



STRATEGIC POLICING AND CRIME BOARD

Tuesday 1 November 2016

Community Remedy, Community Trigger and Out of Court Disposals

PURPOSE OF REPORT

The purpose of this report is to provide an update to the Strategic Police and Crime Board on the progress of the Community Remedy and the Community Trigger, 2 years on since the legislation became enacted. In addition, the report provides an update on Out of Court Disposals and the Scrutiny Panel arrangements.

1. A brief background to the Community Remedy and the Community Trigger (The Community Remedy which was approved by the Commissioner and the Chief Constable is attached).

The Community Trigger and Remedy became live nationally on the 20th October 2014.

Community Trigger

The purpose of the Community Trigger is to give victims and communities the right to request a review of their case if the following locally agreed threshold is met:

- *Three separate incidents relating to the same problem reported in the past six months to the Council, Police or their landlord and no action has been taken.*
- *One incident or crime motivated by hate (due to race, religion, disability, sexual orientation or transgender identity) reported in the last six months and no action has been taken.*
- *At least five people have made reports about the same problem in the past six months to the Council, Police or landlord and no action has been taken.*

The review requires agencies to work together and take a joined-up, problem-solving approach to finding a solution. When a request to use the Community Trigger 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

Community Trigger 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.

Community Remedy

The Community Remedy gives victims a say in the contents of an Out of Court Disposal for perpetrators of low-level crime and anti-social behaviour by providing a menu of options which should be considered when it is proposed to give a perpetrator a conditional caution / youth conditional caution or community resolution. The options are:

- Reparation
- Rehabilitation
- Warning and Agreement
- Restorative Justice

It should be noted that Community Remedy is not a disposal in its own right.

- 2. A review of the implementation of both the Remedy and Trigger – what issues have arisen since implementation and whether the legislation has been used to full effect?**

Community Trigger

Prior to October 2014, WMP agreed a single threshold definition for the Community Trigger with Community Safety Partnerships. The CSPs agreed to own the Community Trigger process, and LPUs worked with their respective Local Authority to support the design and administration. To the end of June 2015, there had been seven successful trigger applications, these have picked up slightly since October 2015 but remain low as shown at paragraph 8 below. Although the CSPs have owned the process for review and decision around the activation, WMP recognises that it may be asked to account for performance and understand themes.

Community Remedy

Since April 2014, due to a change in Home Office Counting Rules, it has been impossible to disaggregate Simple Cautions from Conditional Cautions. Representations have been made to the Home Office by several forces including WMP. It is recognised that this would be beneficial however the Home Office is exploring the possibility of rationalising the number of different Out of Court Disposals in the near future and does not intend to change the Counting Rules before a decision is made (expected early 2017). In WMP, a process has been put in place to manually record all Conditional Cautions collected (see paragraph 11). This is primarily to allow future evaluation to be carried out on the effectiveness of the disposal and particularly the impact on reoffending.

- 3. Training that has been undertaken by the Force to enable Officers to use the Community Remedy and how that has been used**

WMP invested in significant initial training for all of the provisions in the *ASB, Crime & Policing Act 2014* applicable to local policing, both internally and to partners. The input commenced with a Home Office briefing and ended with a specialist input to

neighbourhood policing practitioners and ASB co-ordinators. Other operational 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.

In addition, face-to-face training to all front-line officers in the use of Conditional Cautions and Conditional Community Resolutions was rolled out across the Force between July 2015 and April 2016. This training built on the 'Turning Point' pilot run in WMP 2011 – 2014 and encouraged the use of the rehabilitation option in the Remedy. Early evaluation of Turning Point demonstrated that diversion into treatment rather than charge resulted in a reduction in reoffending of 36% for violence offences and victim satisfaction ratings of 73% if it was explained that offenders were being given help to prevent them reoffending. Nominated officers have been put in place on each LPU to interview offenders and identify those with underlying issues that may be causing them to offend in order to refer them into help or treatment.

