



**STRATEGIC POLICING AND CRIME BOARD
3 November 2015**

**Community Remedy, Community Trigger and
Out of Court Disposals**

PURPOSE OF REPORT

1. This report is to provide an update to the Strategic Police and Crime Board on the progress around the implementation of the Community Remedy (CR) and the Community Trigger (CT), 12 months on since the legislation became enacted. In addition, the report will provide an update on Out of Court Disposals (OCD) and the Scrutiny Panel arrangements.

BACKGROUND

2. The Community Trigger and Remedy went live nationally on the 20th October 2014 (See Appendix A for agreed local definitions).
3. The purpose of the CT is to give victims and communities the right to request a review of their case and bring agencies together to take a joined-up, problem-solving approach to find a solution. When a request to use the CT is received, agencies must decide whether the threshold has been met and communicate this to the victim; if the threshold is met, a case review will be undertaken by the partner agencies. Agencies will share information related to the case, review what action has previously been taken and decide whether additional actions are possible. The local CT procedure should clearly state the timescales in which the review will be undertaken. The review encourages a problem-solving approach aimed at dealing with some of the most persistent, complex cases of anti-social behaviour. The victim is informed of the outcome of the review. Where further actions are necessary an action plan will be discussed with the victim, including timescales.
4. The CR gives victims a say in the out-of-court punishment of perpetrators for low-level crime. CR is a menu of options which should be considered when it is proposed to give a perpetrator a conditional caution / youth conditional caution / community resolution, as a means of offering the victim a say in the punishment or possible conditions attached to the disposal. When Community Remedy was initially introduced in October 2014, the rehabilitation option was not offered as at that time the Force had no process to deliver it. During 2015, processes have been put in place and officers given training to enable them to facilitate rehabilitation and explain the benefits of this option to victims. (Source: ASB, Crime and Policing Act 2014: Statutory Guidance for frontline professionals). CR is not a disposal in its own right.

REVIEW OF THE IMPLEMENTATION OF COMMUNITY REMEDY AND TRIGGER

5. Prior to October 2014, WMP agreed with Community Safety Partnerships (CSP's) to have a single threshold definition for the Community Trigger. The CSPs agreed to own the Community Trigger process, so Local Policing Units (LPUs) worked with their respective partners to support the design and administration. Between October 2014 and June 2015, there had been seven successful trigger applications in WMP area. Prior to drafting the new act the Home Office conducted a pilot in area's including Manchester, Brighton and Hove and the London Borough of Richmond. Feedback from the pilot sites was that far less activations, were received than what had been expected, the process builds upon already positive partnership arrangements, but serves as a useful safety net. This has been our experience in the Midlands. Although the CSPs have owned the process for review and decision around the activation, West Midlands Police (WMP) recognises that it may be asked to account for performance and understand themes. The force ASB lead, Superintendent Youds has recently agreed with partners a set format for areas to formally report experiences to us. WMP has been a standing agenda item since enactment in Oct 2014, at the heads of Community Safety Partnerships meetings across the 7 local authorities. The experiences and learning has been shared with each local authority and WMP has a representative who sits as a part of the trigger process at Chief Inspector rank.
6. A change in Home Office clearance codes, effective as of 1/4/14 mean that a simple caution and a conditional caution are no longer able to be separated on our searches. It is therefore time consuming to manually disaggregate which disposal had been used. Having identified the remedy situation, our systems have thus far been unable to indicate which element of the community remedy was used. The combination of these factors has made it difficult to monitor use and effectiveness beyond dip-sampling. An updated version of our Crimes portal system – version 5.09 – is expected to remedy this situation, which is due within the coming month.
7. There has been a review of 100 of the 9157 reports recorded last month from one LPU for compliance. These 100 reports were positive outcomes in terms of disposals. The remedy essentially blends traditionally separate rules (i.e. community resolution and cautions); looking at Restorative Justice (RJ), warning and agreement; and general reparation as the three guides for the remedy, as per Appendix A. The sample saw no RJ, two warnings/agreements and fourteen reparations (i.e. 72 % complying with community resolution/caution requirements, but 18% hitting remedy aspiration). This is being rectified in the roll out of current training for officers as mentioned in paragraph 13.

