

2017-2021



CHARGING AND OUT OF COURT DISPOSALS

A NATIONAL STRATEGY

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and Out of Court Disposals



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FOREWORD



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In 2017 we face the very real challenge of trying to reduce the risk to vulnerable people in our communities. As public servants we do this because we know that we cannot call ourselves a civilized society if we cannot achieve this.

You cannot address vulnerability solely by way of prosecution, it requires a more sophisticated and effective whole system approach where the Police Service are trusted as professional decision makers who can access a range of services in partnership from early intervention pathways, out of court disposals and where necessary, prosecution. Austerity dictates that we need to examine who does what and why, and who might be the best person to deliver an effective service.

This is important now because:

Victim Satisfaction – conditional out of court disposals allow victims to be involved in decision making and condition setting, the victims voice is heard and reparation is delivered

Quick and effective resolution – conditional out of court disposals can offer a timely end to an incident providing rehabilitation for

offenders and reparation for victims

Early intervention to prevent reoffending

– prison can be a place where there is exposure to more hardened and accomplished criminals, and therefore it can become a ripe place for criminal education, serious and organised crime, and radicalisation, rather than rehabilitation. Conditional out of court disposals provide rehabilitative opportunities to offenders to turn their life around at the earliest opportunity and before they find themselves in the Criminal Justice System and court process

Front End Decision Making and Reduced Costs in Process

– in 2016, 60% of adult offenders convicted of an either way or summary non motoring offence received a fine through the court, and a further 7.94% received a discharge or bind over; conditional out of court disposals can provide rehabilitative opportunities without the significant cost of court time

Addressing complex issues – high levels of offenders being dealt with have mental health issues, alcohol abuse problems and/or substance abuse problems – a whole systems approach is required to tackle this



CURRENT COMPLEXITY



FUTURE SIMPLICITY

Simplification – moving to a two tier framework of just two out of court disposals for adults provides a simplified framework for the public and practitioners to understand and work from, and will provide wider national consistency and scrutiny; simpler charging processes will allow more efficient and streamlined processes

Demand/Crime Profile – nationally there is a shortfall of Detective PIP2 investigators as the profile of crime is changing and more serious offences are being reported. A simplified framework and conditional out of court disposals provide efficient and effective processes for PIP1 investigators to deal with lower level offending whilst providing rehabilitative opportunities and reparation for victims, which allows PIP2 investigators to focus on serious and complex crime

Alignment to the Policing Vision 2025 – which focuses on early intervention and partnership work

Originally legislation had been expected as an enabler for the simplification of out of court disposals, unfortunately due to the requirements for legislation for Brexit this is not expected imminently. The National Police

Chiefs' Council have therefore decided to implement a simplified out of court disposals framework by way of strategy, and guidance from the College of Policing. It is important to stress that as there is no legislation, there is also no movement of funding to enable forces to assist in implementation; because of this, the National Police Chiefs' Council have agreed they are aligned to the out of court disposals and charging strategy as it will deliver alignment to the Policing Vision 2025, however forces will implement this when it is operationally and financially viable within each force area.

In 2016 I volunteered to take on the NPCC Portfolio for out of court disposals and charging because I believe that in suitable cases, early interventions and out of court disposals are appropriate alternatives to prosecution/prison sentences. I am hugely passionate about this area of policing and believe that working in partnership within the Criminal Justice System and outside is vitally important, from improving the flow of information, to simplifying decision making, improving transparency, and, ultimately, providing the best overall service to the public.

1. INTRODUCTION

- 1.1** Charging and out of court disposals cover a range of responses available to tackle criminality. These decisions are a fundamental part of the Criminal Justice System, whether they are made by the Police Service or by the Crown Prosecution Service.
- 1.2** Section 37A of the Police and Criminal Evidence Act 1984 provides that the Director of Public Prosecutions may issue guidance for the purposes of enabling custody officers to decide how people should be dealt with and as to the information to be sent to the Director of Public Prosecutions. This guidance identifies on which cases police can make decisions, and on which the Crown Prosecution Service must make the decision.
- 1.3** This charging and out of court disposals strategy is written to provide a national vision and strategic direction for disposal decision making across England and Wales, and to clearly set out the direction of travel for the Police Service. This strategy will be delivered by adhering to the strategic principles included within it, and implementing a delivery plan by working with forces and partners, acknowledging that forces will start at different points and will adopt this when it is operationally viable.



1.4 The strategy aligns to various policing and partner agency strategies including the Director of Public Prosecution's Guidance, and seeks to support recommendations and issues identified by Inspectorates and other bodies as well as drawing on learning and the evidence base which is already forming. Reference strategies are held on pages 18-21.

1.5 There is already commonality in both policing and partner agency strategies around:

- › Obtaining a shared picture of threat and risks to communities by sharing information and threat assessments

- › Protecting the vulnerable
- › Prevention and early intervention
- › Partnership working
- › Efficiency and effectiveness

This strategy aims to build on this strong foundation.

2. CONTEXT

OUT OF COURT DISPOSALS

- 2.1** Dealing with crime is a large part of the work the Police Service do and anything which can be done to prevent reoffending and increase victim satisfaction is vitally important. In the past the options for addressing offending were limited with very few alternatives to prosecution through the courts.
- 2.2** The situation has progressed substantially over the years with the introduction of a range of alternative outcomes, initially allowing police to deal with offenders by means of a simple caution (or youth alternative), and then evolving to the position we are in now where options include early intervention options, cannabis/khat warning, penalty notice for disorder (PND), community resolution, simple caution and conditional caution for adult offenders, and for youth offenders, community resolution, youth caution and conditional caution. Youth and adult offenders are rightly treated differently in legislation, which reflects the impact crime and intervention can have on their lives and the way it is managed.
- 2.3** Through the Out of Court Disposals Programme Board, The Ministry of Justice, working with the NPCC and other stakeholders has been actively reviewing the system for adult out of court disposals with the intention of making it more transparent to the public, more streamlined for officers and ensuring offenders always have conditions attached to the outcome,

focusing on rehabilitation and victim reparation.

There has been a substantial increase of offenders with mental health, drug and alcohol dependencies where therapeutic or rehabilitative interventions may be more appropriate as part of criminal justice sanctions or as an alternative.

As set out in the Corston report (2007), there is evidence that a different, women-specific approach is needed to address the often complex needs of female offenders. These should take account of the likelihood of abuse and higher prevalence of mental health issues amongst this cohort, and that many women are primary carers for children. Women-only services, such as the third sector Women's Centres, can play an important role.

- 2.4** The Out of Court Disposals Programme Board has proposed the two tier framework for adult offenders (youths are unaffected) where the options for out of court disposals are community resolution or conditional caution where rehabilitative, reparative, or punitive conditions are attached to each disposal. This would see an end to those disposals that are simply warnings not to reoffend.

A summary of the proposed framework follows and a more detailed version is on pages 22-23. Operational frequently asked questions are on pages 24-30.



Adult Community Resolution



Adult Conditional Caution



Prosecution

2.5 Whilst it appears there is no current prospect of legislation to establish the new framework, this provides policing with the opportunity to make changes and establish a clear evidence base. Those forces that are ready will already be on the front foot and those who are not yet ready to move to this model now have time to plan and ready themselves for implementation through a staged process.

2.6 There is a growing evidence base within policing including force initiatives such as Checkpoint in Durham Constabulary, Turning Point in West Midlands Police and CARA (Conditional Cautioning and Relationship Abuse) in Hampshire Police, that early intervention and diversion can be highly effective in preventing reoffending and increasing victim satisfaction. The final evaluation of CARA has recently been published however the evaluations of Turning Point, Checkpoint and the three pilot forces are awaited, and specifically evidence on value for money and how it

is proposed interventions are resourced if the Courts, National Probation Services, Community Rehabilitation Centres and Ministry of Justice are not to bear that burden. At this stage there is no additional funding available.

2.7 The Prison Reform Trust has recently made the case for early police intervention for female offenders. Many forces already have specific diversion options for female offenders as well as other cohorts including veterans, 18-24 year olds, people with mental health issues and those who misuse drugs and alcohol.

2.8 Some forces are also moving to a framework where the disposal decision is deferred in the same way as Checkpoint in Durham Constabulary which gives offenders the opportunity to work with professionals called Navigators to tackle the root cause of their offending. They are placed on a 4 month contract; if, by the end of that contract, they have done

all that is required and not reoffended, the matter is resolved by way of community resolution; if not, the offender may be prosecuted for the offence. In addition, The Rt Hon David Lammy MP has recommended that the use of the ‘deferred prosecution’ model piloted in Operation Turning Point by West Midlands Police should be rolled out for both adult and youth offenders across England and Wales. The key aspect of the model provides interventions before pleas are entered or admissions made. The final evaluation of Checkpoint and Turning Point is awaited however preliminary results look very promising. If this option is considered nationally following the final evaluation, it may be necessary to introduce an additional Home Office Outcome to reflect this deferred decision and how it is dealt with during DBS checks.

