

# Community Resolutions

## **Executive Summary:**

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

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.

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 provided they make amends to the victim.

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.

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 force's 'Positive Justice' policy which provides more guidance on the decision making process in all prosecutable cases.

## **Approved Professional Practice (APP):**

*(\*delete as appropriate)*

- This policy has been checked against APP. West Midlands Police has adopted the APP provisions, with supplementary information contained herein, which reflects local practice and the needs of the communities served by West Midlands Police.

Those provisions are shown in the links below and can be accessed via the home page of the APP website

[APP CONTENT](#)

## **Policy Statements:**

### **KEY REQUIREMENTS**

- 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.
- The victim should not only support the use of a Community Resolution but should have a say in what the required action will be.
- Community Resolutions cannot be used to deal with serving prisoners.

- In order to classify a report of crime as having been resolved by way of Community Resolution **all the following essential elements must be present:**
  - A criminal offence (recordable or non-recordable)
  - The officer dealing with the case 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 (the [WC201R](#) is the most appropriate record, signed by the offender)
  - 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.
- In exceptional circumstances, such as the victim or offender not living in the West Midlands, consent for the Community Resolution may be communicated by email.
- The completed [WC201R](#) should be emailed to the victim or offender so that it is clear to them what they are consenting to
- The entire email string should then be scanned into Crimescan for future audit purposes.

## INTERVIEWS

- In discussing Community Resolutions with offenders, officers should be mindful of [PACE](#) and rules relating to subject 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](#).
- 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 subject 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.

## OFFENCES

- 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 classed as indictable only.
- Where the offence would result in a custodial sentence at court, a Community Resolution should not be used.

- It is important to recognise that some more serious offences might be suitable for a Community Resolution where exceptional circumstances apply.
- Any officer may authorise a Community Resolution for standard authority offences.
- In a custody environment the appropriate authority is the Custody Officer/Team Sergeant
- For enhanced authority cases authority must be given from an Inspector or above, for sexual or domestic abuse offences, a specialist PPU Inspector or above must authorise the use of a Community Resolution.

Standard Authority	Enhanced Authority
<ul style="list-style-type: none"> <li>• Public order offences 4, 4A and 5</li> <li>• Lower value criminal damage</li> <li>• Common assault</li> <li>• Low value theft</li> </ul> <p><i>Excluding breach of trust, evidence of preplanning or other aggravating factors - See appendix B for more comprehensive disposal guidelines for shop theft)</i></p>	<ul style="list-style-type: none"> <li>• Indictable only offences</li> <li>• Assaults that would be charged as ABH and above</li> <li>• Sexual offences</li> <li>• Robbery</li> <li>• Burglary offences</li> <li>• Partner &amp; ex-partner domestic abuse</li> <li>• Hate crime</li> <li>• Vulnerable victims</li> </ul>

#### Domestic Abuse

- Community Resolutions will not normally be suitable for intimate-partner domestic abuse cases, however, where the CARA or an drug/alcohol course is available one may be offered in the following circumstances:
  - A DASH/DARA has been completed with the victim and judged to be standard or medium risk
  - The offender has been interviewed and fully admitted the offence, expressing remorse
  - The offender agrees to attend the intervention course
  - The victim is unwilling to attend court but supports a Community Resolution
  - There is no allegation or suspicion of coercive control which could affect the victim's decision.
  - The Community Resolution is authorised by a PPU Inspector or above.
- If the Community Resolution is breached, the offender should be given a simple caution and biometrics taken if the offence is recordable.

#### 2020 Possession of Controlled Drug Pilot

- During 2020 a 'public health' approach to possession of controlled drugs will be rolled out across the West Midlands Police area.
- This pilot will sit outside of the standard Community Resolutions policy.

- In areas where the pilot is operational the following will apply:
  - An offender found in simple possession of a controlled drug (any type) will be offered a Community Resolution providing they agree to attend the intervention course offered
  - The above will apply even if the offender has previous convictions or OOCs for drug possession
  - An officer can offer a Community Resolution as long as there is no suspicion of Possession with Intent to Supply (PWITS)
  - A Community Resolution can apply if an offender is initially arrested on suspicion of PWITS but following investigation it is decided there is insufficient evidence to prosecute for that offence and the quantity could reflect personal use.  
**THESE ARE EXCLUDED OFFENCES AND A DECISION TO OFFER A COMMUNITY RESOLUTION IN THESE CIRCUMSTANCES WILL REQUIRE AN INSPECTOR'S RATIONALE AS TO WHY A COMMUNITY RESOLUTION IS FELT TO BE APPROPRIATE. IF APPROPRIATE AN INTELLIGENCE LOG SHOULD BE SUBMITTED TO OUTLINE THE GROUNDS FOR THE INITIAL SUSPICION OF PWITS.**
- An offender may be given multiple Community Resolutions for possession of a controlled drug provided they continue to agree to attend the intervention and do not breach the condition.  
*It is recognised that offenders may need to attend the course several times before changing their behaviour)*
- No action will be taken against offenders who breach, however, a note should be made on CORVUS and that offender will not be eligible for future Community Resolutions. Normal criminal justice sanctions will apply according to the type of drug.

#### EXCEPTIONS

- Offenders eligible for the DIP programme, who are committing crime in order to fund a Class A drug addiction or who fail a discretionary drug test in custody. These offenders should still be referred into the DIP.
- Offenders who appear to be involved in dealing drugs – this may be indicated by the quantity in their possession or cash/weapons they are carrying.
- Offenders arrested for other serious offences at the same time as their arrest for drugs e.g. robbery, possession of weapons.