4. Examples of how the Community Remedy has been used on each LPU

- Restorative Justice has been used to resolve cases from Neighbour Disputes to assaults. One note-worthy case in Birmingham involved assaults between two groups of schoolboys which could well have escalated had a traditional 'caution' approach been used.
- Rehabilitation has been used to refer offenders predominantly into:
 - Drug / alcohol treatment
 - Debt Management advice
 - Anger Management counselling

A Victim Awareness Course is also available from Victim Support for offenders with no obvious pathway needs and in Birmingham and Sandwell there are now bespoke 'one stop shops' for female offenders run by Third Sector organisations.

- Reparation is used when the victim requests it, e.g. to pay for damage. On Solihull LPU there is also provision for young offenders to take part in supervised litter picking.
- Warning and agreement is commonly used for low level first time shop theft and any other cases where the victim just wants an apology and this is deemed appropriate in the circumstances by the officer.

5. Total numbers implemented across the Force area by LPU

As discussed above, Community Remedy is not an outcome in its own right, but a menu of options which are discussed with victims when using Community Resolutions or Conditional Cautions. The following table represents 12 months data from 1/10/15 – 31/9/16.

- All Community Resolutions involve the use of Community Remedy and the data quoted below is from Force systems.
- The volume of Conditional Cautions is as recorded locally on LPU and may under-represent the true situation.

LPU	Conditional Cautions	Community Resolutions	Total
BE/BN	122	1056	1178
BS	28	463	491
BWC	73	1139	1212
CV	11	748	759
DY	92	553	645
SH	38	391	429
SW	85	773	858
WS	33	764	797
WV	89	689	778
Total	571	6576	7114

6. Which of the four options is being used most frequently and reasons for this

Due to the IT issues highlighted, it is not possible to answer this question accurately as it would require a manual search through all records closed with an OOC. It is possible to say the following:

- In relation to Conditional Cautions, 'rehabilitation' is the option most used. This is because of the 'Intervention and Prevention' Strategy and a mandate to officers to divert offenders into treatment whenever a trigger for offending behaviour can be identified. The rehabilitation option can be in addition to anything requested by the victim, such as an apology or reparation. Rehabilitation is also an option for Community Resolutions.
- Restorative Justice is increasingly being used as a means of resolving current cases and preventing recurrences in the future, both for Conditional Cautions and Community Resolutions.
- In relation purely to Community Resolutions, the most frequently used intervention is likely to remain 'warning and apology' because of the high volume of 'Shop Theft' cases. Where an offender has not previously come to light and the value of goods is low level, this is the most frequently used disposal. The Force has however issued new guidelines since last year to ensure that an offender cannot be given more than one such unconditional disposal, nor that they can be given for theft over £50. Above this sum, the disposal must include a rehabilitative referral.

7. How use of the Community Remedy is being monitored currently by the force

There are three levels of scrutiny:

- Community Remedy is generally monitored by first line supervisors who oversee the investigation process. A supervisor's authority is necessary to finalise the report.

- In addition Force Crime Registrar, assisted by the Crime Service Team monitor all Community Resolutions and Conditional Cautions to ensure that the disposal meets Force guidelines (e.g. in the shop theft cases discussed above) and that the conditions set are appropriate and complied with.
- The Force OOCSD Scrutiny Panels provide a final source of monitoring and feedback on a dip sample basis.

8. How the Community Trigger is being used in each Local Authority Area – examples of activation and partnership responses to activation

- Wolverhampton.

There have been 7 reported uses of the Community Trigger in Wolverhampton over the past 12 months. Of these, only 2 have met the threshold. One example is:

- ASB – Gatherings of young people. This was resolved by (1) improved record keeping and case management (2) staff training

- Walsall.

In Walsall there have been no uses of the Trigger over the past 12 months. The CSP will review the marketing and ensure that this is due to a lack of complaints rather than a lack of awareness.

- Dudley.