2.9 This strategy will seek to deliver changes in the way policing deal with out of court disposals, positioning the service so we are well prepared and leading these changes, and allowing forces to take an approach which is operationally viable and force specific.

2.10 There is a strong case to make that as we professionalise our policing response and become accredited practitioners, policing should have more autonomy to make decisions in all appropriate cases which are to be dealt with out of court. The work to achieve this should take place in partnership.

CHARGING/PROSECUTION DECISIONS

2.11 Historically, the Police Service was able to make decisions on whether a suspect should be charged on all matters. The

inception of the Crown Prosecution Service in 1986 brought about an independent body to review those decisions after charge in some cases and then moved to the CPS providing decisions to charge in many cases. The process of obtaining charging decisions has changed over the years, starting with local CPS completing this role, then moving into CPS Direct (CPSD) doing this nationally for standard cases then moving back to local CPS providing charging decisions in some areas. The process has also changed from an initial emphasis on “face to face” charging to telephone consultations and latterly to a digital process.

2.12 In the past some officers have seen long waiting times to obtain decisions. This may have been as a result of file quality issues, difficulties in some police forces around the digital transfer of material to the CPS, and times when demand for prosecutors exceeded the number available.

2.13 This strategy and partnership working will seek to further improve the situation around obtaining charging decisions, and will be based on a series of agreed principles which are shown on page 11.

RESTORATIVE JUSTICE

2.14 Restorative Justice (RJ) brings those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward. It is voluntary for both the victim and offender and the offender must have admitted responsibility for the harm caused. It can be used alongside any outcome, either as a condition for an out of court disposal or separately.

3. CHARGING PRINCIPLES

The following principles have been agreed by the National Police Chiefs' Council lead for Charging and Out of Court Disposals and the Crown Prosecution Service through the National Charging Board as a basis for future prosecution decision models:

1. The Police must provide the appropriate standard of file for the charging decision being sought
2. Files submitted by Police to the Crown Prosecution Service for a charging decision should meet the evidential standard for the required test (threshold or full code)
3. CPS will provide an immediate charging decision where the suspect is to be held in custody prior to appearing in court
4. Where a suspect is in police custody, the investigation meets the required full code test and the suspect is to be bailed prior to court, the CPS will provide charging advice if the case meets the agreed criteria for an immediate charging decision (criteria awaiting draft by the Charging Process Group)
5. The CPS will have a system to prioritise cases where there are less than 5 hours remaining on the PACE clock, where there is an appeal and cases of murder
6. CPS and police should work together to seek to better match resources and demand for general charging service
7. The police will alert CPS of significant pre planned events likely to impact on charging demand and the CPS will seek to ensure appropriate levels of resources are allocated
8. Where the CPS takes the decision to charge in line with the officer's recommendation, the prosecutor will provide minimal information. However where the matter is in contention, the CPS prosecutor will provide a full explanation
9. The appropriate level of police supervision will be given to files submitted based on complexity and seriousness
10. Both the CPS and Police forces will adhere to service level agreements
11. Files supporting requests for charging advice will be sent by TWIF or the IT interface, not via email, to achieve maximum efficiency

4. VISION

4.1 The strategic vision of the NPCC Portfolio for Charging and Out of Court Disposals is:



To achieve criminal justice outcome decisions that:

Involve victim
engagement

Are simplified for
the public and
practitioners

Are fair and
proportionate to the
criminality involved

Are designed to
reduce further
offending

Are consistent
across all
police forces

Allow officers
discretion within
national standards

5. STRATEGIC AIMS

The following strategic principles have been created which will inform the further development of this strategy and will be achieved through adherence to the delivery plan:



Victims are at the heart of decision making, are listened to and understood, are informed of action taken and their views are recorded



Out of court disposals have conditions attached to them which seek to address underlying offending behaviour through rehabilitative conditions and/or enable swift reparation to victims and communities



Systems are simple, streamlined and make the best use of technology



Decisions are made and obtained in a timely manner



Decisions are transparent, and involve independent and public scrutiny



Innovation is encouraged to reduce harm caused by reoffending



An evidence base is developed and maintained to assess what works, and this is easily accessible to all parts of the Criminal Justice System

6. DELIVERING THE VISION

WE WILL ACHIEVE THIS BY:

- a) Implementing the NPCC strategy for charging and out of court disposals; this strategy allows forces to move to the two tier framework when it is operationally and financially viable
- b) Listening to forces and leading on key issues for police around out of court disposals including funding and resourcing
- c) Developing an evidence base through evaluation of what works with out of court disposals to understand our needs and contribute to driving reform
- d) Working collaboratively to ensure a smooth transition for the Police Service as changes occur to the out of court disposals framework
- e) Working collaboratively with Police and Crime Commissioners to identify interventions which address local needs through the development and consultation on the Community Remedy document
- f) Working with the Crown Prosecution Service, Home Office, Ministry of Justice and other key stakeholders to allow the Police Service greater autonomy in out of court disposal decision making
- g) Working with the government to achieve national agreements where possible with key partners in the area of early intervention and out of court disposals, and in particular Liaison and Diversion services who will provide information to the police and CPS to make more informed decisions

7. KEY STAKEHOLDERS

Government Departments including Ministry of Justice (MOJ), Home Office (HO)	Judiciary/Magistracy
Attorney General's Office (AGO)	Department for Communities and Local Government (DCLG)
Crown Prosecution Service (CPS)	Public Health England (PHE) and National Health Service (NHS)

- h)** Identifying opportunities to reduce disproportionality to Black, Asian and Minority Ethnic (BAME) communities, victims or offenders
- i)** Working with partners to ensure a woman-specific approach to female offenders
- j)** Working collaboratively with the College of Policing to develop the necessary standards, knowledge and educational products to support reform ensuring the Victim Code is reflected and consultation with the victim takes place
- k)** Working collaboratively to provide clear national guidance on independent out of court disposal scrutiny panels
- l)** Working in partnership with the Crown Prosecution Service in the area of pre-charge decisions to improve performance and identify good practice and learning
- m)** Working collaboratively with the Crown Prosecution Service to develop an efficient and effective framework and process by which to obtain prosecution decisions, and specifically to understand language and terminology, provide quality information, provide timely decisions, reduce duplication, simplify and streamline processes, make the most of technology, be proportionate and recognise/respond to threat, harm and risk
- n)** Creating a new joint national charging agreement between the Crown Prosecution Service and Police Service that provides the most efficient and effective charging model for all CPS areas and Police Forces in England and Wales, and recognises threat, risk and harm
- o)** Agreeing a series of principles with the Crown Prosecution Service which will form the basis for future models to obtain prosecution decisions, and will be a consideration for the Crown Prosecution Service when publishing Directors Guidance.

College of Policing (COP)	Victims Commissioner
National Criminal Justice Board (NCJB) and Youth Justice Board (YJB)	Victim representative groups
Police and Crime Commissioners (PCC) / Association of Police and Crime Commissioners (APCC)	Independent Advisory Groups (IAG)
Her Majesty's Inspectorate of Constabulary (HMIC)	Third Sector Providers

A detailed stakeholder map has been created to capture how these groups will be engaged in further developing and taking forward this strategy, see pages 32-33.

