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Policing

Out of Court Disposals Consultation Response

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Response to Consultation on Out of Court Disposals

November 2014

Response to consultation carried out by the Ministry of Justice.

This information is also available at <https://consult.justice.gov.uk/>

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Ministerial Foreword



The consultation has shown the valuable role that out of court disposals (OOCs) – the sanctions that can be used by the police to address offending without recourse to the courts – can play in tackling low-level crime. But responses to the consultation have also shown that the current system is in need of reform.

The public supports the use of such disposals for first-time offending but the system is undermined when they are considered to be a ‘soft option’, particularly when used for second or subsequent offences. At present, many of the disposals are simply warnings and have no meaningful consequences for the offender; not surprisingly this does not always command public confidence.

The current adult disposal framework is unnecessarily complicated, both for the public to understand and have faith in, and for practitioners to operate. The police are only able to operate the system as it exists, and therefore if we are to give them the discretion they need to deal with crime effectively, and in a way that improves public confidence, we have to look at the OOC landscape as a whole.

We want to see a clearer and simpler framework for adult disposals, one that ensures real consequences for offending, encourages reparation to victims, repairs harm and helps to reduce the risk of reoffending. Offenders should be required to take meaningful action in response to their offending and face the consequences if they do not. The system also needs to be much more transparent, with police forces and Police and Crime Commissioners held to account by local communities for their use of such disposals.

Previous reforms of OOCs have concentrated on individual disposals; this consultation has shown the need for system-wide reform. The proposals that we have set out in this response document will significantly alter the adult disposal framework, putting victims at the heart of the system and giving the police the powers they need to tackle low-level offending in a much more meaningful way.

It is through these measures that we will restore confidence in the use of such disposals.

A handwritten signature in black ink that reads "Mike Penning". Below the signature is a horizontal line.

Rt Hon Mike Penning MP

Minister of State for Policing, Criminal Justice & Victims

Introduction and contact details

This document is the joint Government and police service response to the consultation paper on adult Out of Court Disposals published on 14 November 2013.

It will cover:

- the background to the consultation;
- the response to the main issues raised in the consultation;
- the next steps following this consultation;
- a detailed response to the specific questions raised in the consultation (Annex A); and
- an overview of the questions asked in the formal consultation (Annex B)

Further copies of this report and the consultation paper can be obtained by contacting Jessica Brown at the address below:

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This report is also available on the Ministry of Justice pages of the Gov.uk website (<https://www.gov.uk/government/organisations/ministry-of-justice>).

Alternative format versions of this publication can also be requested from Jessica Brown.

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Background

OOCD Review

1. Out of Court Disposals (OOCs) are responses to crime that the police can administer locally without having to take the matter to court. The main adult disposals are: simple cautions, conditional cautions, penalty notices for disorder (PNDs), cannabis and khat warnings and community resolutions.
2. These disposals are a valuable tool for the police when tackling low-level crime and can represent a proportionate and effective response to offending that can focus on the needs of the victim. The current framework has, over time, developed into a complex set of arrangements that are difficult for the public to understand and for practitioners to implement.
3. The Government, in partnership with the police, launched a review of the adult OOC framework in September 2013. The youth OOC framework, which was subject to significant structural reform last year, is excluded from this review.
4. The review includes:
 - Mapping the current OOC landscape to **understand gaps and issues**;
 - Identifying opportunities to **simplify** the landscape and guidance;
 - Ensuring that the right person makes the **right decision** at the **right time**;
 - Ensuring robust local **accountability** and **scrutiny** mechanisms;
 - Embedding mechanisms for ensuring **victims' views** are considered;
 - Making sure the **sanction** fits the crime and the **offender**;
 - Ensuring **transparency** by clarifying what information is gathered and how it is shared; and
 - Clarifying how OOCs should be **disclosed** (for example, as part of employment checks).

Consultation on OOCs

5. The consultation on OOCs forms an essential part of the review. It sought views from practitioners and the wider public on how we could simplify the current adult OOC landscape, ensure that offenders and particular offences are dealt with in the most appropriate way, help to reduce reoffending, and increase transparency and public understanding of the system.

How we consulted

6. The consultation was launched on 14 November 2013 and concluded on 9 January 2014. Alongside the consultation, the review team also posted challenges and questions on a bespoke interactive website. Members of the public and Criminal Justice System (CJS) practitioners were able to register to use the site and participate in the challenges and discussions.

