



Community Resolutions Policy (1091/2022)

Abstract

This policy provides direction for officers and staff to effectively deliver Community Resolution (CR) as an Out of Court Disposal (OoCD) for low-risk offenders of any age and manage victims' expectations.

Policy

1. Introduction

1.1 An Out of Court Disposal (OoCD) is a way of solving crime without the offender needing to go to court. Community Resolution (CR) is a nationally recognised out of court disposal option within the Authorised Professional Practice Guidance (APP) for crime. This policy has been developed to provide additional information for Sussex Police officers (including special constables) and police staff to assist them in their decision making, and, therefore, enhance service delivery for victims.

2. Scope

2.1 Sussex Police uses CRs for adults and youths and this policy covers the issuing of CRs to both.

2.2 This policy does not cover the use of Home Office Outcome 22.

2.3 This policy does not cover Road Traffic Offences. Several traffic offences attract disqualification and endorsement via a fixed penalty notice or at court. These offences are not suitable for a CR.

3. Policy Statement

3.1 Sussex Police is positive about the role that victim focused OoCDs play in solving crime, addressing the harm caused and reducing the risk of re-offending. We recognise that victims often want justice in the form of pragmatic and meaningful outcomes which do not require their attendance at court. CR is a good tool for officers and staff to empower victims in achieving justice in this way and place them at the heart of the criminal justice system.

Procedure

1. Statement of Intent

1.1 The fundamental principle of this policy is an expectation that CRs will be used to resolve low gravity, volume crime when it is in the best interests of the victim, suspect and the public interest to do so.

1.2 It is primarily aimed at first time offenders who accept responsibility for their actions and is suitable for supporting low risk offenders to repair the harm caused by their actions and/or address the motivation behind their offending behaviour.

1.3 CRs can be issued by police officers, special constables, police community support officers (PCSOs) and civilian investigators. They will collectively be known as the Officer in Charge (OIC) throughout this document.

2. Key Requirements

2.1 It is expected that for all disposal decisions the National Adult Gravity Matrix or National Youth Gravity Matrix will be applied and explicitly referenced.

2.2 The Gravity Matrix documents provide a guide to which disposal option is most appropriate based on the severity of the offence (based on charging standards and not Home Office Crime Recording Standards) and the mitigating and aggravating factors.

2.3 CRs are intended primarily for Summary Only and Either Way offences which score 1 on the gravity matrix or score 2 and can be mitigated down to a score of 1.

2.4 Offenders are suitable for a CR when they pose no further risk to the victim or the public.

2.5 Offenders must accept responsibility for their behaviour (note this is a lower threshold than full admission to an offence) and agree to the proposed outcomes.

2.6 CRs would not normally be considered for those who offend repeatedly, who have had a caution or been convicted of the same or similar offences within the last two years, who are in prison or have received a CR within the last 12 months.

2.7 Victims should be consulted on a suitable outcome, chosen from the pick list (known as the Community Remedy).

2.8 The OIC can guide the victim as to what is appropriate and realistic.

2.9 Restorative justice and/or a diversionary activity that aligns with the underlying cause of the offending behaviour can be very effective outcomes.

2.10 The OIC must make the victim aware that outcomes agreed are not legally enforceable and no prosecution will follow.

2.11 The OIC must ensure that the offender is aware that a CR, although not a criminal conviction or part of a criminal record, may be disclosed, at the discretion of the Chief Constable as part of an enhanced Disclosure and Barring Service (DBS) check.

2.12 The OIC must complete the Community Resolution Intervention Record (wet signatures are not necessary, and you no longer need to read the caution).

2.13 The OIC acts as independent arbiter to ensure the conditions are met within the completion date, this can be extended at the OIC's discretion, but it cannot be open ended.

2.14 Although CRs are designed to provide a quick and effective resolution to crimes they are also available in investigations that have progressed to arrest or interview in a

Voluntary Attendance Suite (VAS). In this case, the custody record should be resolved No Further Action (NFA). This includes when directed to issue a CR by the Crown Prosecution Service (CPS).

2.15 Bail should not be used as a means of getting the suspect to comply with the conditions of the CR.

3. The Outcomes

3.1 Outcomes will fall under one of five options (known as Community Remedy).

3.2 Option 1 - Personal / Community Reparation

- Repairing or paying for damage to be repaired. Payment of money is expected of adult offenders only, the Youth Justice Services (YJS) will not facilitate payment by youths. Please consider whether the offender has the means to pay.
- Completing unpaid work for the local community or charity.
- Replacing a stolen or damaged item.

3.3 Option 2 - Restorative Justice (RJ)

- An opportunity for victims to explain to offenders how they have been impacted. It does not need to be face to face. The Restorative Services Team can facilitate 'shuttled' communication between the two parties.
- Restorative Justice is covered in full in a separate policy as it is also available after offenders have been convicted and sentenced.

3.4 Option 3 - Receiving a written or oral apology

- It is preferred that these cases are referred to the Restorative Services Team who can consult with the victim and the offender which helps to improve public confidence in this outcome.
- It is most meaningful and effective when offered by the offender, rather than imposed as a condition.

