



# WEST MIDLANDS POLICE

## Force Policy Document

<b>POLICY TITLE:</b>	<b>Community Resolutions</b>
<b>POLICY REFERENCE NO:</b>	<b>CJ/18</b>

### Executive Summary

Community Resolutions provide an opportunity for officers to deal with appropriate offences and offenders without the recourse to formal criminal justice sanctions.

The purpose of this policy is to provide officers with the specific guidance and procedures in relation to the application of Community Resolutions. This policy should be used in conjunction with the forces 'Positive Justice' policy which provides more guidance on the decision making process in all prosecutable cases.

\*\*Any enquiries in relation to this policy should be made directly with that of the policy contact / department shown below.

### Intended Policy Audience

This policy is aimed at all Police Officers, Special Constables and PCSOs.

<b>Current Version And Effective Date.</b>	<b>v2.2</b>	<b>18/02/2016</b>
<b>Business Area Owner</b>	<b>Criminal Justice Services</b>	
<b>Department Responsible</b>	<b>Criminal Justice Services</b>	
<b>Policy Contact</b>	<b>Insp Nicola Lloyd (CJS)</b>	
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<b>Approved By</b>	<b>ACC Foulkes</b>	
<b>Policy Initial Implementation Date</b>	<b>19/08/2013</b>	
<b>Review Date</b>	<b>25/02/2017</b>	
<b>Protective Marking</b>	<b>Not protectively marked</b>	
<b>Suitable For Publication – Freedom Of Information</b>	<b>Yes</b>	

**Supporting Documents**

[See APPENDIX A](#)

**Evidence Based Research**

- Ministry of Justice Research Summary 7 - Conditional Cautions – an Examination of Early Implementation of the Scheme 2007
- A State of Disorder – Moving Beyond the ASBO in Tackling Anti-Social Behaviour, from the Policy Exchange, 2010
- 'It's a Fair Cop – Police Legitimacy, Public Cooperation and Crime Reduction' NPIA 2011
- 'Procedural Justice, Trust and Institutional Legitimacy' Hough, Jackson, Myhill, Bradford, Quinton, Bradford, 2010
- 'An Exploratory Analysis of Police Attitudes to the use of Community Resolution for Minor/Local crime; Professional Judgment and Discretion' C.Supt Byrne, 2012
- Overview of 'Imprisonment and Crime – Can both be Reduced?' Durlauf and Nagin ASC 2011
- 'From Peel to Popper – The Case for more Scientific Policing' Neyroud ASC 2011
- 'Rhetoric or restoration? A study into the restorative potential of the conditional cautioning scheme' Braddock 2011
- 'Restorative Justice – the Evidence' Sherman and Strang 2007
- 'Does Restorative Justice Affect Reconviction?' Shapland 2008 for the Ministry of Justice

**Please Note.**

**PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UPTO DATE VERSION OF ANY POLICY OR DIRECTIVE CAN BE FOUND ON THE EQUIP DATABASE ON THE INTRANET.**

### **Force Diversity Vision Statement and Values**

“Eliminate unlawful discrimination, harassment and victimisation. Advance equality of opportunity and foster good relations by embedding a culture of equality and respect that puts all of our communities, officers and staff at the heart of everything we do. Working together as one we will strive to make a difference to our service delivery by mainstreaming our organisational values”

“All members of the public and communities we serve, all police officers, special constables and police staff members shall receive equal and fair treatment regardless of, age, disability, sex, race, gender reassignment, religion/belief, sexual orientation, marriage/civil partnership and pregnancy/maternity. If you consider this policy could be improved for any of these groups please raise with the author of the policy without delay.”

### **Code of Ethics**

West Midlands Police is committed to ensuring that the Code of Ethics is not simply another piece of paper, poster or laminate, but is at the heart of every policy, procedure, decision and action in policing.