TRAINING UNDERTAKEN BY THE FORCE TO ENABLE OFFICERS TO USE THE COMMUNITY REMEDY

8. WMP invested in significant training for all of the new ASB provisions applicable to local policing, both internally and to partners. We did our learning in an open way across three dates at our conference centre, beginning with a Home Office input and ending with a specialist input to neighbourhood policing practitioners and ASB co-ordinators. The majority of staff, because of the broad applicability of the powers, were trained via NCALT, supported by local experts and a localised NCALT package taking account of the local trigger threshold and remedy definitions.
9. In addition, face-to-face training has been rolled out to all front-line officers in the use of Conditional Cautions . Conditional Community Resolutions training is in progress across the Force. This training builds on the 'Turning Point' pilot run in WMP 2011 – 2014 and encourages the use of the rehabilitation option in the CR. Early evaluation of Turning Point is demonstrating that diversion into treatment rather than charge is

resulting in a reduction in reoffending of 36% for violence offences and victim satisfaction ratings of 73% if it is explained that offenders are being given help to prevent them reoffending. Officers are encouraged, wherever possible to identify offenders with underlying issues that may be causing them to offend and to refer them into help or treatment as a condition of the disposal.

EXAMPLES OF THE USE OF COMMUNITY REMEDY

10. Examples include:

- Shop-theft- The offender has been asked by the store to make a donation to charity to the value of the goods stolen or do voluntary work
- Harassment- An elderly couple had eggs thrown at their house and car. The neighbour was also targeted. Threatening phone calls were also received. One of the victims suffered from ill health and the other family cancelled a holiday from fear of leaving the house. Investigations led to two offenders being identified. RJ was completed and the victim really appreciated the process and outcome
- Criminal Damage - A 16 year old kicked his football at the shop window it, causing it to break. Dealt with through RJ, with a face to face conference and apology made to the victim
- Theft from Dwelling- where the son had stolen £100 from his mother. Dealt with through RJ conference by trained officers and money repaid
- Malicious communications - 14 year old offender who had sent an offensive message via Instagram. Dealt with through RJ conference and apologies made
- Anti-Social Behaviour - Complaints from neighbours regarding nuisance parties. Officers visited the victim and ascertained that the parties involved had a hawk that was out of control, as it was being allowed to fly around the neighbourhood, fouling clothing and property. There were over seven victims who attended the RJ conference with the three offenders who were responsible. The impact of the actions of the bird and the family involved were discussed and the outcomes from the meeting were followed up by local officers ensuring that the ASB did not continue
- Assault - Two school girls who were best friends, had a disagreement and became involved in an altercation between them. The parents were not happy with the schools resolution and the police were asked to intervene. RJ completed, and full support offered by the police to resolve the differences. The result was a written apology to IP and family, parents exchanged telephone numbers and the two families are now very good friends.

TOTAL NUMBERS IMPLEMENTED ACROSS THE FORCE AREA

11. There were at the 30th June 2015, 9157 usages of the CR since 20th October 2014, an average of around 27 per LPU per week or approximately 100 per month.

WHICH OF THE THREE OPTIONS IS BEING USED MOST FREQUENTLY AND REASONS FOR THIS

12. Currently there is no mechanism in place to audit which of the options is being used most frequently, however a manual analysis suggest that RJ is the main use of the remedy in particular around shop theft. Where the offender has little or no previous criminal history, the offender gives the stolen goods back and makes a face to face apology to the store. This is generally at the request of the store who recover the goods and use civil recovery against the offender.

13. There is a new build to a current IT system as described in paragraph 6 that should assist us in the future in monitoring electronically the types of remedy being used. In addition, the current training rollout is designed to encourage the use of rehabilitation – in addition to the RJ option in an attempt to reduce re-offending.

HOW USE OF THE COMMUNITY REMEDY IS BEING MONITORED CURRENTLY BY THE FORCE

14. The above peculiarity around searches as at paragraph 6, means that conventional performance assessment has not been straightforward. Officers are required to enter their rationale for CRs (including the views of the victim) on the Crime Portal. Supervisors are then required to enter their rationale for authorising the disposal before submitting the report for filing, again this should include consideration of the victim's views. Local dip-sampling takes place on an LPU basis, supplemented by dip-sampling by the central audit team around conditional cautions. CRs are reviewed to ensure compliance with the policies around enhanced authorities level, whereby an Inspector must authorise and sign off on the process and outcome of the CR agreed. There is also a process in place which ensure the remedy cannot be registered as an outcome without audit approval.

HOW THE COMMUNITY TRIGGER IS BEING USED IN EACH LOCAL AUTHORITY AREA – EXAMPLES OF ACTIVATION AND PARTNERSHIP RESPONSES TO ACTIVATION.