8. CRITICAL SUCCESS FACTORS

- a) Better outcomes for victims and reduced reoffending
 - b) A national increase in the use of Community Resolution and Conditional Caution for adult offenders with a much greater focus on offender rehabilitation and victim reparation
 - c) There is a focus on prosecuting those who have committed the most serious crimes and those who pose a significant risk of threat/harm
 - d) The majority of forces have moved towards the two tier framework as far as possible without legislation
 - e) Greater autonomy in out of court disposal decision making for the Police Service, specifically for Conditional Cautions for Domestic Abuse and Hate Crime if an evidence base is developed showing the benefits of such an approach
 - f) Out of court disposal options that are simple to apply and enable discretion to be exercised in a straight forward way
 - g) Clear and simplified guidance is available for out of court disposals and when they may be appropriate
 - h) The Victim Code is complied with and victim consultation takes place prior to the disposal decision, and that those views are recorded
 - i) A clear framework for out of court disposals and charging decisions is available which is supported across the Criminal Justice System and the community, linking police in with key local services that can support offenders and identify/address possible causation factors that contribute to the offenders actions
 - j) Liaison and Diversion Services are easily accessible through simple processes for all suspects whether in custody or not
 - k) All forces have effective out of court disposal scrutiny panels with independent members to increase transparency to the public
 - l) The availability of a growing evidence base of what works to prevent reoffending, reduce harm and increase victim satisfaction, underpinned by academic research, which leads change within the police service and enables policing to continually understand good practice
 - m) Officers submitting good quality files through an efficient and effective mechanism to obtain timely prosecution decisions in a way that supports victims and witnesses
 - n) Officers having priority access to CPS Lawyers for those prosecution decisions which affect the most vulnerable and cause the most harm
 - o) Service Level Agreements between the Crown Prosecution Service and Police Service are adhered to
- These success factors will be monitored by the Charging and Out of Court Disposals portfolio through the Out of Court Disposals Programme Board (multi-agency) and sub Working Group, and the National Charging Board/Charging Review Working Group in conjunction with Criminal Justice Partners and the Ministry of Justice. As these changes embed it is expected this will be reflected in the number/type of out of court disposals being delivered, victim satisfaction rates, public perception and a long term ongoing effect on reoffending rates.

9. GOVERNANCE

Governance will be provided through:

The National Police Chiefs’ Council Criminal Justice Coordination Committee
The National Charging Board and sub groups thereof
The Out of Court Disposals Programme Board
Association of Police and Crime Commissioners (APCC)
Local Criminal Justice Boards
Local Police and Crime Commissioners
Heads of Criminal Justice

The Governance structure will evolve as we move to implementation stage.

Strategic Risks and mitigation are on pages 28-31

ANNEX A

REFERENCE MATERIAL AND STRATEGIES

NATIONAL POLICE CHIEFS' COUNCIL

National Police Chiefs' Council Policing Vision

2025 – providing an overview of the strategic direction and priorities for policing nationally working towards the mission statement:

To make communities safer by upholding the law fairly and firmly; preventing crime and antisocial behaviour; keeping the peace; protecting and reassuring communities; investigating crime and bringing offenders to justice

www.npcc.police.uk/documents/Policing%20Vision.pdf

National Police Chiefs' Council Criminal Justice Strategy – providing the strategic direction for the Criminal Justice portfolio.

National Police Chiefs' Council Custody Strategy – providing strategic direction for custody nationally.

National Police Chiefs' Council Case File

Quality Strategy – providing strategic direction in the area of case file quality. Currently in draft format.

National Police Chiefs' Council Better Understanding Demand

– Policing the Future – providing findings that the work of the Police Service cannot be viewed in isolation but is part of the wider system of Public, Private and Voluntary Sectors working together as a whole to deliver public safety.

polka.pnn.police.uk/en/Communities/Documents/?clubId=407&file=Better%20Understanding%20Demand-Policing%20the%20Future%20-%20Final.docx



CRIMINAL JUSTICE

Crown Prosecution Service 2015-2016 Annual Report detailing four strategic objectives – casework quality, service to victims, tools and skills for the job and efficiency.

www.cps.gov.uk/publications/docs/annual_report_2015_16.pdf

The Directors Guidance on Charging 2013 – fifth edition, May 2013 – covering guidance to Police Officers and the CPS issued by the Director of Public Prosecutions under s37A of the Police and Criminal Evidence Act 1984.

www.cps.gov.uk/publications/directors_guidance/dpp_guidance_5.html

Director of Public Prosecutions Guidance on Adult Conditional Cautions – Providing guidance on issuing adult conditional cautions.

www.cps.gov.uk/publications/directors_guidance/adult_conditional_cautions.html

CPS charging policy for football related offences, link attached.

www.cps.gov.uk/publications/prosecution/football_offences_policy.html

The College of Policing Authorised Professional Practice – Possible Justice outcomes following investigation. Providing an overview of the current disposal options available to law enforcement at this time.

www.app.college.police.uk/app-content/prosecution-and-case-management/justice-outcomes/

Home Office: single departmental plan 2015-2020 published 2016 containing the vision that the first duty of government is to keep citizens safe and the country secure with objectives to prevent terrorism, cut crime, control immigration, promote growth and deliver efficiently: transforming the Home Office

www.gov.uk/government/publications/home-office-single-departmental-plan-2015-to-2020/single-departmental-plan-2015-to-2020

Ministry of Justice Covering the use of adult conditional cautions - Code of Practice for adult conditional cautions 09/03/13

www.gov.uk/government/uploads/system/uploads/attachment_data/file/243436/9780108512162.pdf

Sentencing Council Imposition of Community and Custodial Sentences Definitive Guideline -

A document providing definitive guidelines to all offenders aged 19 and older, who are sentenced on or after 1st February 2017 (regardless of the date of offence), which identifies that passing the custody threshold does not mean that a custodial sentence should be deemed inevitable. Custody should not be imposed where a community order could provide sufficient restriction on an offenders liberty (by way of punishment) while addressing the rehabilitation to prevent future crime.

www.sentencingcouncil.org.uk/wp-content/uploads/Definitive-Guideline-Imposition-of-CCS-final-web.pdf

Campbell Systematic Reviews 2006:13 – The Effects of Custodial vs Non-Custodial Sentences on Re-Offending: A Systematic Review of the State of Knowledge

A literature review looking at the above subject which concluded that they were unable to say whether non-custodial sanctions are more effective to prevent re-offending than custodial

sanctions, and short confinement does not fare worse than alternative sanctions.

library.college.police.uk/docs/Killias-custodial-2006.pdf

Transforming the Criminal Justice System

– a strategy and action plan to reform the CJS June 2013 - discussing reforms for rehabilitation of offenders, speeding up the criminal justice process and the Victims Code

www.gov.uk/government/uploads/system/uploads/attachment_data/file/209659/transforming-cjs-2013.pdf

Code of Practice for Victims of Crime 2015 – covering key entitlements of victims

www.gov.uk/government/uploads/system/uploads/attachment_data/file/476900/code-of-practice-for-victims-of-crime.PDF

Transforming Summary Justice (TSJ) was implemented across all Criminal Justice agencies on 1st June 2015 with the aim of speeding up the progress of cases through the Magistrates' Courts.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/209659/transforming-cjs-2013.pdf

Better Case Management was implemented on 6th January 2016 as a result of Sir Brian Leveson's Review of Efficiency in Criminal Proceedings with the aim of increasing the number of cases concluded in a single effective plea and trial preparation hearing.

www.judiciary.gov.uk/publications/better-case-management/

The Courts Reform programme continues to look at reducing the number of cases being dealt with through the court system.

Youth Justice Board for England and Wales Strategic Plan for 2015-18 – detailing how it will support the youth justice system to continue to work effectively with children and young people who have offended or are at risk of offending

www.gov.uk/government/publications/youth-justice-board-for-england-and-wales-strategic-plan-2015-18

Fair Cop? Improving outcomes for women at the point of arrest - Prison Reform Trust (2016)

- A discussion paper on why it makes sense to intervene early with women who come into contact with the criminal justice system, and how to go about it.

www.prisonreformtrust.org.uk/Portals/0/Documents/Women/Fair%20Cop.pdf

Better Outcomes for Women - NOMS (2015) -

Evidence based advice to help those who work with women who offend to reduce reoffending and to keep them safe. Evidence suggests that we should invest in gender sensitive, trauma informed interventions that address seven priority areas of need and identifies interventions most likely to be effective and those unlikely to be.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/457922/Better_Outcomes_for_Women_Offenders_September_2015.pdf

The Corston Report: A review of women with particular vulnerabilities in the Criminal Justice system (2007) - called for a “distinct, radically different, visibly-led, strategic, proportionate, holistic, woman-centred, integrated approach” for women vulnerable to entering or already in the criminal justice system.

www.gov.uk/government/uploads/system/uploads/attachment_data/file/457922/Better_Outcomes_for_Women_Offenders_September_2015.pdf

The Lammy Review – an independent review into the treatment of, and outcomes for, Black, Asian and Minority Ethnic individuals in the Criminal Justice System

www.gov.uk/government/uploads/system/uploads/attachment_data/file/643001/lammy-review-final-report.pdf

PUBLIC SERVICES

Public Health England – a 4 year vision until 2020 focusing on safety, expert advice, improving the health gap, expertise, early intervention and prevention, efficiency and effectiveness, and prevention

www.gov.uk/government/uploads/system/uploads/attachment_data/file/516985/PHE_Strategic_plan_2016.pdf

NHS 2016 Business Plan – working towards the mission statement to improve health and secure high quality healthcare for the people of England, now and for future generations, this also contains 10 priority areas.