7. The team also ran a series of six practitioner workshops across England and Wales in London, Bristol, Cardiff, Coventry and Manchester. These events welcomed delegates from the police, the Crown Prosecution Service (CPS), defence practitioners, probation services, restorative justice practitioners and victims groups to discuss the challenges faced in the existing OOCd landscape and how that landscape could be improved.

Results

8. We received 172 responses to the consultation, just under a quarter of which were from police forces. The other main groups to respond were magistrates (15%), voluntary/community organisations (12%) and members of the public (11%).
9. A full analysis of the responses to the consultation is set out at Annex A.

Response to the consultation

A new adult OOCDD landscape

10. We have already taken steps to increase public confidence in OOCDDs. Following the Review of Simple Cautions last year, we included measures in the Criminal Justice and Courts Bill to restrict use of simple cautions for more serious offences, as well as restricting the repeated use of cautions for persistent offenders. These are important measures but the consultation on OOCDDs has shown the need for system-wide reform.
11. For the system to command public confidence, OOCDDs must have meaningful and appropriate consequences for the offender; the punishment must fit both the offender and the offence. Those who commit crimes should be made to face up to the consequences of their behaviour, as well as repairing the harm they have caused. OOCDDs should also have a positive impact in terms of reducing the risk of reoffending.
12. All too often, the current adult framework fails to do these things. We therefore intend to create a new framework for adult disposals that moves away from a system of warnings and reprimands and gives the police the power to tackle offending behaviour in a much more effective way. Offenders will be required to take action to comply with the new disposals and face meaningful consequences if they fail to do so. A simplified system will be much easier for the public to understand and for practitioners to implement. And the system will be subject to much greater scrutiny and transparency.
13. The new framework would look like this:
 - A **suspended prosecution** designed to tackle more serious offending, such as theft, violence or drug offences, where there is sufficient evidence to prosecute but the public interest is better served through the offender complying with appropriate conditions. Those who chose not to comply with these conditions may be prosecuted for the original offence.
 - A new, statutory **community resolution** aimed at lower-level and/or first-time offending, such as minor incidents of criminal damage or low-value theft. This disposal would allow the police to apply a wide range of approaches to tackling offending, ranging from an apology to the victim through to financial compensation or rehabilitative measures.

A more meaningful approach to tackling offending

14. Our reforms will ensure a meaningful approach with real consequences for offending behaviour. It is important to ensure that offenders receive an appropriate response to their offending; the new disposals would require offenders to comply with one or more actions or conditions that would be punitive, reparative and/or rehabilitative in nature:
 - **Punishment** – including tough financial penalties. There was strong support in the consultation for OOCDDs to include a punitive element, and a financial penalty element in particular. For the suspended prosecution, we intend to include a punitive financial penalty condition that will sit alongside other options. We will consider whether the new community resolution should also include a financial penalty element.

- **Reparation** – actions which serve to repair the damage done either directly or indirectly by the offender. Research indicates that, where they form part of an O OCD, restorative responses to low-level offending result in generally high levels of victim satisfaction. This was reflected in the consultation, with very strong support for improving the system through which offenders ‘pay back’ to the victim or society. Reparative responses could include financial compensation to the victim, a written or verbal apology, a facilitated meeting or conference between the victim and the offender (such as a Neighbourhood Justice Panel) or other Restorative Justice¹ methods, but only where such activities meet appropriate standards and are used in appropriate circumstances.
- **Rehabilitation** – actions which would help to modify the behaviour of the offender, reduce the likelihood of reoffending or help to reintegrate the offender into society. The two new disposals would encourage innovative approaches to tackling offending such as sobriety testing for alcohol-related offences or compulsory attendance at a women’s centre designed to divert high risk women offenders away from prosecution and potentially custody. This could include attendance on courses specific to the offence type, such as attendance on a kerb crawling re-education programme, or more general courses such as drink or drugs awareness which could help to address underlying issues which may have contributed to the offending. The conditions or actions could also be restrictive in nature, such as excluding the offender from visiting a particular place or area, where this supports his or her rehabilitation.

15. In determining which actions or conditions to apply, police officers would have to take account of the views of the victim (where there is one) and to justify why these actions or conditions were the most appropriate way of repairing any harm caused, preventing reoffending or punishing the offender.