15. Each local authority and reflective LPU has broadly the same process, using the same threshold definition. Using a report from Sandwell in March as an example – three out of four applications did not meet the threshold. Common to the three unsuccessful applications was that although agencies were satisfied they were doing all they could, there was an opportunity to manage expectations earlier in the problem-solving process; and to speed up inter-agency communication; and information sharing.
16. The final example was just what the trigger was intended for – a registered social landlord had not acted over a period of two years to complaints from a vulnerable individual. The trigger panel made requirements of the Registered Social Landlord (RSL) to arrange remedial activity.

HOW THE COMMUNITY REMEDY AND COMMUNITY TRIGGER BEEN PUBLICISED

17. Joint WMP/LPU posters were produced around the launch date in October 2014. Local Authorities hold point of access and their websites reflect this. Our external website explains the purpose of the community trigger and signposts viewers to the relevant local authority. The community remedy is described on the same page.
<https://www.west-midlands.police.uk/advice-centre/help-and-advice/anti-social-behaviour/asb-act/index.aspx>

IS THE LEGISLATION WORKING FOR THE WEST MIDLANDS?

18. The legislation is wider than the trigger and remedy, however the trigger proves its worth with examples such as from Sandwell in paragraph 16 above. The CR, in harnessing two outcome-types in the conditional (youth/adult) caution and community resolution, we are still finding our way with. As stated above, it is possible to adhere to policies for each outcome without meeting the aspiration of the CR.
19. In most cases where there is a personal victim, the legislation appears to be working effectively and gives victims a say in how the offence is dealt with which may not involve

them going to court. It is however incumbent upon the Officer in charge (OIC) to ensure that the disposal is sufficiently robust both to maintain the confidence of the victim and to prevent the offender reoffending.

20. More issues appear to arise with the use of the remedy in shop-theft cases, where store detectives, speaking on behalf of stores are happy for offenders to receive a CR in unsuitable circumstances. This may be contributing to a rise in shop-theft cases because of the perceived lack of deterrent and is currently being addressed.

OUT OF COURT DISPOSALS

An update on the use of OOCDS

21. The use of OOCDS has been dropping slightly since June; however this coincides with an effort by the Neighbourhood Justice Team to increase adherence to guidelines in terms of:
 - The previous criminal history of the offender
 - The value of offences (shoplifting only)
22. Audits carried out for the Out of Court Scrutiny Panels (shop-theft) demonstrated that some officers were using CR's inappropriately, either for offenders with several previous disposals, or for offences which could not be classed as low level. The Neighbourhood Justice Team are using the training in Conditional Cautions and CRs to reinforce the existing policy and highlight the risks in terms of increased demand, and loss of trust and confidence resulting from inappropriate usage. This, in the short term, has led to a reduction in the number of repeat CR's given to offenders.
23. A recent review has confirmed that on the 3 pilot LPUs, (Sandwell, Dudley and Walsall) there have been no repeat CR's given to adult offenders since the training was completed.
24. It is anticipated that overall rates of OOCDS will rise as a result of the new policy, however these will be rebalanced towards Conditional Disposals whereby offenders are diverted into help / treatment to reduce reoffending and away from weaker disposals which often involved only an apology.
25. To facilitate this, the Neighbourhood Justice Team have secured agreements with Public Health England and the Liaison and Diversion (Mental Health) Pilot as well as a number of Third Sector Organisations that their staff will take referrals of offenders both in and out of custody. In addition Victim Support provides the Victim Awareness Course on a 'pay to attend (£55) basis for offenders who need educating about the impact of their actions on other people.
26. WMP are closely watching the progress of the Ministry of Justice, 3-Force Pilot(Staffordshire, Leicestershire and West Yorkshire) into Conditional OOCDS and will be attending a workshop to contribute to future proposals later this year. It is anticipated that this pilot may result in the abolition of some or all of the current 'simple' disposals such as cautions and Fixed Penalty Notices(FPNs).

KEY STATISTICAL MANAGEMENT INFORMATION

27. The table below shows the number of OOCDS completed on each LPU during the current financial year. This includes Community Resolutions, Cautions, FPN's(Disorder) and Cannabis / Khat warnings.