www.england.nhs.uk/wp-content/uploads/2016/03/bus-plan-16.pdf

Ambulance Service National Clinical Priorities – providing seven areas of clinical priority including emergency care, urgent care, mental health, the frail elderly and falls, long term conditions, care for patients at end of life and public health and prevention

aace.org.uk/wp-content/uploads/2014/05/Future-national-clinical-priorities-for-ambulance-services-in-England-FINAL-2.pdf

Fire Service National Framework 2012 – prioritising fire risk, partnership working and accountability

www.gov.uk/government/uploads/system/uploads/attachment_data/file/5904/nationalframework.pdf

ANNEX B

ADULT OUT OF COURT DISPOSAL FRAMEWORK

Disposal	Community Resolution	
Decision Maker	- PC/PCSO/PSI - Sergeant (repeat offender) - Inspector (domestic abuse – non intimate partner, hate crime, assault with injury, assault police/staff, knife crime, sexual offence)	
Offence type	- Lower level crime or incident - Summary only offences - Some either way offences which would be tried in the Magistrates Court - This should not be used for intimate partner domestic abuse	
Evidential standard	Reasonable suspicion, may deal with non-criminal matters	
Admission of guilt required	Acceptance of responsibility	
Offenders consent required?	Yes	
Victim consent required for outcome?	Yes but may proceed without, with supervisors agreement	
Views heard/listened to/ recorded	Yes	
Operational considerations	- No relevant offending history - No CR for same or similar offence within 12 months unless exceptional circumstances - Not for intimate partner domestic abuse	
Conditions/options	- Apology - Make right - Compensation - Diversion – education/rehabilitation - Fine (although not currently available, would require legislation)	Penalty notice for disorder could be considered where only a fine is thought to be appropriate but this does not focus on rehabilitation or reparation. The pilot forces have removed this option completely without the need for legislation or financial penalties
Restorative Justice Available?	Yes	
Forms part of a criminal record?	No but may be disclosed as part of enhanced CRB check	
Where recorded	- Local systems / PND - Will move to LEDS Intel in 2018/2019	
Relevant guidance	- Authorised Professional Practice - ACPO guidance on domestic abuse - Gravity matrices - Local force policies	
Governance	- Supervisor checks - Scrutiny panel with independent members	

	Conditional Caution	Charge/Summons	
	- Sergeant - Inspector (exceptional circumstances - likely to be dealt with in Crown Court, attract a high-end community order or sentence of imprisonment - list in CPS guidance) - Superintendent (approval of indictable only offences to go to CPS) - CPS (indictable only, hate crime, domestic abuse)	Sergeant	CPS
	- Summary only offences - Some either way offences which would be tried in the Magistrates Court	- All summary only offences irrespective of plea except where DPP consent required or involves a death, terrorist activity, official secrets or is hate crime/domestic abuse - Any retail theft or attempted irrespective of plea where suitable for sentence in Magistrates Court - Any either way offence where guilty plea anticipated except violent disorder, affray, GBH, ABH or a sexual offence committed by or upon a person under 18	- Any summary offence requiring DPP's consent or involves a death, terrorist activity, official secrets or is hate crime/ domestic abuse - Any either way offence where a not guilty plea is anticipated or not suitable for trial in Magistrates Court - Any either way offence involving affray, violent disorder, GBH, wounding, ABH, sexual offences - Any offence involving domestic abuse/ hate crime - Any indictable only offence
	Realistic prospect of conviction	Realistic prospect of conviction	Realistic prospect of conviction
	Yes	As detailed above	No
	Yes	No	
	Yes but may proceed without, with supervisors agreement	No	
	Yes	Yes	
	Gravity matrix should be considered and CC only offered to prevent reoffending and make reparation for harm caused. No second Conditional caution for same or similar offence unless exceptional circumstances eg where the previous one was more than two years earlier		
	- Apology - Make right - Compensation - Diversion - education/ rehabilitation - Treatment course (eg CARA) - Unpaid work - Women's Centre Diversion - Fine	Cases of domestic abuse or hate crime can only be resolved by conditional caution in exceptional circumstances by CPS (unless it is a pilot force). Until the DPPs restriction is changed, simple caution may still need to be considered	
	Yes	Yes	
	Yes	Yes	
	- PNC - Will move to LEDS PNC in 2018/2019	- PNC - Will move to LEDS PNC in 2018/2019	
	- Legislation - Code of Practice - Director of Public Prosecutions Guidance - Authorised Professional Practice - ACPO guidance - Gravity matrices - Local force policies	- Police and Criminal Evidence Act - Director of Public Prosecutions Guidance - Gravity matrices - Local force policies - Legislation - Authorised Professional Practice	
	- Supervisor checks - Scrutiny panel with independent members		

ANNEX C

FREQUENTLY ASKED QUESTIONS

HOW WILL I KNOW WHETHER TO GIVE AN OUT OF COURT DISPOSAL, AND WHICH ONE?

Work is ongoing with the College of Policing to develop the necessary standards, knowledge and educational products to support reform which will incorporate information from outdated ACPO guidance, current APP, legislation, Codes of Practice and DPP's guidance, as well as links to the Gravity Matrices. This will provide centralised and standardised guidance on the issuing of out of court disposals.

However, community resolution will generally be suitable for lower level crime where the offender admits responsibility for the offence and has no relevant offending history, and where the victim doesn't want more formal action taken. The most appropriate offences to warrant a community resolution are likely to be low-level criminal damage, low-value theft, minor assaults (without injury) and anti-social behaviour; domestic abuse should only be considered where it is not an intimate partner relationship. Resolutions can include the offender being given advice about their behaviour, apologising or sending a letter of apology to the victim, or making some form of reparation such as repairing or paying for any damage done.

A conditional caution is a caution with conditions attached which should be rehabilitative and/or reparative, the offender must have admitted the offence. They must be willing to comply with the conditions and this should only be dispensed if

it is considered appropriate to modify offending behaviours or make reparation for harm caused. Rehabilitative conditions can include attendance at a treatment course or referral to engage with an organisation. Reparative conditions can include apologising to the victim, paying compensation and repairing any damage caused. The conditions must always be appropriate, proportionate and achievable.

DO I HAVE TO CONSULT THE VICTIM?

Yes, victims should always be consulted on how the offender is dealt with, and what conditions they could be given using the options detailed in the Community Remedy document. However, the victim's view is not definitive, there will be cases where the victim wants a community resolution or conditional caution given however this will not be suitable either due to the nature of the offence, or the offender's history. In these cases, we should listen to the victim's views, explain why we are not able to do this and what we intend to do, and record the views of the victim onto the crime record.

WHAT CONDITIONS DO I SET?

Each case will be different, and conditions could range from an apology at the time for a community resolution to a rehabilitative course on more than one occasion for a conditional caution. Your PCC should have a Community Remedy document which details the options which can be delivered – these could include apology, compensation, repairing damage,

making amends, referral to a rehabilitative course (e.g. alcohol, drugs, victims), engagement with an offender manager or navigator, restriction of movement, referral to another agency (e.g. housing, mental health, GP, Citizens Advice, drug/alcohol agencies etc). Each force has different opportunities available. There is guidance from CPS on this found at www.cps.gov.uk/publications/directors_guidance/adult_conditional_cautions_annex_b.html

WHAT ABOUT RESTORATIVE JUSTICE?

Restorative Justice brings those harmed by a crime or conflict and those responsible for causing the harm into communication, enabling everyone affected by the incident the chance to play a part in repairing the harm and to find a positive way forward. It is voluntary for both the victim and offender and the offender must have admitted responsibility for the harm caused.

A condition can be given as part of the community resolution or conditional caution for the offender to comply with the restorative justice process if the victim wishes to but restorative justice can be offered without being a condition alongside the disposal or even court. Restorative Justice should not be used for domestic abuse incidents.

WHAT HAPPENS IF THERE ARE NO SUITABLE CONDITIONS AVAILABLE, OR I WANT TO GIVE A PND?

There will generally always be a condition which is suitable, however, if there is nothing available, you could consider giving a condition not to reoffend, meaning if they do go on to commit further offences they could be sent to court for the original incident. A financial penalty can be given as part of a conditional caution but not as part of a community resolution unless legislation changes. The pilot forces have used the two tier framework since 2014 without the need for PNDs

or for financial penalties attached to community resolutions.

HOW LONG DOES THE OFFENDER GET TO COMPLY WITH THE CONDITIONS?

Conditional cautions are usually a maximum of 16 weeks although in exceptional circumstances this can be up to 20 weeks. Community resolutions do not have a specific time limit on them but it is generally expected these should be resolved at the time or fairly soon afterwards.