3.5 Option 4 - Local rehabilitative or diversionary activity

- A full list can be found on the intranet refer to Caution, issue a Community Resolution, or send offenders on diversions (shdc.police.uk)

3.6 Option 5 - An agreed and proportionate activity specified by the victim.

3.7 Banning or Exclusion Orders are a separate civil process and are not part of a CR.

3.8 Unlimited conditions such as not to go to a specified place again must not be used, they are ineffective and cannot be monitored.

3.9 Where there are two or more offenders, it is not necessary for them to have the same conditions.

4. Decision Maker (Rank)

4.1 OIC – police officers, special constables, PCSOs and civilian investigators.

It is intended that most CRs will be authorised by the issuing officer for offences which score 1 or can be mitigated down from 2 on the gravity matrix. These include:

- Assaults without injury, or very minor injury
- Section 5 Public Order
- Theft
- Criminal damage
- Vehicle interference
- Theft
- Possession of Class B or C Drugs
- Drunk and Disorderly

Possession of Class A drugs score 3 on the national gravity matrix and would ordinarily attract a charge or conditional caution. However, in circumstances where the possession is clearly for personal use and not accompanied with any sign or suspicion of supply then the OIC may use a CR with a drug diversion referral as the outcome.

4.2 Sergeants and Civilian Supervisors

In the following circumstances there is discretion to deviate from the policy if the OIC and their supervisor feel that a CR is still the most appropriate outcome. In this case the authorising Sergeant / supervisor must record a detailed rationale on the NICHE record.

- If a victim does not consent. The victim's view should be considered but in the interests of fairness and proportionality the final decision rests with the police.
- If the suspect has a record of prior offending. However, it is highly unlikely that a CR will be the correct outcome if the offender has previously been given a CR and not complied with the conditions of it.
- Repeat victim, same offender.
- Neighbourhood priorities.
- Hate crime. (Further details at section 6.2.)
- High community impact.

4.3 Inspectors

In the case of the following offences, it is highly unlikely that a CR will be appropriate, however discretion can be applied if authorised by an Inspector:

- Non intimate domestic abuse with a standard risk Domestic Abuse, Stalking, Harassment and Honour Based Abuse Form (DASH.)
- Harassment (Section 2).
- All knives and offensive weapons offences (see section 6.5.)
- Offences which score 2 (including 3 mitigated down to 2) on the gravity

matrix. (In the case of offenders under the age of 18 these must go to the YJS Panel who will make an assessment and can authorise a CR.)

- Offences involving police officers, staff or volunteers as the offender (see section 9.2)

5. Youths

5.1 As per the Youth Disposal Pathway the Youth Gravity Matrix must always be applied to offences with a suspect under the age of 18.

5.2 If the score is a 1 (including offences scoring 2 but mitigated down to 1) then the OIC can issue a CR.

5.3 If the offence scores 2 or above, you must carry out a Police and Criminal Evidence Act 1984 (PACE) compliant interview and refer the youth to the YJS panel, as per the Youth Disposal Pathway.

5.4 CR should always be considered when dealing with children resident in local authority care homes as research has shown this approach has significant benefits to repairing harm and rebuilding relationships. In these circumstances, the local authority is acting as the corporate parent. Often issues reported to police are no different to behaviour that would ordinarily go unreported and be resolved in the family home.

5.5 A CR ticket does not replace a child to notice form which should be completed in addition to the ticket for each child involved.

5.6 The presence of an appropriate adult (AA) is required to issue a CR to a youth and ideally should be their parent or guardian.

5.7 If the AA is not the youth's parent or guardian then the OIC should ensure the notification of a parent or guardian at the earliest opportunity, including corporate parents.

5.8 It is expected that if the AA is not the parent that the agreement is sought from the parent before any financial or other significant commitment is agreed to.

5.9 If a youth is participating in a restorative justice process, then the Restorative Services Team will inform the YJS.

5.10 Schools, colleges, and educational premises regularly use restorative approaches to deal with low level nuisance and offending behaviour without referral to the police or statutory organisations. When an incident that has taken place in educational premises is reported to police and it is appropriate for police involvement, a CR can be used by officers on school premises. The child's parent or guardian should be informed prior to the process taking place and be offered the opportunity to be their appropriate adult.

6. Exceptions

6.1 There are certain categories of offences that require special consideration. These are Hate Crime, Domestic Abuse, Stalking and Harassment, Knives and Offensive Weapons.

6.2 Hate Crime

A charge will nearly always be more appropriate, Hate Crime will always be an aggravating factor and consideration must be given to raising the gravity score. The exception is that a CR can be issued if the offender admits the offence and the victim does not wish to support a prosecution. In which case the CR should have a condition to participate in Restore DiverCity.

6.3 Domestic Abuse

Community Resolution is not suitable for domestic abuse involving intimate or ex intimate partners. CRs are only for non-intimate partners with Inspector authority.

6.4 Stalking and Harassment

As per the Joint CPS / Police protocol if there are any elements of stalking behaviour a charge will always be more appropriate.