The Code of Ethics is about self-awareness, ensuring that everyone in policing feels able to always do the right thing and is confident to challenge colleagues irrespective of their rank, role or position

Every single person working in West Midlands Police is expected to adopt and adhere to the principles and standards set out in the Code.

The main purpose of the Code of Ethics is to be a guide to "good" policing, not something to punish "poor" policing.

The Code describes nine principles and ten standards of behaviour that sets and defines the exemplary standards expected of everyone who works in policing.

Please see [http://www.college.police.uk/docs/Code\\_of\\_Ethics.pdf](http://www.college.police.uk/docs/Code_of_Ethics.pdf) for further details.

The policy contained in this document seeks to build upon the overarching principles within the Code to further support people in the organization to do the right thing.

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**ACRONYMS**

<b>ABH</b>	Actual Bodily Harm
<b>ASBO</b>	Anti-Social Behaviour Order
<b>CJU</b>	Criminal Justice Unit
<b>CJS</b>	Criminal Justice System
<b>CPIA 1996</b>	Criminal Procedure and Investigations Act 1996
<b>CRB</b>	Criminal Records Bureau
<b>EQIA</b>	Equality Impact Assessment
<b>Flints</b>	Forensic Led Intelligence system – the force system for recording, evaluating and collating intelligence.
<b>FOI</b>	Freedom of Information
<b>GPMS</b>	Government Protected Marking Scheme
<b>HCP</b>	Health Care Practitioner
<b>LPU</b>	Local Policing Unit
<b>NFA</b>	No Further Action
<b>OIC</b>	Officer in Charge
<b>OSD</b>	Organisation Service Development
<b>PACE 1984</b>	The Police and Criminal Evidence Act 1984
<b>PNC</b>	Police National Computer
<b>PND</b>	Police National Database
<b>PPU</b>	Public Protection Unit
<b>‘RESP’</b>	A marker that can be placed on a crime report on the CRIMES 2 system that indicates that that person can be shown as being responsible for committing the offence.
<b>RJ</b>	Restorative Justice – a structured, face-to-face meeting between victims and offenders
<b>‘SUSP’</b>	A marker that can be placed on a crime report on the CRIMES 2 system that indicates that that person was suspected as being responsible for committing the offence.
<b>YOT</b>	Youth Offending Team

## 1. INTRODUCTION - The Purpose and Benefits of Community Resolutions

- 1.1. It is a long-established principle of British law that justice does not always demand a court prosecution. In many cases, the public interest is best served by using alternatives to prosecution, especially where such alternatives can provide swift redress for victims; and where we can intervene at an early juncture to change offending behaviour before it becomes entrenched. Peelian Principles emphasise the role of the police in *preventing* crime: Community Resolutions offer an opportunity to reduce the likelihood of future offending, and therefore, crime.
- 1.2. Many of the crimes the police investigate are not committed by prolific, dangerous offenders. Rather, they represent momentary lapses in judgement by otherwise law-abiding citizens. In such situations, a formal sanction would often be a disproportionate response: the decision to give someone a criminal record is one that should never be taken lightly, and neither should the police underestimate how daunting the judicial system can be for victims and offenders alike.
- 1.3. Community Resolutions are designed to deal with such situations. The use of a Community Resolution offers victims an informal, flexible response to the matter they have reported. At the same time, they offer offenders a 'second chance' - an opportunity to make amends for their mistakes without suffering consequences which can dramatically alter future life chances.
- 1.4. Due to the lack of a criminal record, it is not appropriate to issue multiple Community Resolutions. However, the updated policy makes clear that an offender may still receive a Community Resolution in some circumstances where they have already received one previous disposal. If however, a Community Resolution is to be issued to an offender who has already received a previous disposal; more will be expected from the suspect. **Specifically, it is expected that the suspect will be required to participate in activities which will directly address the underlying cause of their offending behaviour.**
- 1.5. The distinction between offenders who have no previous offending history and those with one previous disposal reflects a desire to intervene in offending behaviour at the earliest possible juncture, but without limiting the discretion of officers where it appears that the offence in question genuinely appears to be an isolated incident.
- 1.6. Community Resolutions also offer the opportunity to deal with matters in the quickest, simplest fashion. In doing so, they help to ensure that the officers who serve the public are free to do more with their time. However, the need for efficiency must always be balanced against - and should never outweigh - the overriding goals of protecting and serving our communities.
- 1.7. A Community Resolution is not the same as Restorative Justice, but they bear many similarities. Community Resolutions are founded on a commitment to empower victims by allowing them to have a say in how their matter is dealt with. They provide an opportunity for offenders to better understand the impact they have had on their victims, and to make amends for the harm they have caused.
- 1.8. Fundamental to the success of every Community Resolution is the professionalism of the officer who administers it. Community Resolutions allow officers to exercise the greatest discretion, and with this discretion comes a responsibility to ensure that we can maintain the faith and confidence of the public.

