

**WEST MIDLANDS POLICE  
AND CRIME  
COMMISSIONER**

NON-CONFIDENTIAL

**NOTICE OF DECISION**

[039 2014]

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**Community Remedy Document**

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**EXECUTIVE SUMMARY**

The community remedy gives victims a say in the out-of-court punishment of offenders for low-level crime and anti-social behaviour. The Anti-social Behaviour, Crime and Policing Act 2014 places a duty on the Police and Crime Commissioner to consult with members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be contained in the Community Remedy document.

The Community Remedy document is a list of actions which may be chosen by the victim for the perpetrator to undertake in consequence of their behaviour or offending. It is intended to give victims more say in the punishment of offenders out of court, however the victim's involvement is voluntary and they must not be made to feel that they should take part in a process that they are not comfortable with, that they think may put them at risk, or that they do not believe will be of benefit to them. When being used, the officer should consider the most appropriate way to involve the victim. If the victim is under 18 or vulnerable, they may require a family member or carer to assist them in understanding the purpose of the process.

**DECISION**

I approve the Community Remedy document attached at Appendix 1.

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**West Midlands Police and Crime Commissioner**

I confirm that I do not have any disclosable pecuniary interests in this decision and take the decision in compliance with the Code of Conduct for the West Midlands Police and Crime Commissioner's Office. Any interests are indicated below.

Signature.....

Date.....

*David Jarvis*  
*14.10.14*

## **NON - CONFIDENTIAL FACTS AND ADVICE TO THE POLICE AND CRIME COMMISSIONER**

### **Background**

The Community Remedy gives victims a say in the out-of-court punishment of offenders for low-level crime and anti-social behaviour. The Anti-social Behaviour, Crime and Policing Act 2014 places a duty on the Police and Crime Commissioner (PCC) to consult with members of the public and community representatives on what punitive, restorative or rehabilitative actions they would consider appropriate to be contained in the Community Remedy document.

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Under the current process, officers have been given the discretion to use their initiative to determine how to deal with a matter. Under the new legislation, the discretion given to individual Officers is replaced by a process whereby the PCC determines a list of available remedies from which officers can select.

### **Consultation**

The Office of the Police and Crime Commissioner and West Midlands Police have been working together with partners to ensure that the document is one that has been developed through partnership working and will be used across the West Midlands to ensure a consistent service to the public.

The Home Office have set no prescriptive rules as to what form consultation on the Community Remedy document should take, although there is a requirement to evidence what form it does take. The West Midlands consultation process began in May with a Partnership event to engage partners in the development of the process and to get their input into both the Community Trigger and the Community Remedy. A follow up event was held in July to agree and consult with partners on the final options that would be put to the public for consultation. The views of the public were sought regarding the draft by means of a web survey which ran for 4 weeks from the 8 August to the 9 September. The views of partner agencies were also collected through the Heads of Community Safety Group and Local Police and Crime Boards and consultation with the Chief Constable took place at monthly ASB Task and Finish Group meetings.

The document must be published by the PCC in such a manner that the contents are disseminated as widely as possible. It must be in a form that will both be understandable to the public and to the officers (and potentially employees of partner agencies) who will have the responsibility for implementation.

Once the document has been published, the PCC will need to ensure that it is monitored appropriately. In addition, they must ensure that those persons charged with the implementation of the remedies are aware of their responsibilities and how they are to do this. WMP has been working towards implementation and delivery from March and audits will take place so that the PCC can have reassurance that the Community Remedy process

is being applied appropriately

### **Who can use the Community Remedy?**

- Police Officers
- An investigating officer (includes PCSOs for certain offences, if designated the power by the Chief Constable)
- A person authorised by a relevant prosecutor for conditional cautions or youth conditional cautions

### **The test to be applied**

- The officer must have evidence that the person has engaged in anti-social behaviour or committed an offence
- The person must admit to the behaviour or offence
- The officer must think that the evidence is enough for court proceedings, including an injunction to prevent nuisance and annoyance, or impose a caution, but considers that a community resolution would be more appropriate.
- When considering whether to use a community resolution, officers should consider the seriousness of the offence, the circumstances of the offence, the impact the offence has had on the victim and whether a community resolution is more appropriate than a caution, fixed penalty notice or court action.

