

## APPENDIX B

### Community Remedy

#### Introduction

Section 101 of the Anti-social Behaviour, Crime and Policing Act 2014, is designed to place the victim at the heart of decision making and requires the Commissioner and Nottinghamshire Police to consult with community members and Partners relating to the use of Community Remedy.

This document is required legally to provide guidance aimed to support and guide activity between the Police, victims of crime and anti-social behaviour, communities and offenders in delivering community remedy through the use of Out of court Disposals. Should supporting partnership agencies want to take cognisance of the document outcomes to support wider performance delivery and victim care they may do so, but this document contains specific community opinion aimed to enhance community remedy delivered by Nottinghamshire Police.

The document will undergo continuous assessment regarding the use of Community Remedy within certain crime types whilst ensuring the changing views of victims and communities are represented and reflected. Since the legislation is new there are likely to be sceneries occur which will require amendments to this document.

Anti-social behaviour and low-level crime affects people's lives on a daily basis, it matters to the victims and communities of Nottinghamshire. Dealing with Anti-social behaviour is a multi-agency responsibility due to the wide range of behaviours that are involved, from vandalism, street drinking to noisy and abusive neighbours and the Community Remedy document will be used to enhance the existing processes to deliver community resolutions and conditional cautions.

Although there are other Out of Court Disposals available to the Police, such as cautions and fixed penalty notices, only conditional cautions and community resolutions allow for additional reparation in consultation with the victim to be made.

The document is a list of options which might be appropriate to be carried out by a person who has engaged in anti-social behaviour or who has committed a low level offence and is suitable to be dealt with by means of a community resolution (CR) or conditional caution (Youth or Adult).

The Community Remedy is a means of consulting the victim about any possible conditions to be attached to their resolution. The legislation does not specify what actions should be included in the Community Remedy document; however, this document will specify the community opinion.

Each of the activities undertaken must, help to improve public confidence in the use of out of Court disposals and must be compatible with the perpetrators human rights. Each of the actions must have a:

- Punitive element; reflecting the effects on the victim and wider community; or
- Reparative element; achieving appropriate restitution/reparation to the victim; or
- Rehabilitative element; helping to address the causes of the perpetrators behaviour; or
- Combination of all of the above

The victim's involvement with the community remedy is completely voluntary and the victim must be made to feel that they are central to the decision making process. If the victim does not feel as though they want to take part in the community remedy it is for the officer in the case to choose an appropriate professional action, taking into consideration the victim wishes.

An officer must have evidence that the person has engaged in anti-social behaviour or committed an offence; the perpetrator must admit to the behaviour and agree to participate in a community remedy.

Specifically relating to anti-social behaviour, Section 2 of the Anti-Social Behaviour, Crime and Policing Act 2014 defines ASB as follows:

- a) Conduct that has caused, or is likely to cause, harassment, alarm or distress to any person
- b) Conduct capable of causing nuisance or annoyance to a person in relation to that person's occupation of residential premises, or
- c) Conduct capable of causing housing related nuisance or annoyance to any person

## **Strategic Intention**

Through increased use of Community Resolution (CR) and Restorative Justice (RJ) we aim to increase officers' professional judgement, to enable swift resolution to anti-social behaviour and crime, empowering victims to have a greater voice and influence over the reparative outcomes of incidents, increasing victim satisfaction, whilst aiming to prevent re-offending through early intervention.

**\*\* Please note this is the current Police Community Resolution strategy.**

### **Community Remedy and Community Resolutions:**

- When dealing with anti-social behaviour or low level offences through a community resolution, the Police officer will use the Community Remedy document as a means to engage the victim in having a say in the punishment of the perpetrator
- If the officer considers that the action chosen by the victim is appropriate, the perpetrator should be asked to carry out that action
- The Police officer will have ultimate responsibility for ensuring that the action offered to the perpetrator is appropriate and proportionate to the offence
- If there are multiple victims, the officer should make all reasonable efforts to take all of their views into account – the officer will make the final decision based on their professional assessment as to the appropriate outcome if the views of the victims differ
- The officer needs to ensure the victim understands the purpose of the Community Remedy and that it is entirely voluntary, this will help ensure the victim has realistic expectations as to what can be achieved
- The victim must be informed that they do not have to be involved in the Community Remedy if they don't wish to be
- The resolution may not be legally enforceable if the perpetrator fails to complete the agreed action. However, the offender should be warned at the outset by the officer that any failure to take part in this Out of Court procedure may lead to the case being referred to the Crown Prosecution Service (CPS) otherwise the Community Remedy scheme may fall into disrepute
- The victim does not need to meet the perpetrator in order to choose an action
- Victims under 18 or vulnerable, may require a family member or appropriate adult to assist them in understanding the purpose of the community remedies and to choose an action, if the victim is unavailable then wider consultation with the community (i.e. ward members) may be appropriate
- If the victim is not contactable, or there is no apparent victim i.e. Regina offences the officer will choose the appropriate action in line with community opinion held within the document