## 2. DEFINITIONS

2.1 **“Any action requested by the injured party, which is agreed by the suspect and considered appropriate and proportionate by the officer”**

2.2 **“Any action requested by the injured party...”**

*The foundation of any Community Resolution should be an action that the victim wants the offender to complete in order to make amends.*

There are a range of possible actions which the victim might ask the offender to complete. Guidance should be offered to victims about specific options contained in the ‘Community Remedy’ document to help inform their choice.

2.3 **“...which is agreed by the suspect...”**

If the offender does not agree to undertake the action requested by the victim (or indeed, they do not agree to any other aspect of the Community Resolution process), then a Community Resolution would not be appropriate.

2.4 **“...and considered appropriate and proportionate by the officer.”**

It is up to the police officer to act as independent arbiter, and ensure that both the use of a Community Resolution is the best way forward; and that any conditions involved are appropriate, proportionate and safe.

## 3. KEY REQUIREMENTS

3.1. In order to classify a report of crime as having been resolved by way of a Community Resolution there are certain essential elements, all of which must be present:

- A criminal offence (recordable or non-recordable)
- The officer dealing must believe that this is the best outcome for the case, being fully aware of all relevant information. The public interest must be served and the victim safeguarded.
- The suspect has made a clear and unambiguous admission and has said nothing that could be used as a defence (signed by the offender: the WC201R is the most appropriate record):
- It is the genuine wish of the victim (and parent/guardian if necessary) to have the case dealt with in this manner, and they have signed to this effect
- The signed agreement of the offender to complete whatever action has been agreed to resolve the case
- Any agreed actions are completed
- Appropriate factors, rationale and authority recorded

#### 4. OFFENCE

- 4.1. Community Resolutions are generally meant to provide a flexible alternative to formal sanctions where the offence in question is considered to be an isolated incident and less serious in nature.
- 4.2. Offences which would be classed as 'summary only' (if charged according to CPS charging standards) will generally be more appropriate for a Community Resolution than those which would be classed as indictable only. Wherever the offence would result in a custodial sentence at court, then a Community Resolution should not be used.
- 4.3. However, it is important to recognise that some more serious offences might be suitable for a Community Resolution where exceptional circumstances apply. Where there is a case to be made for a more serious offence being dealt with by way of Community Resolution, then a higher level of authority is required (Inspector or above). The below is offered as an illustration of the sorts of offences which fall into either category.
- 4.4. **Standard Authority (Constable):**
- Public Order offences 4, 4A and 5.
  - Lower value criminal damage
  - Common assault
  - Low value theft, excluding breach of trust, evidence of pre-planning or other aggravating factors (See appendix B for more comprehensive disposal guidelines for shop theft)
- 4.5. **Enhanced Authority (Inspector or above):**
- Indictable only offences
  - Assaults that would be *charged* as ABH and above
  - Sexual offences (must be a specialist PPU Inspector)
  - Robbery
  - Burglary offences
  - Partner & ex-partner domestic abuse (must be a specialist PPU Inspector)
  - Hate Crime
  - Vulnerable victims