The Community Remedy document should be considered when an offender is given a conditional caution or youth conditional caution.

### **Failure to comply**

If the offender fails to comply with a conditional caution or youth conditional caution, they can face court action for the offence.

### **List of actions in the community remedy document**

The PCC and Chief Constable have agreed the actions listed, and they must be proportionate and appropriate to the types of offences for which community resolutions are used, and seek to have a positive impact on the offender. The list of options are deliberately broad and non-specific. Victims should not have, nor would they welcome, the added responsibility of identifying the most appropriate sanction or exact response to an offenders behaviour. However they may well have a broad view about what they would consider to be an appropriate outcome, and that view ought to be taken into account. Officers will make the final judgement, ensuring that the outcome is legal, proportionate, enforceable and consistent with other similar situations. Officers will explain their decisions to victims, paying particular attention to explaining any decisions that were not in line with the victims' wishes.

Many of the specific requirements that can be made of an offender as an alternative to a prosecution will be provided or supported by partner agencies and voluntary and community organisations based locally. It is therefore inevitable that the availability of these specific requirements will differ between boroughs, possibly even neighbourhoods. For this reason officers will not always be able to confirm whether certain requirements are available in any

given circumstance and will have to make a judgement based on availability of resources.

### **FINANCIAL IMPLICATIONS**

The Anti Social Behaviour, Crime and Policing Act 2014 is new legislation and at this point it is not possible to know what the financial implications will be in terms of training, enforcement measures with some of the other sanctions available and demand. Implementation will be monitored and reviewed so that we are able to assess the implications.

### **LEGAL IMPLICATIONS**

The Police Reform and Social Responsibility Act 2011 Schedule 1, Section 1 14 (1) provides that a Police and Crime Commissioner may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of commissioner.

The Anti Social Behaviour, Crime and Policing Act 2014 places a statutory duty on Police and Crime Commissioners to have a Community Remedy Document.

### **EQUALITY IMPLICATIONS**

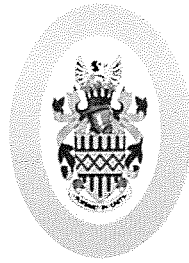
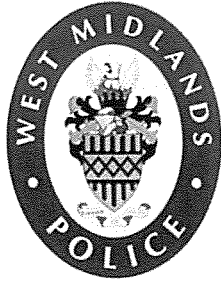
Implementation of the Community Remedy will be monitored by the Police and Crime Commissioner to ensure that it is being delivered across the force area in a consistent and fair manner and that some members of the public are not being disadvantaged by lack of services and facilities that may be available. This will also show us if the Remedy is being used more in some areas than others, and whether or not it is being used appropriately.

### **Schedule of Background Papers**

There are no background papers.

### **Public Access to Information**

Information contained in this decision is subject to the Freedom of Information Act 2000 and other legislation. This decision will be made available on the Commissioner's website.



west midlands  
police and crime  
commissioner

## The Community Remedy Document

The Community Remedy will ensure that you as a victim of crime can have your say on how offenders of low level crime payback to you as an individual and the communities that they have affected. There are a number of ways that West Midlands Police can deal with an incident when you have been a victim of crime. In some cases it will be necessary to take a case through the criminal courts, however this is not always the best way. There may be times when something is better dealt with outside of court. Where this is the case, you as a victim, can have a say in how the incident is dealt with.

Understanding all the options open to you is important in helping you to make this decision and the list below includes some options that might be of benefit where your case isn't dealt with through the courts. You can also suggest something else which is not on the list. The officer dealing with your case has to decide if the suggestion is fair and reasonable in the circumstances, but will always try to ensure that your wishes are followed. If the offender does not agree to this, they can still be taken to court instead.

The Police and Crime Commissioner, David Jamieson has consulted with the public about the options that should be included and the ones the public supported the most are below:

### 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 behaviour contracts.*

### 3. **General Reparation**

*If the incident has caused you some 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.*

David Jamieson  
Police and Crime Commissioner

Chris Sims  
Chief Constable