Tackling repeat offending

16. While members of the public recognise the potential value of diverting first-time offenders from the court system and preventing re-offending, support falls away significantly when these disposals are perceived as a ‘soft option’ – especially if they are being given to someone who has offended before.²

17. The new framework would give a clearer and simpler route of escalation from the new community resolution to the suspended prosecution and then on to immediate prosecution, where appropriate. Offenders would no longer be able to receive a number of different types of disposal for similar offences before being taken to court.

18. The boundaries would not be set in stone and practitioners would have some discretion to decide the appropriate level of sanction, where this can be justified and where this is the most effective means of securing desistance from future offending. In developing this framework, we will ensure there are tight restrictions in place around

¹ Restorative Justice is not an O OCD, although sometimes it is (incorrectly) used to describe the community resolution. It is a process that, with their express consent, **brings those harmed by crime, 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.**

² HMIC/Ipsos MORI (2010) *Where are the People on Crime and Punishment.*

repeat usage and consider the merits of alternative models for escalation. In the shorter term, we will test a restriction that says an offender should not receive a second community resolution for the same or a similar offence in a 12 month period, unless there are exceptional circumstances. We will also ask police officers to record why a repeat disposal was considered to be appropriate and an effective means of preventing reoffending.

Consequences for offenders

19. The new framework would remove those disposals that are simply warnings; offenders would have to take positive steps to comply with the two new disposals or face the consequences. For the suspended prosecution, if the offender failed to comply with the conditions of the disposal, then he or she would face the prospect of prosecution for the original offence. While failure to comply with the new community resolution would not normally result in prosecution for the original offence, this would be taken into account by police officers in determining how best to tackle any subsequent offending. The fact that a community resolution had not been complied with, without good reason, should preclude an offender from receiving another community resolution for a subsequent offence.
20. We are also keen to ensure that previous OOCs are made known to the courts in any prosecution for subsequent, similar offences, where this is appropriate. We will work with the police and CPS to consider how this information should be made available to the courts at the point of sentencing in a new, formalised two-tier framework. We will also work with the Sentencing Council and the judiciary to ensure that the relevant sentencing guidelines reflect this.
21. In addition, adult offenders should be left in no doubt about the longer-term consequences of accepting an OOC, including the impact this may have on future job prospects. We will ensure that there are clear consequences for accepting one of the new tiers of disposal and that systems are in place for communicating these consequences to offenders.

Supporting Victims

22. The views of victims should be taken into account, wherever possible, when determining whether to prosecute or to dispose with the matter out of court, and when assessing what conditions or actions the offender should be required to comply with. The Government has just introduced the new **community remedy**, which requires police officers to take steps to obtain the views of the victim on whether the offender should carry out any of the actions listed in the force's **Community Remedy Document** as part of a community resolution or a conditional caution. We will ensure that the new framework for OOCs fully embraces the community remedy and that the views of victims are taken into account.
23. As well as making offenders take greater responsibility for their actions and to do more to repair the damage they have caused, we are also committed to making offenders contribute more generally towards the support needed by victims of crime. Where there is an identifiable victim then the OOC could include compensation to be paid to that person. Where the offending has resulted in damage to community property, then the offender could be required to make a payment to a local charitable or community fund. Where there is no identifiable victim, we will consider how to build in to the new framework some form of **victim surcharge** which the offender would be required to

pay and which would be used to support victims services. This could include diverting part of the income received from any financial penalties attached to the two new disposals

Particular offence types

24. The Government has been clear in the past that simple cautions are not appropriate for certain offences, and is changing the law to restrict their use. Similarly conditional cautions can only be used for indictable only offences in exceptional circumstances, and following referral to the CPS.
25. We will take a similar approach in designing the new OOC regime. In particular, we will ensure that a suspended prosecution can only be used for indictable only offences in exceptional circumstances and with the approval of the CPS. Serious offending should never be dealt with by means of a community resolution.
26. We wish to go further in toughening up the system. In the existing framework, simple cautions remain available for both domestic violence and hate crime. The Government intends to change this. The consultation sought views on whether OOCs should be available for these two particular offence types. Tackling these offences is a priority for the Government and the police. If the threshold for a prosecution is met, then it is not appropriate to deal with these cases by way of an OOC. However, where the victim does not support a prosecution and the available evidence would only support charging the offender with a very minor offence, an OOC may well be a preferable alternative. The new suspended prosecution would offer immediate protection to the victim through, for example, restricting the offender from approaching the victim, along with rehabilitative conditions – such as attendance on a domestic violence awareness course – and/or reparation for the victim. And those that breach these conditions would face prosecution for the original offence. We will therefore test whether the suspended prosecution is appropriate for low-level offences involving domestic violence and hate crime, in cases where the victim supports this course of action.