WHO AUTHORISES THE OUT OF COURT DISPOSAL?

Generally, a PC, PSI or PCSO can decide on a Community Resolution unless it is a repeat offender (usually a Sergeant), or domestic (should not be intimate partner), hate crime, assault with injury, assault on a public service employee/police, knife crime or sexual offences (usually an Inspector).

Conditional cautions are generally decided on by a Sergeant unless the offence is likely to be dealt with in the Crown Court, attract a high-level community order or a sentence of imprisonment in which case the decision to give a conditional caution may only be taken in exceptional circumstances by an inspector, these offences are shown in www.cps.gov.uk/publications/directors_guidance/adult_conditional_cautions_annex_a.html

Indictable only offences must be referred to CPS. Domestic abuse or hate crime conditional cautions must be referred to CPS to make the decision in exceptional circumstances (unless you are in Leicestershire, Staffordshire or West Yorkshire (or Hampshire for domestic abuse) as they have exemptions).

There may however be local variances to these rules.

WHO PAYS FOR COURSES?

Forces vary nationally around this and you would need to consider local force guidance but courses are usually paid for either through funding from the PCC or by the offender themselves, or are already available and funded in the community e.g. NHS, charity. At this stage there is no additional funding available.

WHO MAKES THE REFERRALS TO THE PROVIDERS, AND WHO MONITORS WHETHER THE CONDITIONS ARE COMPLIED WITH?

This will be force specific, there are three common models:

- **Central Hub** – a central hub review all cases, set all conditions, make the necessary referrals to providers and other agencies then monitor compliance with the conditions (Staffordshire and Cambridgeshire use this model)
- **OIC and back office function** – the OIC identifies the conditions then a back office team make the necessary referrals and monitor compliance (Hampshire use this model)
- **OIC** – the OIC identifies the conditions, makes the necessary referrals and monitors compliance (West Midlands use this model)

In any of these models consideration should be given to forces agreeing with providers as part of a service level agreement that the provider must notify the police when the condition is complied with.

HOW DO I KNOW WHICH REHABILITATIVE COURSES OR CONDITIONS WORK?

The amount of academic evaluation on effectiveness of diversion for out of court disposals is limited at the moment, pilots such as Checkpoint in Durham and Turning Point in West Midlands Police show the benefits of diversion and intervention but there are few specific examples of evaluation around particular diversions.

Project CARA (Conditional Cautioning and Relationship Abuse) piloted by Hampshire Constabulary involves a course run by the Hampton Trust for use in domestic conditional cautions (where allowed and on CPS advice), the evaluation from Cambridge University has recently been published.

Portsmouth University have also begun an evaluation on the Victim Awareness Course run by Victim Support, and a number of other forces are involved in evaluations.

This is an area which will be worked on by the NPCC Lead and we are negotiating with The College of Policing and Ministry of Justice to create an evidence base of what is effective to reduce reoffending and increase victim satisfaction.

HOW DO I KNOW IF SOMEONE HAS HAD A COMMUNITY RESOLUTION BEFORE?

Community resolutions aren't usually shown on PNC at the moment, unless it stemmed from an arrest. They are recorded on local forces systems meaning checks through PND (Police National Database) should provide information on whether an offender has received a Community Resolution in a different force.

Moving forward, the National Law Enforcement Database (LEDS) will replace PNC and PND by around 2019, community resolutions will be shown on LEDS as everything shown on PND currently will be shown on there.



Work is currently taking place to identify whether community resolutions could be shown more clearly on LEDS as part of an offenders history for a set period of time.

WHAT DO I DO ABOUT DOMESTIC ABUSE AND HATE CRIME OFFENCES?

Community resolutions for domestic abuse should only be considered where there is no intimate partner relationship and there is no history of such; the incident is isolated and there is no previous concern; the offences do not include violence, stalking, harassment, coercive control or sexual offences; the risk assessment is standard; the offence is considered low level in nature ie minor damage or theft; the offender has admitted the offence and shown remorse; generally an Inspectors authority is required.

Community resolutions for hate crime should only be considered for low level offences and where the victim has been consulted; generally an Inspectors authority is required.

Conditional cautions for domestic abuse and hate crime are restricted by the Director of Public Prosecutions (unless you are in a pilot force), the guidance states that these offences will generally not be suitable for conditional cautions. However, there are rare cases when, because of the nature of the crime or the circumstances of the offender, exceptionally a conditional caution could be considered. Any such case considered by the police as suitable for a conditional caution must be referred to a prosecutor.

www.cps.gov.uk/publications/directors_guidance/adult_conditional_cautions.html

Engagement is ongoing with the Crown Prosecution Service to identify ways in which forces may be able to receive an exemption

for conditional cautioning through a list of pre conditions but in the meantime, forces are likely to need to continue to use simple cautions where caution is appropriate for these crime types.

Staffordshire, Leicestershire and West Yorkshire have an exemption as part of the pilots, and Hampshire have an exemption just for domestic to pilot Project CARA.

HOW TO I DEAL WITH FOREIGN NATIONAL OFFENDERS (FNO'S)?

FNO's can be dealt with through conditional cautions using conditions which must be rehabilitative/reparative however the primary condition must be one which requires the individual to leave the country, cooperate with the authorities and not return to the UK for five years. FNO Conditional Cautions are available for all summary non motoring offences and either way offences with a penalty of up to two years' imprisonment. All offences for which a FNO Conditional Caution can be given are set out in [CPS \(2013\) The Director's Guidance on Adult Conditional Cautions, 7th Edition.](#)

ARE FOOTBALL RELATED OFFENCES TREATED DIFFERENTLY?

Persons who commit offences at football events or football specific offences, can be subjected to football banning orders which are aimed at preventing further violence and disorder in the future both in the UK and abroad. The CPS guidelines outline that a robust approach to these offences is necessary, but there may be occasions where a conditional caution may be proportionate.

Questions you will need to ask yourself include; Is the offence prevalent at the venue? Does the offender have previous Schedule 1 arrests,

cautions or convictions? Was the offender under the influence of drink or drugs? Are there intelligence reports relating to the offender that suggest connection with a risk group? Does the offender show remorse? Does the offence have aggravating factors e.g. racial, homophobic, etc? Has the offender been subject to a previous Football Banning Order? Is it a low level offence?

Although of course each case will depend on its own facts, once the evidential test has been passed, the Director of Public Prosecutions has decided that for offences which are prima facie football related, there will be a strong presumption in favour of prosecution. This is further reinforced in CPS charging document – www.cps.gov.uk/publications/prosecution/football_offences_policy.html. There will be a presumption of prosecution whenever there is sufficient evidence to bring offenders before a court on appropriate criminal charges and where a Football Banning Order (FBO) is considered necessary.

WHO REVIEWS WHETHER OUT OF COURT DISPOSAL DECISIONS ARE APPROPRIATE?

Each force should already have an out of court disposals scrutiny panel consisting of police, CPS, Magistrates, Office of Police and Crime Commissioner, Young Offenders Team, Probation, independent advisory group and any person relevant for the thematic of the panel (ie hate crime lead for force); a representative for the victim's voice should also attend. The panel will consider the use of out of court disposals on a series of cases on a 2-3 month basis to consider whether they were appropriate or not, where the use was not appropriate, the panel cannot overturn the decision but learning may be delivered back to the officer or their supervisor may be advised to consider removal of the disposal itself. Some forces post their results

(anonymised) online for members of the public to view.

National guidance is likely to be created between NPCC and Ministry of Justice on scrutiny panel make up.

WHAT DO I DO IF THE PROSECUTION TIME LIMIT FOR A SUMMARY OFFENCE IS LESS THAN 4 MONTHS AWAY AND I WANT TO GIVE A CONDITIONAL CAUTION?

Conditional caution time periods are generally a maximum of 16 weeks, although can be extended to 20 weeks in exceptional circumstances, however they do not have to be 16 weeks so any time period can be adapted to a suitable length which allows the option of prosecution if the offender breaches (time should also be allowed if CPS advice is required to prosecute on a breach).

WHAT DO I DO IF THE OFFENDER DOESN'T COMPLY WITH THE CONDITIONS ATTACHED TO A COMMUNITY RESOLUTION OR CONDITIONAL CAUTION?

Community Resolution – generally, no action can be taken, a community resolution is a non-statutory disposal and the conditions given are basically an agreement with no legal basis. To have given a community resolution in the first place, the public interest factors to give a formal criminal justice outcome, or to charge the offender to appear in court were not met, and will likely never be met, even where the agreement is broken. There may be exceptional circumstances in which you could consider sending someone to court but these would be very rare.