- Officers should continue to follow the current guidance for when it is appropriate to use community resolutions, and ensuring the correct authority is sought prior to issuing a community resolution
- When dealing with youth offenders, consideration should be given for a referral to the Youth Offending Team (YOT) in order for further preventative measures to be undertaken with the young person to provide ongoing support and intervention
- It will be the responsibility of the Officer in the Case (OIC) to ensure the compliance/completion of the community remedy, this will then form part of the future community remedy tender

### **Community Remedy (Resolution) and Conditional Cautions:**

- The Community Remedy document should be considered when it is proposed that a perpetrator be given a community resolution, conditional caution or youth conditional caution to aid consultation with the victim about the possible conditions to be attached to the outcome
- Conditional cautions are available for all offences except domestic violence and hate crimes
- Youth conditional cautions are available for any offence except for domestic violence or hate crime which scores 4 on the ACPO Gravity Matrix
- Ensuring the correct authority has been sought for a conditional caution;
  - A Sergeant may authorise a conditional caution for an adult for all summary only and either way offences
  - A Sergeant should refer a youth for consideration of a Conditional Caution to the YOT

**There are a number of current options available to officers and options which have been included in the Community Remedy document (this list is not exhaustive) and ongoing consultation with victims and offenders to provide relevant pathways:**

- A written or verbal apology
- Mediation in order to solve a neighbour dispute
- Restorative Justice activity

- Compensation to the victim, whether for damages, repair or replacement of stolen property (in line with DPP guidance for Conditional Cautions)
- Cleaning graffiti
- Reparation to the community (unpaid local work for a short period)
- Educational or rehabilitative courses
  - “Last Orders” for alcohol related crimes
  - Holocaust Centre for Hate Crimes (Mansfield & Ashfield)
  - Substance Misuse (County division)

Nottinghamshire Police is currently looking at designing and developing its own educational and diversionary packages in consultation with the PCC.

- The perpetrator signing an Acceptable Behaviour Contract (ABC) – where they agree to improve their behaviour, in the future or face more formal consequences, consideration should also be given when the perpetrator has signed an ABC of notifying the relevant Local Authority to assist in monitoring and supporting compliance of the contract.

### **Current Public Opinion of Community Remedy**

There are concerns that having a prescriptive list of options will stifle officer’s innovation and aptitude for developing bespoke remedies to suit specific victims, there is a necessity to make officers aware that the list is not an exhaustive list and other options may be available to them or that options can be tailor made to a specific case.

The Restorative Justice Council welcomes the Community Remedy but that it should be offered as part of a restorative justice approach rather than it being part of the menu of options. They recommend that the Community Remedy and the options selected should be used as a means of opening a dialogue between the victim and offender, thereby using a restorative justice approach rather than it being a remedy. Officers may wish to ask an offender what they consider to be an appropriate remedy – however the victim’s preference is paramount.

Nottinghamshire Police has already allayed some national fears from the Magistrates Association and wider partner agencies in relation to the use of out of court disposals. Through the utilisation of dedicated decision makers and partnership involvement in the scrutiny panel for out of court disposals, which is attended at Chief Executive level from CPS, Probation, Youth Offending Service, Magistrates and importantly Victim Support, all of which