#### 5. DECISION MAKING AUTHORITY

- 5.1. The appropriate authority level for all 'Standard Authority' cases in custody is the Custody Officer / Team Sergeant, (an Inspector for 'Enhanced Authority' offences).
- 5.2. Outside of the custody environment, any officer may authorise a Community Resolution for standard authority offences. Authority from an Inspector or above is still required for 'Enhanced Authority' cases. For sexual offences and DA offences, a specialist PPU Inspector must authorise the use of a Community Resolution.

## 6. VICTIM

- 6.1. Whilst the final decision as to an appropriate disposal is that of the officer, the views of the victim are clearly of the utmost importance. A Community Resolution is an arrangement where the victim requests that the offender complete a specific action in order to make amends for the harm they have caused. Therefore, the victim should not only support the use of a Community Resolution, but furthermore, they should have a say in what the required action will be.
- 6.2. There is a legal obligation on officers to discuss the Community Remedy options with victims when considering what sort of action will be required of the offender.
- 6.3. There will be occasions where the victim wants the offender to complete a specific action, but the offender or offence is deemed unsuitable. Here, officers should consider whether a Conditional Caution is more appropriate, as using a Conditional Caution will still allow the victim to gain swift redress for the harm caused, albeit using a more substantial disposal that attracts a formal criminal record.
- 6.4. Whilst there is a legal requirement that officers share the options listed under the Community Remedy document, the victim is not limited to the published options: they may request an alternative form of activity from the offender, to which officers should give due consideration.

## 7. OFFENDER

- 7.1. Community Resolutions are aimed at first-time offenders for less serious offences. Where the offence in question is not serious and appears to be an isolated incident, a Community Resolution offers the offender a 'second chance', provided they make amends to the victim.
- 7.2. However, there may be occasions where a suspect has a previous disposal and despite being given a 'second chance', they have now gone on to commit a further offence. Here, the repeat offending suggests a developing pattern of behaviour, rather than an isolated mistake.
- 7.3. **In such circumstances, an additional community resolution could only be justified if that resolution includes Rehabilitation: to satisfy this requirement, the offender must engage in a structured activity which will address the underlying cause of their offending.**
- 7.4. As a rule an offender should not receive more than two community resolutions: the maintenance of public confidence in the justice system requires that any subsequent offending be met with a formal sanction which appears on the offender's criminal record. If it is considered that there are exceptional circumstances which merit a third community resolution, then the express authorisation of the Force Crime Registrar will be required prior to a Community Resolution being administered.
- 7.5. Legislation prevents serving prisoners from being issued cautions, and it would therefore be inappropriate to consider the use of Community Resolutions with this group of offenders. It is also highly unlikely that the true wish of the victim or officer is for this outcome (rather than it just being 'better than NFA'), or that the offender could make any significant reparation. Therefore Community Resolutions cannot be used to deal with serving prisoners.



## NOT PROTECTIVELY MARKED

- 7.6. Every case of a Community Resolution completed with a youth (aged under 18) will automatically be referred to the Youth Offending Team (YOT), and they may choose to contact the offender and/or their parents retrospectively. Young offenders and their parents/guardians need to be made aware of this fact at the time the case is resolved.
- 7.7. The principle that a Community Resolution may only issued to a second-time offender on the condition of some rehabilitative element applies to youths as well adults. In addition to this requirement, WMP have agreed that any decision to issue a second Community Resolution to a youth will be made in consultation with the relevant local YOT. It is also recommended that Children's Services and schools be consulted as part of this process.
- 7.8. In discussing community resolutions with offenders, officers should be mindful of PACE and rules relating to suspect interviews. Under PACE, questioning of an individual about their involvement or suspected involvement in a criminal offence constitutes an interview, and should be conducted in accordance with PACE Codes of Practice C and E. Case law on the subject concludes that even asking a single question may constitute an interview, as does any line of questioning which invites a suspect to incriminate themselves. Therefore, conversations with offenders about their willingness to complete a Community Resolution will invariably constitute an interview, because an offender's eligibility for a Community Resolution will depend on an admission of guilt.