Conditional caution – if the offender fails to comply with the conditions given, the conditional caution is breached.

The officer should consider whether there is a reasonable excuse for this and then whether the offender should be prosecuted. If the decision is taken to prosecute, Directors Guidance from the CPS on charging offences should be considered in determining whether CPS advice is required to take the matter to court. If this is required (eg for an either way offence), an advice file should be completed and submitted, if it is not (eg a summary only offence) police can take the decision to raise a postal requisition.

WHEN ARE COMMUNITY RESOLUTIONS AND CONDITIONAL CAUTIONS DISCLOSABLE?

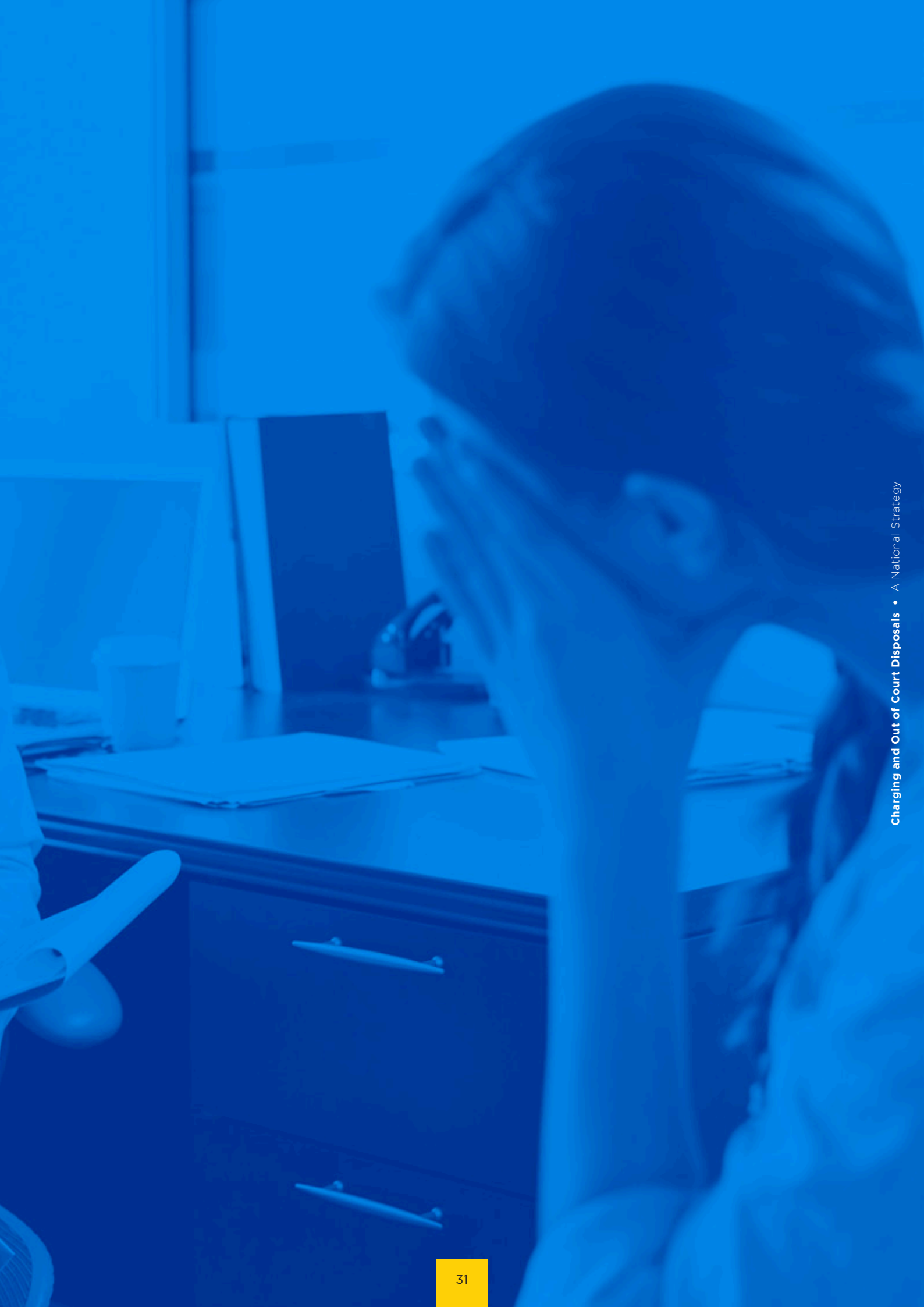
Community resolutions are non statutory disposals and for the purposes of disclosure constitute non conviction data which is not generally disclosed. However DBS certificates can contain information taken from police records that a chief officer of a police force considers relevant to the application and ought to be disclosed, or details of whether an individual is included on one or both of our two lists barring people from working with children and/or vulnerable adults.

Conditional cautions will be disclosed on both standard and enhanced DBS certificates for 6 years after it was given where the individual was aged 18 or over at the time of the caution (2 years where an individual was under 18 at the time of the caution) unless the offence will never be filtered from a CRB check – these offences include serious offences which are sexual or violent or are relevant in the context of safeguarding.

Guidance on disclosure can be found at:

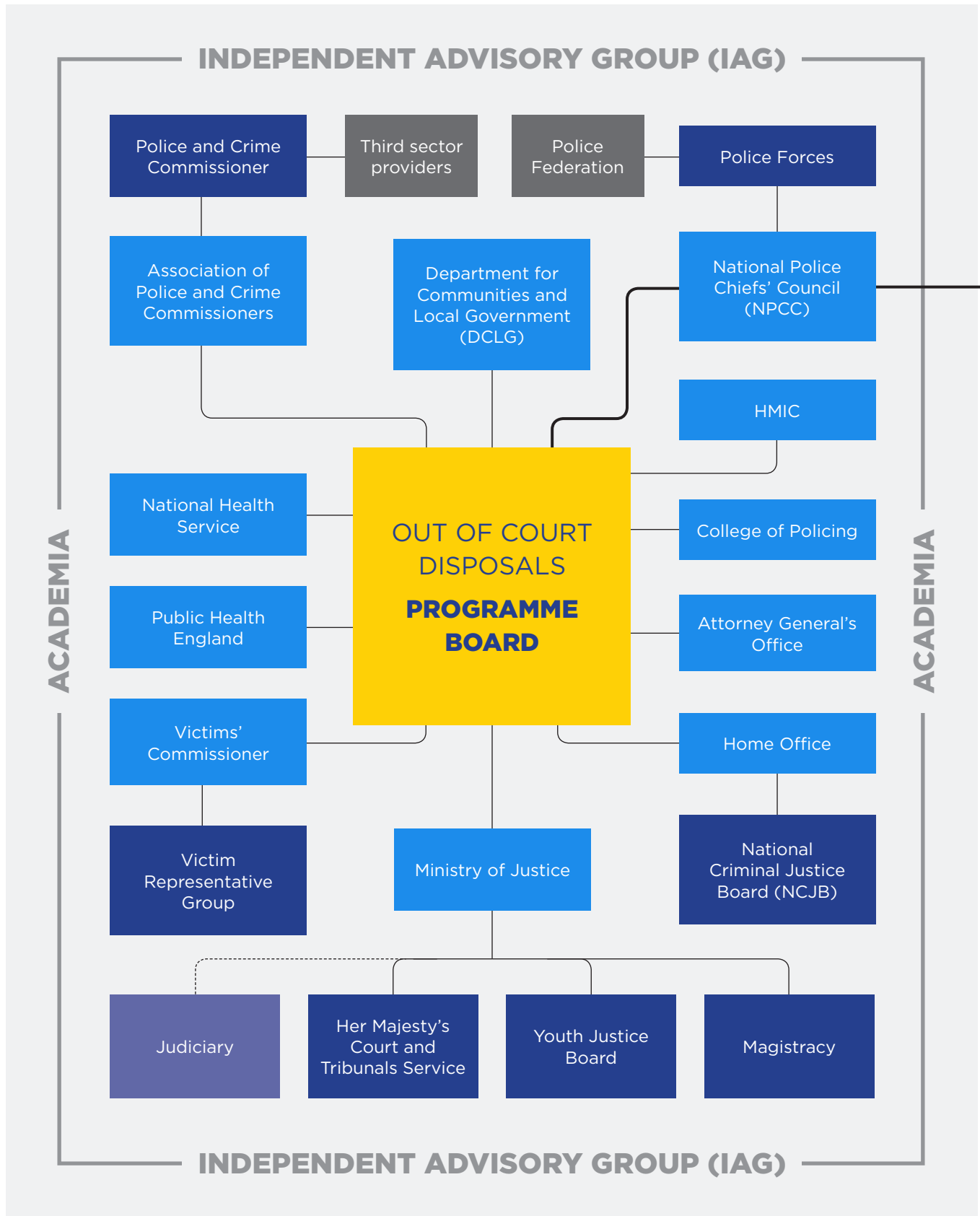
www.gov.uk/government/publications/dbs-filtering-guidance/dbs-filtering-guide