Accountability and transparency

27. If the public is to have confidence in OOCs, there needs to be greater transparency and accountability within the system. The majority of respondents to the consultation felt, for example, that the public was not able to hold the police to account for the way OOCs are used.
28. Most forces have established independent scrutiny panels to monitor their use of OOCs. These arrangements are designed to provide generalised feedback to forces on their use of OOCs and are a good means of increasing transparency, as well as ensuring greater consistency, through providing feedback and identifying training needs. But the current arrangements have evolved organically over time and therefore vary considerably between forces in terms of scope, membership and frequency of meetings. It is the role of PCCs to hold police forces to account on behalf of the public and we will therefore work with PCCs to ensure that there are appropriate OOC scrutiny arrangements in place for each force.
29. In addition, a significant majority of respondents to the consultation felt that more information about OOCs should be shared with the public as a means of increasing both accountability and transparency. We will therefore work with PCCs to develop the most efficient and effective means for publishing statistics about the use of OOCs

within local force areas, including the findings of their local scrutiny panels. This will help to explain to the public the difficult decisions that police officers have to take when tackling offending behaviour and increase public understanding of – and confidence in - OOCs.

Next steps

30. These are significant changes to the adult OOCDF framework and it is important that we get them right, so that they command the confidence of practitioners and the public alike. We will therefore pilot elements of the new structure with three police force areas.
31. Three police forces have volunteered to take part in the pilot: West Yorkshire, Leicestershire and Staffordshire. The pilot will commence in November 2014 and is expected to last for 12 months.
32. During this period, the three forces will focus on the two disposals that are most similar to the new framework: the community resolution and the conditional caution. For the duration of the pilot, the three forces will cease using simple cautions, cannabis warnings and khat warnings and restrict their use of PNDs.
33. The pilot will test how practitioners respond to the proposed changes and, in particular, the impact on charging decisions made by the police and CPS, as well as assessing the impact on victims of crime. We will also work closely with the relevant police forces to ensure robust analysis of the pilot and to assess the potential net impact associated with the new framework and dispensing with those disposals that are merely warnings and require the offender to do nothing more than agree to accept the disposal.
34. We will also give the three forces the ability to deal with offences involving domestic abuse and hate crimes in a more effective way. In particular, we will stop the use of simple cautions for such offences and allow the forces to use conditional cautions in tightly limited circumstances and where the victim fully supports this course of action. We will also put an explicit restriction on use of community resolutions for domestic abuse cases during the pilot. This disposal is clearly unsuited to offences involving current or former intimate partners and should **never** be used for such offences and the guidance to the pilot police forces will reinforce this. We will closely monitor and scrutinise cases involving domestic abuse or hate crime during the pilot, including capturing the views of the victims of such crimes, before taking a decision on whether these offences should be included within the scope of the new framework.
35. The results of the pilot will inform the Government of the impact of the reform on practitioners and the victims of crime, as well as the net financial impact and affordability of a national roll out for the public purse. Should a decision be taken to roll out the new framework, we would look to put this on a statutory footing and put an end to the development of ad hoc or informal sanctions that has led to the current complex landscape. We will publish an Impact Assessment of the reforms if a decision is made to roll the framework out nationally.