You must not issue an out of court disposal for Stalking or Harassment (Section 4) in any circumstance. Harassment (Section 2) may be suitable for an out of court disposal but will now require an Inspector's authority for a CR.

6.5 Knife Crime Offences

National NPCC Guidelines on the Cautioning and Charging of Knife Crime Offences have recently been updated. "The expectation is that those aged 18 and over will be charged for all knife-related offences." The guidelines no longer provide discretion to deviate from this response for adult offenders. For clarity, this means that we should not be using Community Resolutions or Cautions for any knife-related offence committed by an adult.

6.6 Operational Orders

It is recognised that there may be discreet areas of our business where it is appropriate to regularly give a OoCD when in normal circumstances a charge may be expected. Any Operational Order to this effect must be authorised by the Head of Criminal Justice, reviewed by the specialist unit biannually for effectiveness, and be attached to this policy as an appendix. The preferred starting point will be a Conditional Caution and CRs will only be used when significant mitigating factors are present.

7. The Process

7.1 Paper tickets known as a Community Resolution Intervention Record are currently being issued. An up-to-date ticket is being developed in digital form. The following aspects of the current ticket are out of date and can be ignored:

- The red, amber, green system for authorisations. Please refer to section 4 of this policy for the most up to date information.
- Reference to levels 1 and 2.
- Wet signatures, they are no longer required.
- Reference to liability for prosecution following failure to complete agreed actions.
- Reading the caution to the offender is not required.

- Consulting the dog unit is not required. Frequently occurring dog offences currently score 3 on the adult gravity matrix and therefore authorisation from an Inspector is required. Please also be mindful of section 3.8 unlimited conditions such as muzzling a dog should not be used as they cannot be monitored for compliance.

7.2 All crimes require recording on NICHE as per the National Crime Recording Standard (NCRS) and Home Office Counting Rules (HOCR).

7.3 The offender workflow can be completed at point of issue.

7.4 A finalisation form can be submitted when the agreed action has been completed (or, if the only outstanding agreed action is to complete a course provided by an external agency such as: Druglink, Victim Awareness or Anger Management). Select Home Office Outcome 8.

7.5 MG forms are not required, but if obtained must be included on the NICHE record.

7.6 If the offender does not complete the outcomes and are no longer willing to engage in the process, you must add a flag on NICHE for non-compliance so that your colleagues know not to issue another CR to this offender. The crime can then be finalised.

7.7 Paper Intervention Records must be scanned onto NICHE and the paper copy sent to the Restorative Services Team.

7.8 Retention of Tickets.

Tickets need to be retained for six years. Once uploaded onto NICHE they can be posted to Restorative Services, Arundel Block, Lewes HQ. For more information Officers should refer to the Surrey and Sussex Retention Schedule.

8. Non-Compliance

8.1 Community Resolutions are not enforceable, and no penalty will be issued for non-compliance. Whilst this may be frustrating, Sussex Police recognises that CRs are an effective means of resolving low risk incidents to the satisfaction of victims. It is the offender's voluntary agreement to engage in the CR that makes the chosen outcome more impactful. This invariably means that there will be a small number of occasions where an offender withdraws from the voluntary agreement and the victim's wishes will not be satisfied. It should be explained to the victim that this offender will no longer be eligible for a CR in the future.

9. Police officers and staff as victims and offenders

9.1 If the victim is a police officer or member or police staff, then a CR can be used, and the normal process applies.

9.2 If the suspect is a police officer, special constable, member of police staff or a volunteer, the Professional Standards Department (PSD) must be informed before an officer of the rank of Inspector or above authorises the issuing of a CR.

10. Complaints

10.1 CRs do not have their own separate appeals process. Members of the public are entitled to complain in the usual way and details can be found here:

<https://www.sussex.police.uk/fo/feedback/tcs/complaints-triage/>

10.2 Once a crime has been disposed of by CR, it is highly unlikely that this will be rescinded in favour of another disposal.

11. Governance

11.1 To promote transparency, consistency and accountability Sussex Police considers it important that these decisions are subject to formal external scrutiny on a regular basis. This is done through a Multi-Agency Scrutiny Panel formed in accordance with national guidelines.

12. Protected Characteristics

12.1 It is important that we record accurate data in the records we hold about protected characteristics. This data is critical to delivering outstanding public service because it deepens our understanding of what our communities demand from us, what response we currently give and where we need to improve. Protected characteristics can be defined as age, gender, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, disability, race (including colour), nationality, ethnic or national origin, religion or belief and sexual orientation.

13. Mandatory Flags

13.1 Some crime data is flagged by the Home Office. There are Hate Crime, Metal Theft, Domestic Abuse, Online Crime, Child Sexual Abuse, Child Sexual Exploitation, Alcohol, Corrosive Based Substances and Honour Based Abuse. There is detail which supports each of these important flags at Counting rules for recorded crime - GOV.UK (www.gov.uk). For more information refer to the Crime and Incident Disposal, Recording and Auditing Policy (757).

Team: Criminal Justice Unit