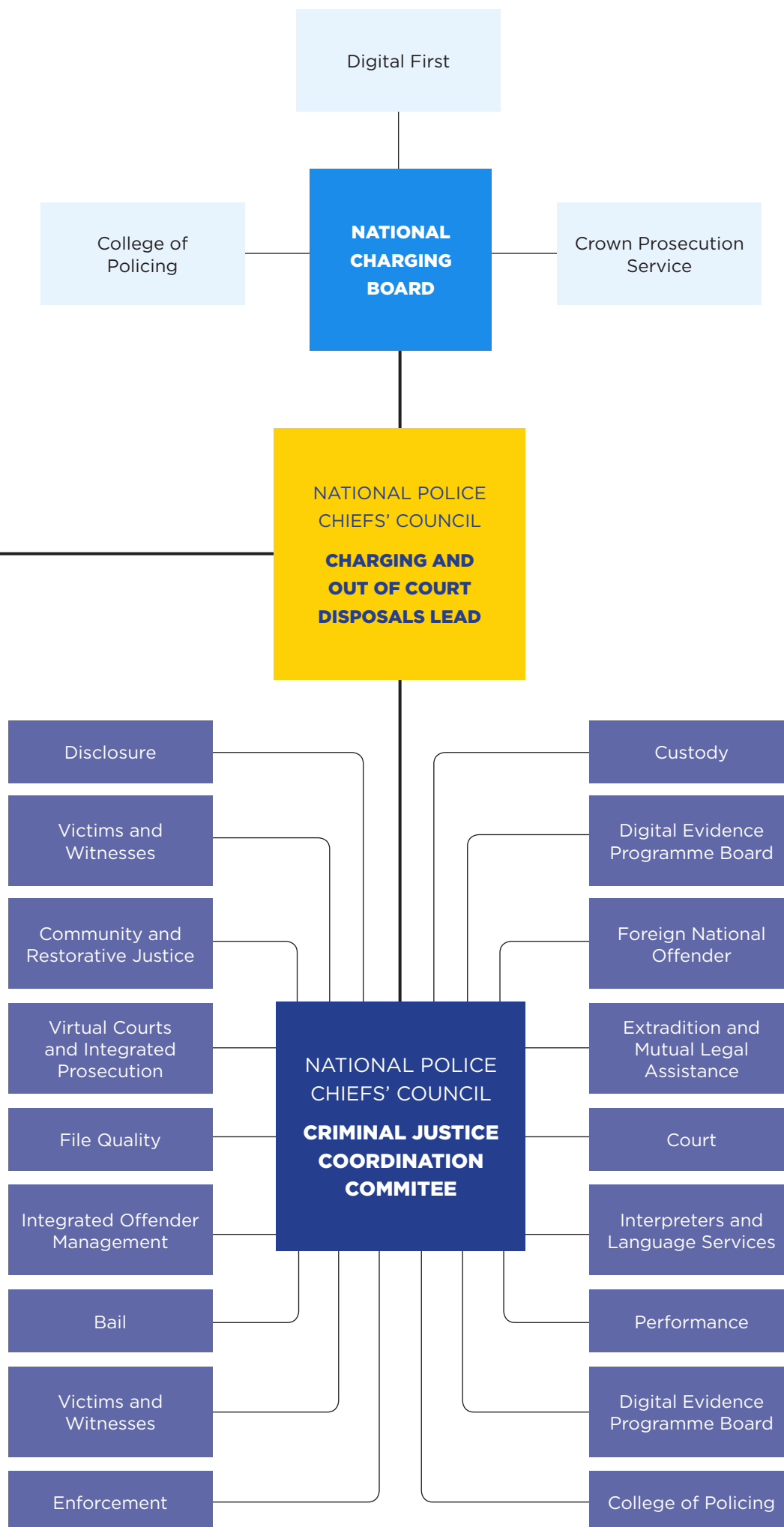




ANNEX D

STAKEHOLDER MAP





ANNEX E

support

STIFFEN



Victim's voice is heard
and reparation is
delivered



The framework is
simplified for the public
to understand



Offenders are given
the opportunity to
rehabilitate and turn
their life around at the
earliest opportunity



Independent scrutiny



Efficient and simplified
national guidance and
processes resulting in
consistency



Proportionate front-
end decision making
providing an overall
cost benefit to the
Criminal Justice System



Simple processes for
PIP1 investigators to
allow PIP2 investigators
to focus on serious and
complex crime



Aligns to the National
Policing Vision 2025

ANNEX F

STRATEGIC RISKS AND MITIGATION PLAN

Risk area	Sub cat	Description	Risk reason
1 Funding/ Cost	A	Additional cost of resourcing for policing moving to the two tier framework (including referring and monitoring of conditions)	Additional cost to forces and concern that funding will not be diverted into policing from other agencies (ie MOJ to Home Office)
	B	Additional cost of commissioned services	Police and Crime Commissioners' may be required to fund more services within their areas if there are gaps in service provision
2 Services	A	Availability of services locally and parity across the country	Offenders may be dealt with differently in different parts of the country as services available will not be the same
	B	Lack of robustness of services to cope with volumes of offenders/offender lifestyles/ behaviours	Services may not be able to cope locally with the number of offenders being diverted or may not be equipped to deal with issues raised
	C	Lack of availability of non English speaking diversion courses	Disproportionality may occur in the delivery of out of court disposals and diversion options
	D	Accessibility of local services for national agencies such as BTP and NCA	Offenders dealt with by NCA/BTP may not have access to diversion courses/services
	E	Diversion courses are not accredited or evaluated for effectiveness	Forces and PCC's will not know if courses are effective

	Mitigation
	Discussion has taken place with the Ministry of Justice and Home Office around the cost of these changes and funding. Whilst there is increased cost/resource to policing by using the conditional out of court disposals framework, it is expected reductions may be seen in case file preparation and in demand if offenders receive appropriate diversion to prevent reoffending. Costing options have been made available for Chiefs' Council. At this time there is no additional funding.
	The Association of Police and Crime Commissioners (APCC) are involved in the Out of Court Disposals Programme Board (OOCDB) and are being consulted in relation to the strategy, Dame Vera Baird (Victims and Witnesses) and PCC David Lloyd (CJS) have also been involved in early discussions. Nationally, the NPCC Lead is seeking to identify health routes to divert offenders into however local provisions will need to be considered by PCC's. Some forces have been able to identify services which already exist within forces, who will accept referrals from policing with no additional cost, others have offender funded diversions and some have PCC funded options. Funding discussions are taking place with the Ministry of Justice.
	The Association of Police and Crime Commissioners have been consulted in relation to this, there will always be local variations however by working towards an evidence base of what is effective to reduce reoffending and increase victim satisfaction, a central national point of reference will start to form for police forces and PCC's to use to identify what works. The NPCC Lead will also seek to define the problem and look at solutions with the College of Policing which will bring consistency of decision making to out of court disposals, and encourage forces and PCC's to seek academic evaluation of diversions.
	PCC's will need to consider the robustness of providers they choose to commission or work with, however by working towards an evidence base of what is effective for diversions, policing will seek nationally to recognise providers and courses which have been properly evaluated for effectiveness. There will also be a role for Local Criminal Justice Boards and Community Safety Partnerships in identifying and considering services
	Forces and PCC's will need to consider local services available dependent on the demographic of their forces, one force is currently looking at non English speaking courses. This will be raised with the APCC through the OOCDB
	Discussion will take place nationally to work through a suitable solution to this issue
	The NPCC Lead is hoping to deliver workstreams with the College of Policing, Ministry of Justice and Association of Police and Crime Commissioners to look at effectiveness of diversions, and to bring together an evidence base of what is effective so informed decisions can be made. The NPCC Lead will encourage forces and PCC's to seek out academic reviews. For domestic abuse and hate crime offences work is ongoing with the CPS to find a way forces may be able to use conditional cautioning for these types of offences, part of this will involve a diversion being available which is already evaluated or has the capability of being evaluated.