Count of Crime Number	Date Cleared Up						Grand Total
	Apr	May	Jun	Jul	Aug	Sep	
Detecting Dept	Apr	May	Jun	Jul	Aug	Sep	Grand Total
BE	121	137	133	121	129	107	748
BN	88	66	81	89	61	68	453
BS	78	108	111	108	78	72	555
BW	229	236	236	198	216	175	1290
CV	137	135	117	120	116	133	758
DY	101	110	82	96	87	90	566
SH	74	89	103	87	53	63	469
SW	132	125	139	138	141	142	817
WS	107	106	130	123	126	110	702
WV	143	147	159	158	135	118	860
(blank)	2		2	1	1	2	8
Grand Total	1212	1259	1293	1239	1143	1080	7226

The table below shows the number of Out of Court Disposals as a percentage of total disposals.

Apr-15	May-15	Jun-15	Jul-15	Aug-15	Sep-15
32.2%	32.3%	33.0%	29.9%	29.6%	28.9%

28. There has been a slight fall in both the actual numbers and the proportion of OOCs compared to charge, but this can be attributed to the Force tightening up on the number of these disposals issued inappropriately. This trend may continue for a few months as the training is rolled out before starting to rise as the use of Conditional Cautions embeds.

AN UPDATE ON THE OCCD SCRUTINY PANELS AND THE OUTCOMES WITH SOME EXAMPLES OF WHERE THE PANEL HAS HIGHLIGHTED INAPPROPRIATE USE, AND THE LEARNING TAKEN FROM THAT

29. Three OCCD Scrutiny Panels (Eastern, Western and Central) sit 3 times a year and consider a dip sample of cases on a topic of their own choice. The panels are provided with a sanitised summary of each offence and the disposal to enable them to form a judgement whether, in their view, it is appropriate. At the end of each round of meetings, the panel Chairs meet with the Head of Criminal Justice Service (CJS), a representative of the OPCC and other CJ Professionals to formalise their response to the Force. Results are fed back to individual LPU Force Crime Managers as appropriate. During 2015, the panels have chosen to examine, Burglary, Domestic Abuse and Shop-theft.
30. A consistent theme is that officers appear to be using OOCs for expedience and putting little thought into the cause of offending or how to reduce it. The panels have indicated that referral into treatment would give the disposals greater legitimacy.
31. In relation to shop-theft a number of issues were highlighted, including:

- The definition of 'low value' requires clarification to improve consistency in the use of Community Resolution disposals for shoplifting. CRs are used equally for values from very low to very high (ie. £1 dealt with the same way as £350)
 - Some inappropriately high value shop theft offences have been given CR disposal
 - Inequitable policy - Very similar cases in terms of value and offender are dealt with differently by individual officers
 - Offenders with previous disposals for dishonesty have been given Community Resolutions (some officers are not checking intelligence systems until they return to the station).
 - One offender was given a CR when on a conditional discharge from court.
 - On a few occasions safeguarding had not been considered in cases where children / young people appear at risk
32. Two examples of cases which the panels found to be unsatisfactory are:
- An offender entered a store with 4 year old child in pushchair – she handed goods to the child who hid them in the pushchair – the first time this happened it was not reported to the police – only when the offender did the same 2 days later. The total value of the goods was £172. The offender has 2 previous disposals for theft but was given a further CR on this occasion.
 - An offender who had stolen razor blades admitting using heroin. He had 2 previous court disposals and 2 subsequent CRs and was given a 3rd on this occasion with the only condition being to apologise to store. No apparent referral was made to drug treatment.
33. Both of these cases and others have been returned to the relevant LPU Senior Leadership Team (SLT) for advice to the Investigating Officer and their Supervisor.

STRATEGIES FOR IMPROVEMENT

34. As a result of the shop-theft Scrutiny Panels:
- New guidelines have been written to help officers decide whether a CR is appropriate. These were drawn up after consultation with the panel Magistrates and take account of sentencing guidelines to determine how serious an offence is
 - The Internal CR form (WC201R) has been redesigned to ensure greater adherence to policy by police officers and staff completing the forms
 - Both WMP and a pilot being run by the Ministry of Justice have requested to have CRs recorded on the Police National Computer (PNC); this will alleviate the need for officers to do separate intelligence checks whilst talking to a suspect
 - Most Class A drug users will not be suitable for a CR, however if an exceptional circumstance does arise, the new conditional CR policy will allow referral into drug treatment, out of custody
 - All of the points raised have been incorporated into the OOC training as case studies