## 8. RESOLUTIONS

- 8.1. Before identifying the specific activity required of the offender, the officer must explain the Community Remedy options to the victim. The Remedy options are generic, as the purpose is to give the victim a sense of what types of activities they can request.
- 8.2. Once the victim has indicated which of the Community Remedy options they prefer, it will be necessary to specify the exact details of the activity. For example, where a victim chooses reparation (Remedy option 3), then the Community Resolution should detail the exact form of reparation required (e.g. £20 to be paid by the offender to the victim).

### Restorative Justice (RJ)

- 8.3. RJ has been shown to lead to improved satisfaction rates and lower levels of reoffending. RJ meetings should always be conducted by a trained officer/member of staff, and consideration should be given to the level of risk and complexity involved when determining who should facilitate the meeting. Further guidance on this subject is contained within the Restorative Justice Policy document.
- 8.4. Where an RJ meeting or conference takes place, the meeting itself may suffice as the agreed resolution. This is because many victims will be satisfied with the opportunity of meeting the offender and being able to discuss the incident.
- 8.5. The offender will only be considered to have successfully participated in the RJ if they attend and engage appropriately in the process (for example, if they attend the meeting but say nothing throughout it, this would not be full participation). Offenders need to understand that they will be required to participate fully in the process to satisfy the terms of their resolution.

### Warning and Agreement

- 8.6. This option is most likely to be applicable in the context of neighbourhood/ASB matters where the crime in question is part of a wider pattern of behaviour. For example, the option might be used to deal with an incident of criminal damage which represents the latest in a series of incidents of ASB. The resolution might be that the offender is warned about the impact of their behaviour on a victim and is then required to sign an Acceptable Behaviour Contract.
- 8.7. It is not sufficient that the offender makes a general promise not to commit future offences.
- 8.8. The resolution would be complete once the offender had been warned and had signed an ABC or other relevant agreement. Failure to adhere to the terms of the ABC afterwards would present the opportunity to escalate enforcement to some form of civil injunction; but would not necessarily constitute a breach of the community resolution, given that the resolution is the signing of the ABC.

### Reparation

- 8.9. Reparation can be direct to the victim: for example, offering financial compensation, or engaging in some form of work to make amends for the damage they have caused.
- 8.10. It can also be indirect: rather than doing something that directly benefits the victim, reparation might be to the wider community, such as participation in an organised litter-pick in a local amenity.
- 8.11. Officers should not agree to be intermediaries for the exchange of cash between victims and offenders and should arrange either for the money to be exchanged directly – or if this may cause problems, given to a third party (agreed trusted family member or friend).

### Rehabilitation

- 8.12. Rehabilitative activities are those which seek to address the underlying cause of an offender's behaviour. It is generally accepted that there are certain risk factors which will contribute to offending behaviour:
- Accommodation
  - Drug/alcohol addiction
  - Physical/mental ill-health
  - Family/children
  - Attitude/thinking skills
  - Education/training/employment
  - Debt/financial hardship
- 8.13. In most cases, WMP staff are not in a position to provide the support necessary to tackle such issues, but Community Resolutions offer an opportunity to 'lever' offenders into interventions delivered by partner agencies. For example, an individual who is committing acquisitive crime due to a substance abuse issue may be required to engage with substance abuse support workers. An individual who plays down the impact of their offending behaviour may be required to attend a victim awareness course, or to engage in RJ.