9 Trigger Applications were received over the past 12 months. 2 applications met the threshold but Trigger Panels were not held in either of these for the following reasons:

- The applicant's case had only just been opened and work was taking place to address it. The applicant was asked to make contact after a month if their situation had not improved. The applicant has not been back in touch.
- In gathering information for the Trigger Panel Meeting it became clear that the Community Trigger process would not meet the "desired" outcomes of the applicant. The applicant was advised that in their circumstances the Trigger Protocol was not the most appropriate procedure to follow. Concerns are being addressed through the DMBC Corporate Complaints Procedure.

- Birmingham

17 applications were received over the past 12 months. Of these, 6 met the threshold and were investigated:

- 2 were upheld at Panel and resulted in intervention by BCC Housing Management
- 2 were rejected

- 1 complainant was found to be an ASB perpetrator
- 1 case is still on-going

- Coventry

4 applications have been received over the past 12 months. Of these 2 met the threshold, both relating to protracted neighbour disputes and allegations of ASB:

- Case 1 was found to be one word against the other with no obvious offender or victim. This was resolved by moving one of the parties. Recording practices were reviewed.
- Case 2 resulted in additional intervention work by Police and Social Services with one party and improved reporting processes.

- Solihull

4 applications have been made in the past 12 months, all of which have met the threshold. Recommendations were made in 2 of these cases.

- Sandwell

Sandwell have received 3 applications in the past 12 months, none have met the threshold.

9. Is the legislation working for the West Midlands?

It is felt that generally partnership working is effective across the West Midlands and structures exist to identify and jointly address emerging issues before they reach the point at which the Trigger would be required, however the Community Trigger is useful as a final safety net.

Out of Court Disposals

10. An update on the use of OOCDD and to highlight any positive / negative trends particularly in relation to impact on service delivery, trust & confidence & operational and reputational risk, including partnership working.

Out of Court Disposal Performance

The percentage of Out of Court Disposals, as a proportion of overall positive disposals has fallen from an average of 32% during 2015/16 to an average of 26% so far during 2016/17. Consultation suggests this is due to the impact of a 'Charge without Interview' pilot which has made it easier to charge offenders where there is overwhelming evidence of guilt. When this policy is used for offenders with few previous disposals, it conflicts with the Intervention and Prevention Strategy and may be reducing the number of offenders diverted into rehabilitative treatment.

Further work is being done with the LPU Investigation Teams to highlight the opportunities missed to prevent reoffending, and it is anticipated that the situation will start to improve with Transition State 1 when Investigation merges under one Leadership Team and the Prisoner Intervention and Prevention Teams are mandated to put measures in place for all offenders to reduce reoffending.

The Neighbourhood Justice Innovation Fund Project

The Neighbourhood Justice Team have received £2.7m from the Police Innovation Fund to introduce and evaluate a number of Out of Court interventions specifically for violent crime and Domestic Abuse between April 2016 and March 2018. These build on two previous pilots:

- Turning Point in the West Midlands (which reduced violent crime reoffending by 36% compared to a control group)
- CARA in Hampshire Police (which reduced low level Domestic Abuse reoffending by around 50% compared with a control group).

The Project will commission and evaluate 4 interventions, specifically for early intervention in violent crime and Domestic Abuse. These include Anger Management, Alcohol Awareness Courses specifically tailored to night-time economy violence and low level domestic abuse and an extension of the CARA pilot.

The funding will also pay for:

- An IT tool to direct officers to use Out of Court Disposals in all appropriate cases and collect management information.
- An analyst to evaluate the use and impact of Conditional Out of Court Disposals across all crime types. The evaluation will be carried out in conjunction with Cambridge University and will include:
 - Impact on reoffending
 - Victim satisfaction
 - VFM

The project team is building relationships with partner organisations, including Public Health England, whose 'Integrated Pathways' project into substance misuse and mental health is in a similar vein. The team is also working with 3rd Sector Providers such as Birmingham Voluntary Skills Council to introduce supported help into employment as a pathway that could be offered as part of a Conditional Caution.