	F	Partners may not buy into the two tier process	There will be insufficient agencies/ schemes to divert offenders into
3 Police standards	A	Officers will require regular training on the use of the framework and setting of conditions	Officers will not understand the framework or how to set effective conditions
	B	Officers may be less inclined to use out of court disposals under the two tier framework as they require more work and take longer to deliver	The number of OOCOD will reduce and offenders will not be dealt with
	C	Additional work required to deliver conditions where offenders may not reoffend in any event or where it is a victimless crime	Unnecessary work is being completed
	D	Community Resolutions are not recorded on PNC so are sometimes given on multiple occasions as forces aren't aware of them	Multiple Community Resolutions may be delivered
	E	Officers may only take the views of the victim into account when delivering the out of court disposals and not the full circumstances	Out of court disposals will be delivered inappropriately
	F	Victims views may not be heard and understood when considering out of court disposals, and are not recorded; victims shouldn't decide on what conditions are delivered; and there is no right to review for victims if they disagree with the decision	Victims are not listened to thereby reducing victim satisfaction
	G	Consulting victims about Community Remedy adds another layer of bureaucracy	Disposals will take longer to deliver
	H	The pilot force evaluation and details of how the forces were set up is not yet available	Forces will not be able to learn from the pilot forces
	I	Some forces will require support to implement the two tier framework	Forces will not have the tools to move to the two tier framework
	J	There is no national guidance for scrutiny panels and other agencies including Magistrates	There may be discrepancies in how scrutiny panels are formed

	Work is being done nationally in relation to health opportunities but this will need to be considered locally by individual forces and PCC's. Some forces have been able to obtain services through existing partners with no additional costs, others have offender funded diversions and some have PCC funded programmes.
	Negotiations are ongoing with the College of Policing to develop standards, knowledge and educational products to support reform which will contain simplified guidance, alongside this discussions are taking place in relation to adding this to the curriculum and identifying learning tools for officers to use. Some forces have already identified decision making tools and assistance in setting conditions, which the NPCC lead will be bringing that together for forces to learn from and utilise. There is also a role for operational CJ leads to consider training in forces.
	Negotiations are ongoing with the College and Ministry of Justice to identify how to assist officers in seeing the benefits of conditional disposals, and developing the standards, knowledge and educational products to provide simplified guidance to allow the decision making process to be simpler. Officers will need to see the whole cost impact of this as arresting someone, taking them to custody and handing them over to a prisoner interview team may save time for the initial attending officer but it takes significantly longer overall than if they had been dealt with by way of out of court disposal.
	Conditions do not need to be complex, they could be as simple as a letter of apology to the victim which would improve victim satisfaction, or a referral to another agency for support (eg health, housing etc) which would assist the offenders lifestyle choices.
	Work is being undertaken for community resolutions to be shown on PNC although LEDS will start to replace PNC and PND 2018-2019, community resolutions will appear on LEDS intelligence but the NPCC lead is working to have them shown as part of a persons history. They will still not be a criminal conviction/disposal and the DBS rules about disclosure will not change as a result of this.
	Negotiations are ongoing with the College of Policing to develop the standards, knowledge and educational products for officers to consider when making a disposal decision, this will include victims views but it will be clear there are other factors which must be considered
	It is proposed that APP will make it clear that victims should be consulted about the disposal and the conditions delivered, and that those views must be recorded by the officer, especially where the disposal differs to that which the victim wanted. Whilst there is no right to review, this will allow victims to feel they have been heard and understood, even if policing cannot deliver what they want. The Victims Code would always need to be complied with regardless of the disposal
	At present officers should consult the victim prior to making a disposal decision, whilst it may take slightly longer to discuss the community remedy options, this should always be discussed with victims
	The evaluation report is owned by the MOJ and has not yet been published, we are working to get to a position where it can be and it has been made available to the College of Policing for this work.
	The NPCC Lead is working to identify how best to support forces in moving towards the two tier framework with support from the NPCC, MOJ and College of Policing. A landscape review has been undertaken with forces to establish where they are now and what they need to move towards this framework, support will be provided by NPCC, COP and MOJ to do this, and the suggestion is that those forces move at a pace suitable for them to allow those forces who are less ready a longer time to achieve this.
	National scrutiny panel guidance is being discussed at the Out of Court Disposals Programme Board which is multiagency with a view to publishing standardised guidance

4 Prosecution	A	Postal requisitions will need to be raised for breaches of conditional cautions and will lead to more defendants failing to appear	More fail to appear warrants will be issued
	B	There may be additional prosecutions as a result of breached conditional cautions	More work in the courts which may result in delays
5 Decision Making	A	Conditional cautions cannot be used for domestic abuse and hate crime except in exceptional circumstances and on approval from the CPS meaning forces cannot use the two tier framework	Forces cannot move to the two tier framework with this restriction
	B	Conditional cautions for domestic abuse for forces who can issue them are restricted to standard risk DASH cases only	The number of conditional cautions which can be delivered for domestic cases is restricted and may not be significant
	C	Forces cannot move to the two tier framework without legislation	Forces are unable to move to the framework
	D	The current guidance on the amount of OOC which can be given is restrictive and in some cases it would be more appropriate to deliver more than one OOC	Offenders may not be provided with the opportunity for rehabilitation before entering the court system
6 Charging	A	Digital link is unavailable in some forces and TWIF is not yet available	Forces will not be able to move to TWIF functionality
	B	Resource and training is required for the use of the digital link to send pre charge cases	Forces are not able to move to using the digital link
	C	The digital link (Exiss) has a limit of 1MB per document	All papers cannot be sent over the link and have to be separated
	D	The SDC is unnecessary for inclusion in pre charge cases	Policing will be doing unnecessary work

	Postal requisition fail to appear numbers are being discussed nationally in a number of forums, this is being taken forward by the overarching Criminal Justice Portfolio.
	HMCTS are one of the stakeholders engaged with as part of these changes through the Ministry of Justice.
	Discussion is taking place with the Crown Prosecution Service to work through how this can be addressed. The DPP is reviewing the CARA final evaluation from Hampshire Constabulary which is a DA diversion course and awaits the final reoffending data from the MOJ in relation to the pilot forces. The proposal is that once this has been obtained, we agree a series of pre conditions for forces to evidence they can comply with so they can apply for individual exemptions for conditional cautioning for domestic abuse and hate crime. How to deal with domestic abuse and hate crime matters will be included in any guidance produced.
	Work will take place with all of the agencies for guidance on this, it is likely only standard risk DASH cases will be included for DA conditional cautions at this time however there may be scope to move towards medium risk inclusion as well where appropriate
	Legislation was expected however it is not forthcoming. To legally remove simple cautions and PND's, legislation would be required however cannabis/khat warnings are non statutory and there is discussion at present with the relevant agencies about the removal of these as options, these would be replaced by Community Resolutions with a health intervention or similar. However, forces can choose to move to the two tier framework without legislation and in line with the NPCC strategy by removing the other options available and just allowing community resolutions and conditional cautions to be given. The two significant areas where moving to this without legislation are conditional cautions for domestic and hate crime (detailed above) and being unable to fine offenders under the community resolution rules, meaning forces may choose to retain PND's simply for this option, however punitive options do not focus on rehabilitation and reparation, and the pilot forces have been using the two tier framework since 2014 without a change in legislation.
	Is it intended guidance will allow some discretion to officers to do the right thing in the circumstances, it will have some restrictions on the disposals being used but these are likely to relate to crime types/families rather than the disposal itself, or relate to the time elapsed since the last disposal was given (for example, a second community resolution for the same crime family offence within 12 months would not generally be appropriate unless there are exceptional circumstances).
	The NPCC Lead is aware that TWIF isn't available for all forces as yet, there is a commitment nationally through Chiefs' Council that forces will move to this but it has been made clear to the CPS that this will take time. The principle which this relates to is an aspirational situation which will eventually be achieved, in the meantime alternative measures will be available.
	The NPCC Lead is seeking to support forces in moving to using the digital link to transfer pre charge cases, this is a significant change for some forces and there are resourcing/training implications (there are also forces who don't yet have suitable IT to do this). There are significant benefits to doing this, cases do not have to be sent twice (once by email and once by the link), large emails cause the CPS IT systems to crash which has a large impact nationally and this doesn't happen with the link, when Common Platform goes live, forces will be able to submit cases once without having to submit again. The CPS and the NPCC lead are happy to work with forces to achieve this.
	The digital CJSE link is owned by the Ministry of Justice, discussions will begin to take place about how to address this issue in the long term however it does relate to a single document having a limit of 1MB rather than the whole case so many documents can pass through it without issue.
	This has been removed from the principles and whilst it is still being discussed with CPS, there is no agreement from policing to provide the SDC in pre charge cases.