Equalities considerations

36. The consultation sought views from a range of equalities organisations on how we could ensure that offenders with protected characteristics are treated equally under the adult OOCDF framework. There was support for analysing outcomes and investigating any discrepancies to ensure offenders are treated equally. Other suggestions included for improved training in OOCDFs, limiting discretion so there is more consistency in OOCDF use, and monitoring use and giving feedback to officers.
37. Moving to a simplified, streamlined two-tier framework will help to bring about greater consistency in police use of OOCDFs and simplify training and guidance arrangements. As outlined above, we are also keen to build on the current scrutiny arrangements and feedback mechanisms.
38. In accordance with our duties under the Equality Act 2010³ we have undertaken an initial assessment of the likely equalities impacts of the proposals on individuals sharing protected characteristics in order to give due regard to the need to eliminate unlawful conduct, advance equality of opportunity and foster good relations. We consider that the new two-tier framework would be a proportionate and necessary means of achieving the legitimate aim of simplifying the OOCDF system and making it more transparent and accountable.
39. We have, in particular, considered the proposals in relation to Black, Asian and Minority Ethnic (BAME) (and issues of unconscious bias in relation to disposing of cases). It is also important that we support people with disabilities (including those with learning difficulties or mental health issues) to understand the implications of admitting guilt or accepting responsibility for the crime committed, and how they can comply with the conditions imposed on them.
40. We will assess the equality impacts of the pilot. This will include monitoring the impact of the pilot of the new framework (subject to data availability) and in particular breaches of conditional cautions, on offenders with the protected characteristics of age, gender, disability and race to ensure that we understand more about the equalities impacts of the pilot. The three pilot areas selected have a diverse mix of such people living within them and the pilot should therefore be a good source of data. Reasonable adjustments will be made for people with disabilities to ensure that they understand the consequences of accepting an OOCDF.

³ Section 149 of the Equality Act 2010 requires Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

- Eliminate discrimination, harassment, victimisation and any other conduct prohibited by the 2010 Act;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

Paying 'due regard' needs to be considered against the nine "protected characteristics" under the 2010 Act – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity.

41. We have also ensured that the OOCDD pilot guidance appropriately considers domestic violence and hate crime and its impact on offenders with protected characteristics, as well as front line officer training

Annex A – Analysis of Consultation Responses

Introduction

The formal eight-week public consultation for the OOCB review was launched on 14 November 2013 and concluded on 9 January 2014. A digital open policy-making element was launched on the same day and closed on 22 December 2013.

Responses to the formal consultation were collected through the website Citizen Space. The consultation consisted of 26 questions; a small number of these were multiple-choice whilst most were open-text.

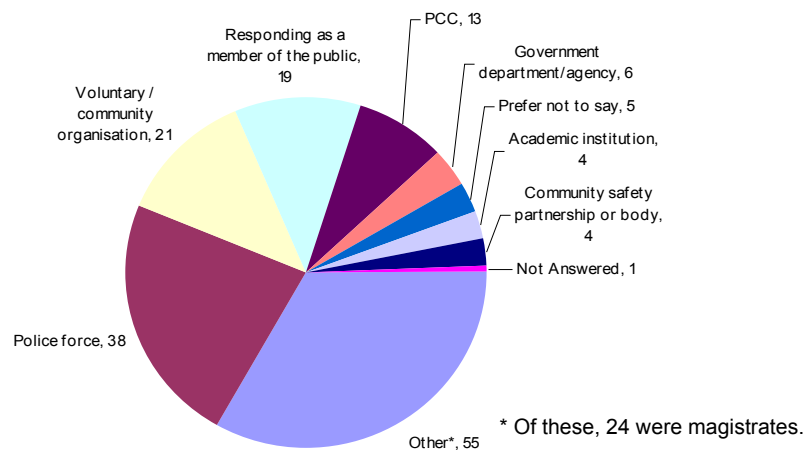
MoJ analysts produced a coding framework for each of the formal consultation questions, with input from policy officials. The framework was used to apply agreed codes to each response indicating the main themes covered, which then allowed for identification of the most common feedback themes across respondents. Three coders worked on populating the coding framework.

Alongside the formal consultation, the review team also posted challenges and questions on a bespoke interactive website. Members of the public or CJS practitioners were able to register to use the site and participate in the challenges and discussions.