## Second Community Resolutions and Rehabilitation

- 8.13. Community Resolutions are primarily intended to address low-level offences committed by first-time offenders. Where the offender appears to have made an isolated mistake, a Community Resolution offers a 'second chance' in the form of a proportionate, informal and flexible disposal.
- 8.14. Where the offender has gone on to commit a further offence, a more robust response is required. However, this will not always necessitate escalating the matter to a more formal sanction.
- 8.15. Instead, a second Community Resolution may be offered which includes as part of the agreement a requirement that the offender engage in some form of rehabilitative diversion. This rehabilitative component is a mandatory requirement where an offender is offered a second community resolution.
- 8.16. Making the rehabilitative element mandatory reflects the need to ensure that an additional Community Resolution is as effective as it can be in reducing future offending. This in turn preserves the legitimacy of Community Resolutions as an informal disposal.
- 8.17. To satisfy the requirement of rehabilitation, the offender must engage in a specific activity or course of treatment which will address the underlying cause of their offending (such as drug/alcohol treatment or attending a session with a debt counsellor). The requirement is not met by securing general agreement from the offender that they will 'get help' for their offending: likewise, neither will general 'sign-posting' to support agencies suffice.
- 8.18. In most situations, it would be unrealistic to demand completion of an extensive course of treatment: therefore, the requirement made of the offender might simply be to *commence* a programme with a relevant partner agency (for example, "To attend a minimum of one assessment and two follow-up appointments with the service provider 'X').

## 9. EQUALITY IMPACT ASSESSMENT (EQIA)

- 9.1. The Policy has been reviewed and drafted against all protected characteristics in accordance with the Public Sector Equality Duty embodied in the Equality Act 2010. The policy has therefore been Equality Impact Assessed to show how WMP has evidenced 'due regard' to the need to:
- Eliminate discrimination, harassment, and victimisation.
  - Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.
  - Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

*Supporting documentation in the form of an EQIA has been completed and is available for viewing in conjunction with this Policy.*

**10. HUMAN RIGHTS**

10.1. This policy has been implemented and reviewed in accordance with that set out with the European Convention and principles provided by the Human Rights Act 1998. The application of this policy has no differential impact on any of the articles within the Act. However, failure as to its implementation would impact on the core duties and values of WMP (and its partners), to uphold the law and serve/protect all members of its community (and beyond) from harm

**11. FREEDOM OF INFORMATION (FOI)**

11.1. Public disclosure of this policy document is determined by the Force Policy Co-ordinator on agreement with its owner. Version 2.2 of this policy has been GPMS marked as 'Not protectively marked'

11.2. Public disclosure does not automatically apply to supporting Force policies, directives and associated guidance documents, and in all cases the necessary advice should be sought prior to disclosure to any one of these associated documents.

Which exemptions apply and to which section of the document?	Whole document	Section number
None		

**12. TRAINING**

12.1. Training in the use of Community Resolutions was delivered in 2009 when the new approach was rolled out force wide. This policy maintains the same overall approach. Further training in the use of *Conditional* Out of Court Disposals and use of rehabilitation was delivered during 2015.

**13. PROMOTION / DISTRIBUTION & MARKETING**

13.1. This will also be in line with the new Community Justice approach.

**14. REVIEW**

14.1. The Policy business owner Central Justice Services maintain outright ownership of the policy and any other associated documents and in-turn delegate responsibility to the department/unit responsible for its continued monitoring.

14.2. The policy should be considered a 'living document' and subject to regular review to reflect upon any Force, Home Office/ACPO, legislative changes, good practice (learning the lessons) both locally and nationally, etc.

14.3. A formal review of the Policy document, including that of any other potential impacts i.e. EQIA, will be conducted by the date shown as indicated on the first page.

14.4. Any amendments to the Policy will be conducted and evidenced through the Force Policy Co-ordinator and set out within the version control template.

**NOT PROTECTIVELY MARKED**

- 14.5. Feedback is always welcomed by that of the author/owner and/or Force Policy Co-ordinator as to the content and layout of the policy document and any potential improvements.