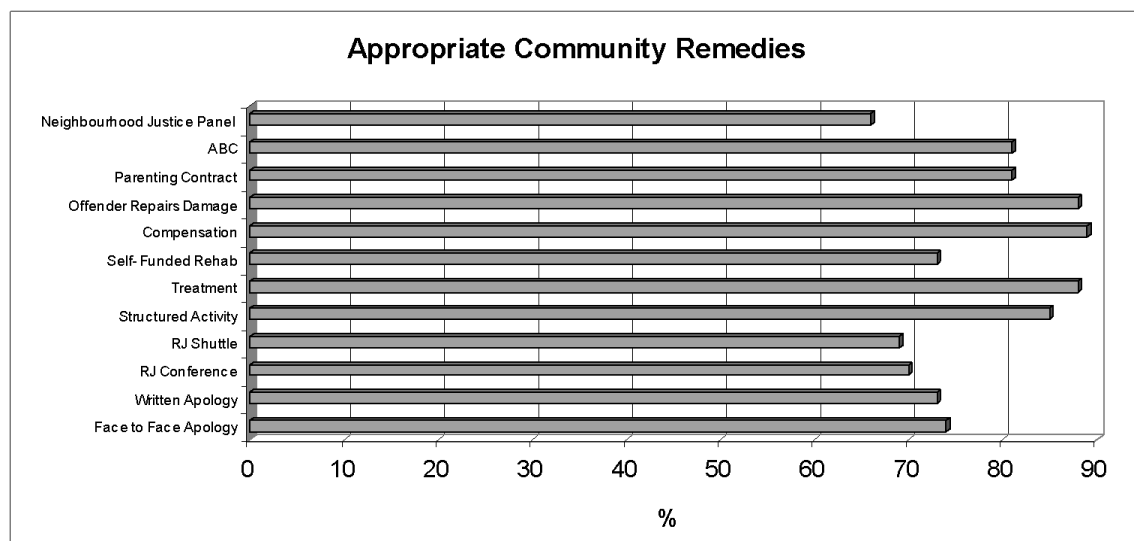
can assess Nottinghamshire's use of out of court disposals. The Community Remedy will form part of this scrutiny panel.

The Commissioner's Office (OPCC) has already conducted a community consultation within Nottinghamshire to establish the thoughts and understanding of Restorative Justice and Community Remedy by the public and whether they think it's appropriate and under what circumstances it should be used. Specifically this activity took place during a number of key events across the County during 2014, whilst further work is underway in order to ensure regular notification of future views electronically and in person.

The most common remedies that have been identified by the public are:

- Face to Face apologies
- Written apologies both of which are already available to victims through the Community Resolution disposal
- RJ Conference
- RJ Shuttle which is currently undertaken by Constables and PCSO
- A structured activity, training or treatment – for example through the use of the Substance Misuse Course and "Last Orders" (the development of further educational programmes is ongoing work with the OPCC)
- Compensation (again which is already utilised through the Conditional Caution and Community Resolution although on a lower scale)
- Neighbourhood Justice Panels – further work in relation to who would participate on a Justice panel is being conducted by the OPCC

The consultation showed that the following types of remedies would be deemed most appropriate and acceptable by the communities within Nottinghamshire:

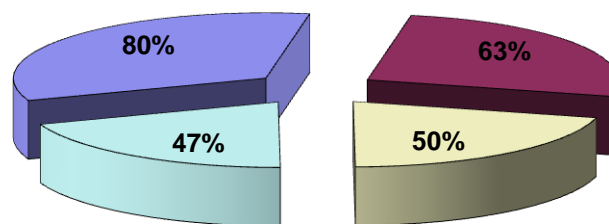




The consultation identified that offences such as low level criminal damage and low level theft were deemed to be the most appropriate for the use of Community Remedy, it also identified that the use of Community Remedy for offences such as minor assaults and anti-social behaviour are less supported by the public where they would prefer to see them dealt with within the Criminal Justice system, however there is still clear view that where the victim supports the activity of community remedy the approach can be utilised.

Those offences which were considered as appropriate to use the Community Remedy document can be shown in the table below:

**Types of Offences**



■ Low Level Criminal Damage ■ Low Value Theft ■ Minor Assaults ■ ASB

## Conclusion

The new legislation requires the victim to be at the centre of decision making when using Community Remedy and that it should be considered when dealing with low level offences. Officers should ensure that in partnership with their victim the most appropriate reparation is assigned to the offender and in line with current guidelines on the use of out of court disposals.

Community Remedy will be continuously reviewed to ensure that those remedies that are being offered are consistent with the views of the victim and the wider communities of Nottinghamshire e.g. where an offender has victimised a number of people, community remedy may not be appropriate.

Ensuring the victim is part of the decision making process will increase their confidence and further enhance the victim satisfaction and resolution.