completion of the requirement; this can be sought through application to the court.
- An offender supervision requirement is mandatory when a CPO is imposed on an individual under 18 years old.
- An offender supervision requirement is mandatory when the following requirements are imposed by the court: a programme requirement; a residence requirement; a mental health treatment requirement; a drug treatment requirement; an alcohol treatment requirement; a conduct requirement; and a compensation requirement.
- The consent of the individual is needed before the court can impose a CPO unless the order is imposed under section 227M(2) of the 1995 Act for fine default.
- There is no limit on the number of requirements which can be imposed by the court. However, in writing a Criminal Justice Social Work Report (CJSWR) for the information of the court, report writers must consider the risks of reoffending and the harm caused by previous behaviours, the needs of the individual and the intensity of supervision required, to inform the court as to appropriate requirements which could be included. The requirements recommended by the CJSWR should be proportional, relevant and outcome focussed.
- The requirements that can be imposed by a Justice of the Peace court as part of a CPO are limited to an offender supervision requirement; level 1 unpaid work or other activity requirement; a residence requirement; a compensation requirement; and a conduct requirement.
- A further offence committed during a CPO is not a direct breach of the order; however, if an offence is committed which contravenes a requirement, and guilt is established, this may result in the CPO being breached through failure to comply with that requirement.
- Application can be made to the court for early discharge of a CPO. This might be appropriate in circumstances where an individual has exerted significant effort, made

highly positive progress, and the assessed risk/needs are reduced to the extent that there is little benefit in continuing to intervene in the individual's life. The power for a court to discharge a CPO applies irrespective of the requirements contained in the CPO.

- An application to the court to vary a CPO can be made by the responsible officer <sup>[3]</sup> or the individual if the individual's circumstances have changed since the imposition of the order.
- There is facility for the court to conduct discretionary progress review hearings at any time within the duration of the CPO. Where the court decides to conduct a review hearing this will be included in the CPO at the point of sentence. The responsible officer is required to submit a progress report in advance of the review hearing.
- There is a statutory requirement upon local authorities to consult annually with communities, representatives of community organisations and other relevant organisations about the type of unpaid work or other activities to be undertaken by individuals on whom such a requirement is imposed.
- Although not a statutory requirement, for individuals subject to a CPO who have caring responsibilities, every attempt must be made to accommodate such responsibilities in the case management plan so that they do not impede, and are not impeded by, the individual's ability to comply with the CPO.
- Consideration must also be given to section 227E of the 1995 Act which sets out a number of conditions which must be met with regard to an individual's religious beliefs, and employment, voluntary work and education.

## **Appendix 1.1**

### **22.7.2 Placing the Individual in Work**

Responsibility for the allocation of individuals to placements rests with the unpaid work case manager and if the order includes an offender supervision requirement should reflect also the views of the responsible officer<sup>20</sup>. In determining the most suitable placement, JSW staff should have regard to the circumstances of the individual, their assessed needs and skills, the assessed nature and level of their risk, and the type and location of available work placements. The induction programme should assess the individual's capabilities, allow them to express their views on the type of unpaid work to be undertaken, and provide clarification with regard to roles, purposes, responsibilities and expectations. It should also allow for child care commitments, health conditions and any other factors that may limit participation to be taken into consideration.

Consideration should also be given to any adverse publicity or whether the individual is known in their community due to the nature of the offence. Careful consideration must also be given to any increased risk to a placement by the number of individuals present at one time or by the total number of individuals involved in completing the task. Every reasonable step must be taken to ensure that the level of supervision provided is sufficient to minimise risk to anyone at the placement.



## **Appendix 2.**

Community Payback Orders – public consultation.

### **1. Background**

Following the passing of the Criminal Justice and Licencing (Scotland) Act 2010, the Community Payback Order (CPO), the Scottish Government's approach to community-based sentencing, came into force replacing other forms of community based sentencing then in use. More information can be found of CPOs in the Scottish Governments [Community Payback Orders: Practical guidance](#), published in February 2019.

### **2. Why consult?**

The Criminal Justice and Licencing (Scotland) Act 2010, which introduced the CPO, did so by inserting new sections into the preceding legislation, The Criminal Procedure (Scotland) Act 1995. The council wishes to ensure those in the community are consulted when it comes to issues relating to Community Payback.

#### *2.1 Who should be consulted?*

The previous guidance defined a range of individuals and organisations that should be consulted. The list, however not definitive included the following;

- the Chief Constable for the area of the local authority;
- the Sheriff Principal within whose jurisdiction the local authority area lies;
- organisations representative of victims of crime;
- voluntary organisations within the local authority's area;
- one or more community group within the local authority's area;
- one or more community planning partnership within the local authority's area; and
- one or more community safety partnership within the local authority's area.

This merged with an expectation that all within the local authority would be able to see the benefits of the unpaid work carried as subject to a CPO and have say on the nature of any future unpaid work in relation to a CPO.

### **3. Methods of consultation**

Various methods of consultation have been identified in the previous guidance. Below are those that are felt to be most advantageous in regards to this consolation.

#### *3.1 Website*

The Council website can promote and illustrate the work undertaken by offenders on unpaid work. There are different ways in which this could work: it may be possible to create specific web pages to provide information and updates on CPO to encourage suggestions from local organisations and individuals for new project ideas.

#### *3.2 Social Media*

'Online polls could be held to determine local priorities for CP projects, creating a mechanism to vote'. These could be hosted on the council's website and shared through social media channels such as; Facebook, Twitter and Instagram.