**CHIEF CONSTABLE**

**15. VERSION HISTORY**

Version	Date	Reason for Change	Amended/Agreed by.
Draft Final version 1.0	16/07/2012	New Force Policy, approved by CC Sims	Insp. Hobday
Draft Revised version 2.0	11 Feb 2013	Review of current performance and new national guidance	Insp. Hobday
Draft 3.0	8 <sup>th</sup> March 2013	Draft for further internal consultation	Insp Hobday
Draft 4.0	28 <sup>th</sup> March 2013	Updated in response to feedback to internal consultation	Insp Hobday
V.1.0 Draft V 4.1	19/08/2013	Added review date, policy implementation date and sig	56408 Couchman
V1.2	21/10/2013	Policy amended/updated	Insp Hobday
V1.2	21/10/2013	Wrong ACC on initial policy – have amended	56408 Couchman
V2.0	18/06/2015	Policy re-drafted and overhauled – legislative changes, Need for procedural clarification and re-focus on offender reduction	Insp Joyce
V2.1	22/1/2016	Guidelines for shop-theft and 8.11 (police acting as go-between for exchange of reparation) added.	Insp Lloyd
V2.2	18/02/2016	Minor grammatical/typing error amendments suggested by ACC Foulkes before approval	Insp Lloyd

16. **APPENDIX A – Supporting Documents**

**Supporting Documents, Policy**

- The Directors Guidance on Charging – 4<sup>th</sup> Edition 2011
- Authorised Professional Practice: Case Management and Prosecution, Module III Justice Outcomes (under construction)
- ACPO Out of Court Disposal Framework
- The Sentencing Guidelines Council – Overarching Principles, Sentencing Youths, Definitive Guidelines 2009
- ACPO Guidance on the Use of Community Resolutions 2012
- ACPO Guidelines on the Investigation, Cautioning and Charging of Knife Crime Offences 2012
- CPS Guidance on Knife Crime Offences 2008
- WMP Positive Justice Policy
- WMP Combined Cautioning Policy
- WMP Penalty Notice for Disorder Policy
- Part I Order 7/2009 – Proportionate Investigations
- WMP guidance – Disclosure Issues for Police Disposals
- Home Office’s Anti-social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers Statutory guidance for frontline professionals

**Supporting Documents, Other**

- ACPO Memo Dec 2012 R v Killick and the Right of a Victim to Request a Review of a Decision Not to Prosecute
- Criminal Law Review 2012 – ‘Finality in Criminal Justice – When should the CPS Reopen a Case?’ by Kier Starmer
- Ministry of Justice Green Paper ‘Breaking the Cycle – Effective Punishment, Rehabilitation, and Sentencing of Offenders’ 2010
- Ministry of Justice White Paper ‘Swift and Sure Justice’ 2012
- ‘Primary Justice – an Enquiry into Justice in our Communities’ All Party Parliamentary Local Government Group 2009
- ‘Exercising Discretion: The Gateway to Justice’ CJI Inspection Report 2011
- NPIA National Decision Making Model 2012
- The Independent Commission on Youth Crime and Anti-Social Behaviour 2010
- HMCPSI Thematic Review of Youth Offender Casework 2011
- WMP ‘Tackling Youth Crime: a Review of the Forces Approach to Youth Crime and Recommendations for Improving it’ Pickles 2012
- Home Office ‘Assessing Young People In Police Custody: An Examination of the Operation of Triage Schemes’ 2012
- Audit Commission Youth Justice 2004 – A Review of the Reformed Youth Justice System
- ‘Differential Treatment in the Youth Justice System’ Equality and Human Rights Commission 2010