EXAMPLES OF EFFECTIVE O OCD

- A 15 year old boy was detained after stealing chocolate and pop valued at £2.68 from a shop. He was taken home to his parents where it was agreed he would complete 2 hours supervised litter picking in a local park as reparation
- An adult male assaulted a woman in a pub whilst drunk causing her a broken nose. She did not wish to attend court and originally asked for an RJ meeting with the offender. She later changed her mind but asked that the offender get some help to prevent him reoffending. The offender agreed to attend a 4 week alcohol rehabilitation course with Aquarius and was issued with a conditional community resolution. The disposal was entirely victim led.
- Two youths were filming videos to place on You Tube which involved approaching people in the street and shouting frightening messages at them whilst filming their reactions. Offenders were of previous good character and had no involvement with the Criminal Justice arena. An RJ meeting was completed with the victims as part of a Community Resolution. The offenders also uploaded a public apology onto You Tube which went viral over the internet.
- Husband and wife committed an offence by pushing trolleys with groceries valued at £150 out of ASDA after both had lost their jobs. Both were of previous good character and they were given a Conditional Caution to attend a Victim Awareness Course (run by Victim Support) instead of being charged with the offence of theft. They have since been in touch with the Investigating Officer to say the course of action and the way they had been dealt with was fantastic, at a very difficult time in their lives. They were also signposted to other help for their depression and both have since been re-employed.

FINANCIAL IMPLICATIONS

35. There are no cost implications for WMP to this policy. All diversions so far have been sourced from statutory partners or 3rd Sector organisations. Should the Force in the future receive Director of Public Prosecution (DPP) permission to offer Conditional Cautions for low level Domestic Abuse a business case will be submitted for funding for this intervention.
36. Dip sampling of cases submitted to Wolverhampton and Birmingham Magistrates Court in October 2014 suggested that up to 10% of criminal cases currently subject of charge or summons, would fit the eligibility criteria for a conditional caution as defined by CPS. This equates to approximately 3,400 cases diverted from court annually and resultant efficiency savings of 17,000 hours file preparation time or £374,000.
37. Additionally the Turning Point Project demonstrated 36% reduction in reoffending for violent offenders who were diverted into treatment compared with the control group. This represents a year on year reduction in demand for WMP.
38. Whilst there was little difference in reoffending for the Turning Point cohort and the control group for other offence categories, the fact that these cases had been diverted from the CJS represented a 60% reduction in costs to the public purse.

LEGAL IMPLICATIONS

39. The OOCB Policy corresponds with the Directors Guidance on Conditional Cautions 2012.

RECOMMENDATIONS

40. The Board is asked to note the contents of the above report.

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APPENDIX A

The COMMUNITY TRIGGER

The trigger is available to those people or groups who are victims of persistent anti-social behaviour and have reported that incident three times or more.

The trigger can be 'activated' if:

If a person, a business or a community group have reported three separate incidents relating to the same problem in the past six months to the Council, Police or landlord

Or

They have reported one incident or crime motivated by hate (due to race, religion, disability, sexual orientation or transgender identity) in the last six months and no action has been taken.

Or

At least five people have made reports about the same problem in the past six months to the Council, Police or your landlord and no action has been taken. The trigger is activated by a report to the local community safety partnership (CSP).

Once the trigger is activated, the case will be reviewed by representatives from a number of agencies, including the council, police, local health teams and registers providers of social housing.

THE COMMUNITY REMEDY

The new 'community remedy' will give victims of low-level crime a say in the punishment of offenders out of court. It is a list of actions that victims can choose from which might be appropriate to be carried out by a person who has engaged in anti-social behaviour or has committed a low level offence. This means victims can get justice quickly, and the offender has to face - sometimes immediate and meaningful consequences for their actions.

The Police and Crime commissioner has consulted with the public about the options that should be included and the public has supported the following

1. Restorative Justice

This is an opportunity to meet with the offender and explain how the incident has affected you. It will give you the chance to tell the offender about the impact the crime has had on you, get answers to your questions and receive an apology or other form of reparation from the offender. Most people who choose this option say that it solved their problem and allowed them to put the matter behind them

2. Warning and Agreement

If you don't wish to meet the person directly, you can still request that the officer dealing with the matter warns them about the impact of their behaviour on you, and they must agree to stop that behaviour. Other options can include an apology or an acceptable behavioural contract

3. General Reparation

If the incident has caused you specific loss, but you don't want to meet face-to-face with them, you can ask that the offender does something to make amends for your loss. This could include making amends more generally to the local community and could focus on issues of local concern for example cleaning up or repairing damage that has been caused.

4. Rehabilitation

This is the provision of treatment for the offender involved in crime to address the causes of their offending behaviour, in an effort to prevent further offending. An example would be a drugs and alcohol abuse services programme, provided by a third sector organisation, as an intervention to work individually with the offender.