### *3.3 Surveys*

West Lothians Citizens Panel provides a wide base for consultation. A survey could be created to determine the communities and local organisations thoughts on the suggested priorities in the draft report. This would also be delivered to the West Lothian Council Community Justice Sub Committee.

At this stage there is no clear expectation for level of response however it would be expected that the council would share the methods of consultation to as many in its network as possible. A Toolkit may also be produced to support local community groups in their discussion, especially when attempting to get the thoughts of hard to reach groups.

## **4. Following up and reporting on the outcomes from consultation**

4.1 The Guidance notes that those whose views have been sought will rightly expect those views to be properly considered. Although Community Justice Social Work (CJSW) managers make decisions on how the unpaid work element of CPOs are carried out, The suggested methods in section 3 can be used to demonstrate that both comments and suggestions have been fully considered.

4.2 Section 227ZM of the 1995 Criminal Procedure (Scotland) Act requires local authorities to report annually on the operation of CPO in their areas. Separate guidance updated and published in February 2019 can support with this reporting. This information should be made available through the Councils website.

4.3 Annual Reports will also focus on the actual work carried out, in terms of range and type of activities and on the levels of satisfaction of beneficiaries with the work done.

### Appendix 3.

Community payback – work request form. (This is a two page form when downloaded from the councils website).



*West Lothian Council*

*Criminal & Youth Justice Social Work Service*



## Community Payback – Work Request form

To find out more about how we work, whether your request fits our criteria, and the things we have to take into account when planning projects, please see Page 2. You need not send us that page with your request.

Details of person or organisation requiring assistance			
Name of person/organisation:			
Contact phone number for person/organisation:			
Address of person/organisation:			
What does the organisation do?			
If you are contacting us on behalf of another person or an organisation, please give details:			
Your name:			
Your address:		Postcode:	
Your phone number:			
Your email:			
How we may be able to help you			
Tell us about the work you need to have done.			
How would the work that you are asking us to do help the individual recipient, your organisation or			

your community?	
-----------------	--

**How to make your request for help – send this form to us:**

**Post it to:** Community Payback Team, Criminal Justice Social Work Service, West Lothian Civic Centre, West Lothian Civic Centre, Howden South Road, Livingston, West Lothian EH54 6FF

**Email it to:** [criminaljusticeteam@westlothian.gov.uk](mailto:criminaljusticeteam@westlothian.gov.uk)

**Fax it to:** 01506 281243

*We will acknowledge your request within 3 working days of receipt, and we will give you an approximate timescale for getting in touch with you to discuss your project further.*

**About us**

Offenders have been carrying out useful work across West Lothian for about 30 years. We are not allowed to take on tasks that would otherwise be carried out as part of someone's paid work.

We can assist voluntary and not-for-profit organisations or individuals in need. We try to make sure that all areas of West Lothian benefit from our work. While we like to take on projects where there is a wider benefit to the community, we are also happy to receive requests for small projects.

Please note that although we can provide a work-force and tools, costs for materials will be your responsibility. Our staff will discuss this in more detail with you if we are likely to be able to help you.

We need to make sure that we can carry out the work:

- To a good standard – we will tell you if we have the skills to carry out your project
- Safely – we will assess Health and Safety issues with you
- With access to necessary facilities for workers – toilets and somewhere sheltered for breaks
- At the time you need the work done.

We will acknowledge your request within 3 working days, and will give you an approximate timescale for getting in touch with you to discuss your project further. However, please note that we have a schedule of tasks and projects to carry out which may extend for several months ahead, and that we cannot guarantee being able to start work immediately. We will keep you informed about likely start dates. It is possible that factors beyond our control may delay work – an example of this would be snow falls, when all Community Payback workers are diverted onto snow clearance duties.

We will ask you, at the end of a piece of work, to give us information about how we have performed, to help us plan future projects effectively. We have by law to report annually on the work that we have carried out in the community, and we will use the information given by all recipients of work in preparing this report; we will not use information identifying any individual recipient without consent.

## About Community Payback

Community Payback is a key part of the Scottish Government's new approach to community-based sentencing. It starts from the principle that community-based justice should be speedy, should be seen as relevant, and should be visible to the community.

It highlights two important points:

- That custody should only be used when it is needed, to reflect the seriousness of the offence, and for those individuals who pose risk of harm. Therefore community sentences should be the default choice for less serious offenders; and
- That sentences served in the community should involve 'payback' - that those people who have damaged their communities by their offending should make reparation to the community, and thus indirectly, to those people whom they offended against. While Payback may be through Unpaid Work or by paying compensation, the concept also includes paying back to the community by working at changing patterns of unacceptable behaviour.

While Unpaid Work is an important part of Community Payback, there are a number of other conditions that may be attached to an order, all of which are designed to reduce the risk of an individual re-offending.

Community participation is a key part of the Community Payback strategy. You or your organisation are providing useful opportunities for offenders to develop skills which may help them avoid future offending.



#### **Appendix 4.**

The following eight priorities have been taken from the West Lothian Council corporate plan 2018/19-2022/23.

Full corporate plan can be accessed at the following link:

<https://www.westlothian.gov.uk/article/1952/Corporate-Plan>

1. Improving attainment and positive destinations for school children
2. Delivering positive outcomes and early interventions for early years
3. Minimising poverty, the cycle of deprivation and promoting equality
4. Improving the quality of life for older people
5. Improving the employment position in West Lothian
6. Delivering positive outcomes on health
7. Reducing crime and improving community safety
8. Protecting the built and natural environment