WMP, as one of a few forces which have made good progress in the use of Conditional Cautions, was recently visited by researchers from the Home Office and MOJ who will be designing the expected changes to the Out of Court Disposal framework.

11. Key statistical management information

It remains impossible to search electronically for Conditional Cautions or Conditional Community Resolutions due to Home Office recording methods. The Force is therefore dependent upon LPU officers collating data on when these Conditional

Disposals have been used. Data supplied so far this year shows the following performance:

2016	Conditional Cautions	Conditional Community Resolutions	Total
January	18	6	24
February	39	6	45
March	51	8	59
April	54	9	63
May	52	4	56
June	69	18	87
July	49	3	52
August	105	8	113
September	67	5	72
Total	504	67	571

NB: This table is different from the one shown at Item 5, as it includes only Conditional Outcomes where either Rehabilitation or Restorative Justice have been used. It also only includes 2016 cases.

12. An update on the OOCB Scrutiny Panels and the outcomes with some examples of where the Panel has highlighted inappropriate use, and the learning taken from that

The OOCB Scrutiny Panels meet 3 times per year and are recognised by WMP Criminal Justice Services and the Force Crime Registrar as an effective challenge in respect of OOCB decision making.

During 2016 the panels have examined the following crime categories:

- Harassment
- Assaults
- Child Abuse (This latter at the request of the PPU SLT)

In each case the panel chairs choose a dip sample of approximately 46 cases which have been finalised with an Out of Court Disposal, the panel examine these and categorise them as:

- Appropriate
- Appropriate with comments
- Inappropriate and contrary to policy
- Panel unable to reach a decision

In the 2016 panels, the judgements have been as follows:

	Harassment (46 cases)	Assault (41 cases)	Child Abuse (46 cases)
Appropriate	23 (50%)	21 (50%)	28 (56%)
Appropriate with comments	14 (33%)	14 (34%)	11 (27%)
Inappropriate and contrary to policy	9 (17%)	4 (10%)	6 (15%)
Panel unable to decide	0	2 (insufficient information)	1 (insufficient information)

The comments made by the panels in relation to cases they otherwise find appropriate, usually reflect the view that a Conditional Caution rather than a Simple Caution would be more effective in preventing reoffending; this is always fed back to the Department concerned and highlighted in training.

Inappropriate cases generally fall into 2 categories, both relating predominantly to the use of Community Resolutions:

- Those where it appears that the disposal does not adequately safeguard the victim
- Those where a Community Resolution is not appropriate because of the previous criminal history of the offender.

On rare occasions, the panels have felt a case should have been charged to court, however there is recognition that pre- court rehabilitation in particular, is more effective than a fine in most low level cases. This was notable in the child-abuse cases examined, where use of inappropriate but low level physical chastisement was dealt with by a requirement to work with Children's Services on parenting skills.

The following are examples of inappropriate cases:

- A. Victim is a volunteer advisor. Following assistance he provided to the offender, the latter made numerous threatening / abusive telephone calls. Offender has the following previous convictions:
- 2014 – Threatening a person with a bladed article, s18 wounding
 - 2008 – s47 assault

This case was locally resolved with an apology. The outcome was said by the OIC to be 'victim led' but the victim would have been unaware of the offenders history which showed he was capable of violence - the outcome failed to take account of the risk to the victim.

Feedback on this case was provided to the OIC and line manager. No further offences have been committed since. Findings of the panels were shared with Crime Managers and the OOCDC Champions (Inspectors) on each LPU. This case was one of a number used for training purposes by the Neighbourhood Justice Team stressing that officers are responsible for ensuring the case is suitable for an Out of Court Disposal before the Community Remedy is discussed with the victim.

- B. Victim (teacher), asked an unruly pupil to leave the classroom. The pupil (14), became aggressive, swore at IP, picked up a broom and attempted to strike IP to the head twice, causing injury to IP's forearm when he shielded his face. Offender also punched IP whilst he was being restrained.