#### **YOUTH CASES**

- Cases involving youths offer a valuable opportunity to address poor decision making skills at an impressionable age and background checks by YOS may also reveal factors which could lead to reoffending such as ACEs.
- Conversely a failure to refer young offenders to YOS, particularly for more serious offences, represents missed opportunities to turn around a young life.

- The LA based YOS have different capacity for intervention, as a result there is a minimum service level agreement that investigators refer offenders for second and subsequent offences, however, several YOS prefer to be notified of all youth offenders.
- **REFERRALS TO YOS SHOULD BE MADE PRIOR TO A DISPOSAL DECISION BEING MADE – THE COMMUNITY RESOLUTION SHOULD NOT BE GIVEN UNTIL THE YOS HAVE AGREED.**
- The restriction to second and subsequent offences should be treated as referring to summary only cases only.
- The more serious the offence (even first offences) the greater the presumption should be to refer the case to the YOS for a decision and request an intervention.
- All indictable only offences which are not submitted to CPS for a charge decision, should be submitted to YOS with a rationale by an Inspector or above, outlining why it is considered suitable for an out of court disposal.
- It should be emphasised that indictable only offences will only be suitable for Community Resolution in exceptional circumstances which should be documented by an Inspector and the decision made in conjunction with YOS.

## RESOLUTIONS

- 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
- The victim is not limited to the options listed in the Community Remedy document, they may request an alternative form of activity from the offender to which officers should give due consideration.
- There may be occasions where the victim wants the offender to complete a specific action, but the offender or offence is deemed unsuitable. Officers should consider if the use of a Conditional Caution is more appropriate.

*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.*

- 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 in the Community Resolution.  
(e.g. If the victim chooses reparation the Community Resolution should specify £20 to be paid by the offender to the victim)
- 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.

## RESTORATIVE JUSTICE (RJ)

- Where RJ 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.

- The offender will only be considered to have successfully participated in RJ if they attend, engage and participate appropriately in the process
- Offenders need to understand that they will be required to participate fully in the process to satisfy the terms of their resolution.
- For further details and guidance on RJ, please see the [WMP Restorative Justice](#) intranet page

#### WARNING AND AGREEMENT

- Most applicable in the context of neighbourhood/ASB matters where the crime in question is part of a wider pattern of behaviour.
- It is not sufficient that the offender makes a general promise not to commit future offences.
- The resolution would be complete once the offender has been warned and had signed an Acceptable Behaviour Contract (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, as the resolution is the signing of the ABC.

#### REPARATION

- 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 caused.
- Reparation can also be indirect and could be to benefit the wider community, such as participation in an organised litter pick in a local amenity.
- Officers should not agree to be intermediaries for the exchange of money between victims and offenders.
- Money should be paid directly to the victim or given to an agreed third party (trusted family member or friend)

#### **REHABILITATION**

- Rehabilitative activities 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

- Community Resolutions offer an opportunity to 'lever' offenders into interventions delivered by partner agencies.

### **PREVIOUS DISPOSALS/FURTHER OFFENCES COMMITTED**

- Due to the lack of a criminal record, it is not appropriate to issue multiple Community Resolutions.
- There may be occasions where a suspect has a previous disposal and have now gone on to commit a further offence, the repeat offending suggests a developing pattern of behaviours rather than an isolated mistake.
- A second Community Resolution could only be justified and offered if it includes as a **mandatory part of the agreement** a requirement that the offender engage in some form of rehabilitative diversion or structured activity.
- 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 financial debt counselling)
- The requirement is not met by securing general agreement from the offender that they will 'get help' for their offending; likewise, neither will general signposting to partner agencies suffice.
- As a rule an offender should not receive more than two Community Resolutions, the maintenance of public confidence in the justice systems requires that any subsequent offending be met with a formal sanction which appears on the offenders criminal record.
- If there are exceptional circumstances which merit a third Community Resolution, the express authorisation from the Force Crime Registrar will be required prior to a Community Resolution being administered.

### **Definitions/Acronyms:**

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

**“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.

**“...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

**“...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.

### **Acronyms**

ABH – Actual Bodily Harm  
 PACE – The Police & Criminal Evidence Act 1984  
 PPU – Public Protection Unit  
 RJ – Restorative Justice  
 PWITS – Possession With Intent to Supply  
 CORVUS – Police Intelligence System  
 ASB – Anti Social Behaviour  
 YOS – Youth Offending Service  
 LA – Local Authority  
 CPS – Crown Prosecution Service  
 ABC – Acceptable Behaviour Contract  
 DIP – Drugs Intervention Programme  
 CARA – Cautioning and Relationship Abuse  
 DASH – Domestic Abuse, Stalking and Harassment  
 DARA – Domestic Abuse Risk Assessment  
 O OCD – Out of Court Disposal

### **Procedural Guidance Documents List:**

- **Guidelines for use of Out of Court Disposals in Shoplifting**

### **Publication Instructions:**

*(\*delete as appropriate)*

- Suitable for publication to public

**Policy Ref: CRIME/02**

**Version: 1.0**

**Date: 02/04/2020**

**Review Date: 02/04/2022**



**Policy Author: Nicola Lloyd**

**Policy Contact: Nicola Lloyd**

*Any enquiries in relation to this policy should be made directly with the policy contact shown above.*

**Force Executive Approval:**

A handwritten signature in blue ink that reads "D. Thompson." The signature is written in a cursive style with a horizontal line above the first letter "D".

**CHIEF CONSTABLE**

**Monitoring and Review**

DRAFT

Version	Date Reviewed	No change / Minor Changes / Major Changes ( <i>detail</i> )	Amended / Agreed by	New review date