**NOT PROTECTIVELY MARKED**

- ACPO and YJB 'The YOT Police Officer Review and Role Development' 2010
- HMCS and YJB 'Making It Count in Court' 2009
- Home Office 'Putting Victims First' More Effective Responses to Anti-Social Behaviour' 2012
- 'Changing Futures' Birmingham's Strategy for Addressing Crime and Anti-Social Behaviour Committed by Young People – 2010 and Beyond
- House of Commons Justice Committee – 'Cutting Crime, The Case for Justice Reinvestment', 2010
- 'Our Vision for Safe and Active Communities' Baroness Newlove 2011
- CJS 'Engaging Communities in Criminal Justice' 2009
- Ministry of Justice Report on the Governments Strategy for Diverting Women Away from Crime 2009
- Home Office Consultation on a Revised Framework for Recorded Crime Outcomes, 2012
- 'Why Invest?' How Drug Treatment and Recovery Services Work for Individuals, Communities and Society, NHS leaflet
- Restorative Justice – an Overview, Marshall 1999 for the Home Office
- 'Facing Up to Offending – the Use of Restorative Justice in the Criminal Justice System' CJI 2012
- ACPO Restorative Justice Guidance and Minimum Standards 2010
- NOMS 'Better Outcomes Through Victim Offender Conferencing' 2012
- Ministry of Justice Restorative Justice Action Plan for the Criminal Justice System 2012



## 17. APPENDIX B

### Guidelines for use of Out of Court Disposals in shoplifting cases only

The following guidelines are issued to regulate the use of Out of Court Disposals for Shop theft. They are intended to ensure that victims and offenders receive a consistent and equitable service across WMP and that the objective of disposals is to reduce reoffending.

Out of Court Disposals are:

- Community Resolutions
- Conditional Community Resolutions (with referral into a rehabilitation pathway)
- Cautions
- Conditional Cautions (with referral into a rehabilitation pathway)
- Penalty Notices for Disorder

Offenders who already have more than one previous conviction or offenders who deny guilt are not eligible for Community Resolutions or Cautions / Conditional Cautions - they should be dealt with according to the evidence available.

#### 1. Aggravating Features

Under the Magistrates Sentencing Guidelines, the following aggravating features could increase the minimum sentence at court to at least a higher level community order. An Out of Court Disposal will not be appropriate if any of these features are present.

- Going Equipped to steal
- Evidence of pre-planning
- 2 or more offenders involved where this offender played a leading role
- Adult using a child to commit crime
- Threats or violence used
- Breach of trust
- Deliberate targeting of a vulnerable victim
- Previous convictions

#### 2. Value

The disposal of high value offences by means of community resolution has the potential to reduce public confidence in policing and encourage offenders to reoffend. The following values have therefore been agreed for each disposal type.

<b>Offence Value</b>	<b>Disposal</b>
<b>Under £50 – no aggravating features*</b>	<b>Simple Community Resolution</b>
<b>Under £150 – no aggravating features*</b>	<b>Conditional Community Resolution / Caution</b>
<b>Over £150 or lesser amount with aggravating factors*</b>	<b>Conditional Caution or charge</b>

As a result of these guidelines, a Simple Community Resolution, should not be given for offences over £50. Above this sum, the minimum disposal should be a Conditional Community Resolution with referral into appropriate rehabilitation / help – this may be in addition to the victim's wishes if different. Common rehabilitation referrals include (not exclusively) drugs / alcohol / debt advice or the Victim Awareness Course.



## NOT PROTECTIVELY MARKED

There are no lower limits so a conditional caution could be given for an offence under £50 if appropriate (eg small shopkeeper targeted, offender with previous disposals)

### 3. Previous Disposals

- Offenders should receive no more than one **unconditional** community resolution
- Conditional Community resolutions can be given to offenders who have had **one** previous community resolution as long as a referral is made with the potential to modify offending behaviour.
- It is not appropriate to give a community resolution to an offender who has already received 2 or more community resolutions or **any** PNDs / Cautions / Conditional Cautions / Convictions.
- One previous conviction should not preclude a conditional caution providing the offender is assessed and a referral is made with the potential to modify offending behaviour (eg drug treatment / Victim Awareness Course).