Offender had been arrested 5 times previously for public order and criminal damage although all discontinued. He had also been cautioned previously for Theft of Motor Vehicle. This case was dealt with by Community Resolution (apology) because the offender had apologised to the IP before police attended.

The panel felt this was not suitable for a Community Resolution, the offender clearly had behavioural issues and should have been referred to YOS for Targeted Youth Support.

Again feedback was provided directly to the OIC, line manager and Crime Manager. This case was contrasted in Newsbeat with another (less serious) case where a young offender *had* been referred to YOS for behaviour issues to be addressed.

13. Outline strategies for improvement as necessary

Increasing the uptake of Conditional outcomes rather than Simple Cautions or Charges remains the priority area for improvement. The learning from Turning Point (and other Forces) is that decision-making with regards to diversion can be improved by up to 73% by introducing IT. This has been commissioned through the PIF work stream. It is anticipated that this will be delivered within the current financial year.

Evaluation of the impact of Conditional disposals will also be a priority from Q4 2016/17, by which time some LPUs will have been using them for 18 months.

14. Some examples of effective OOC for members.

- A. A mosque that received racist and abusive emails elected to meet the person who sent the messages as part of Restorative Justice.

The offender was traced by police to his home and during interview he asked officers if he could meet representatives from Sutton Coldfield Muslim Association to personally apologize and make a donation to a charity of their choice.

Officers passed this message onto the mosque and after a meeting of their committee they unanimously agreed that their religion is about peace and forgiving and they wanted the matter to be resolved out of court and through Restorative Justice.

During a meeting organized at Sutton Coldfield police station the offender apologized and said the threatening messages had been sent while he was drunk. He thanked the representatives from Sutton Coldfield Muslim Association for agreeing to meet him. They in turn thanked the man for his honesty.

Commenting on the process the OIC said: "After receiving reports of the threatening messages the attending officers immediately set about safeguarding the victim and locating the offender. After liaising with CTU it appeared there was no credible threat.

"This was confirmed when the investigating officer spoke to the suspect who said alcohol and not hatred was the cause of his actions. After checking his offending history, and being driven by the wishes of the victim, it was felt that Restorative Justice offered a much more meaningful and satisfying outcome for both the offender and the victims. The fact that there was no truth behind the threats has resolved any concerns they had."

- B. A 12-year-old boy was seen to damage the car of a teacher. It was reported to police but the victim was keen that the offence didn't lead to a criminal record for the offender. It was agreed that a Restorative Justice conference would be used instead.

At the conference the boy apologised for his unprovoked actions. His older brother had just left for the USA and it was pointed out that a future criminal record could prevent him from visiting him.

His mother promised to reimburse the £700 of damages.

The OIC stated "This out-of-court approach has been justified by the positive feedback we've had from all parties involved. The victim was initially traumatised by the offence but the process has given her closure. In addition to this, the lad's behaviour has improved and he seems to have learnt a very important lesson from his mistake."

- C. The offender entered a supermarket intoxicated and refused to leave the coffee shop becoming aggressive towards staff members. Upon Police arrival he continued to be aggressive towards staff and officers with the result that he was arrested. Whilst in custody the offender explained he had been alcohol dependent for a number of years and wished for help. He was referred to Recovery near You. He has fully engaged with his course and is still participating with the follow up help offered.
- D. The offender entered a store and stole goods to the value of £35.00. She stated she was suffering from depression and that there was a lot of conflict in her marriage leading to low self-belief within herself. She did not work but also stated she had no financial worries. It was decided that she would be dealt with by means of conditional caution. Offender was referred to Dudley probation with a view to conducting 40hrs unpaid work to offer her a release from her personal pressures. Also within the conditions, probation would offer help around her depression. As a result of her participation in the unpaid work she has fully engaged with probation and has expressed a wish to continue with the work placement as a volunteer.