Response Rates

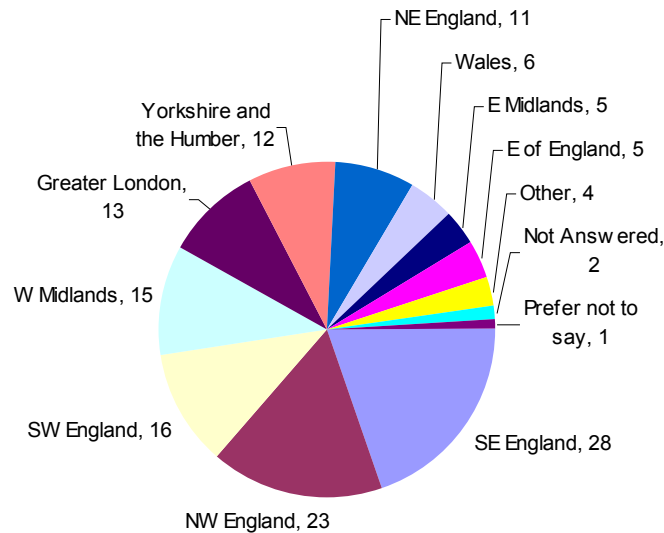
There were 172 responses to the formal consultation; 134 were submitted through Citizen Space and 38 were submitted through hard copy or e-mail. Respondents were asked which organisation or professional interest they represented: 22% were from police forces, 15% were magistrates, 12% were from voluntary/community organisations, and 11% responded as members of the public. The remainder were from a variety of other organisations, including PCCs, academic organisations, and other government departments (see Figure 1 for a full breakdown).

Figure 1. Which of the following best describes your organisation or the professional interest that you represent?



Respondents were also asked which geographical areas they were based in; responses are summarised in Figure 2.

Figure 2. In which of the following areas are you based?



Understanding response rate analysis

MoJ officials have conducted analysis of the 172 responses to the 26 questions in the consultation document and a summary is below. There are a number of important caveats:

- Not all of the respondents gave responses to all of the questions. Where percentages are given, these are percentages of **the number of respondents who answered that specific question**.
- As responses could cover a number of themes, multiple codes could be assigned to a response; this means that the theme percentages often add up to more than 100 per cent.
- Three coders assigned codes for open text questions. While there was general agreement there is likely to be some variation in the way different people coded responses. Checks were used to mitigate user error as much as possible.
- While percentages are provided for the open text question to give some idea of the level of agreement on issues, these numbers may be subject to coder error.

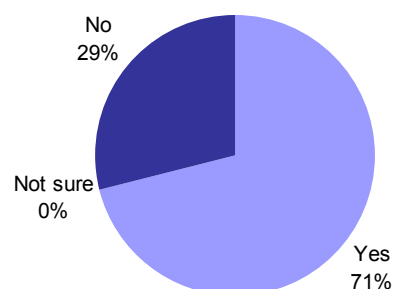
Unless otherwise stated, questions were open text and asked of all respondents regardless of their response to multiple choice questions.

Thematic analysis of consultation questions

Simplification (question 1)

- Respondents were asked whether they thought the O OCD regime should be simplified (in a multiple choice question). This was answered by 152 respondents (88%): 71 per cent of those said 'yes' and 29 per cent said 'no'. See Figure 3.
- Respondents were then asked, if they did think it should be simplified, how they thought that could be done. This question was answered by 114 respondents (66%).
- The most common suggestions were for creating clearer guidelines and legislation for O OCD use (28%) and reducing the number of disposals available (24%).
- There was also some support (13%) for restricting the available use of O OCDs, for example through restricting the types of offences for which they can be used.
- A number of respondents (24%) gave suggestions for simplification that were coded as 'other suggestion'. Suggestions given included communicating the O OCD regime more clearly to the public, reducing discretion, and renaming disposals to more accurately describe what they are.

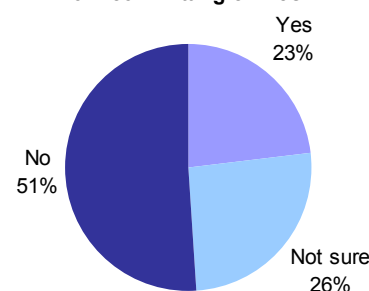
Figure 3. Do you think the O OCDs regime needs to be simplified?



Reducing Crime and Protecting the Public (questions 2 and 3)

- Respondents were asked whether they think that O OCDs deter offending (in a multiple choice question). The question was answered by 147 respondents (85%): 51 per cent said 'no', 26 per cent said 'not sure' and 23 per cent said 'yes'. See Figure 4.
- Respondents were then asked how they thought O OCDs could deter offending. This was answered by 149 respondents (87%).
- The most common themes in responses in support of O OCDs were that rehabilitative (18%) and punitive (13%) conditions on O OCDs could reduce offending and that O OCDs can act as a warning to first time and low level offenders (17%).
- Some respondents (14%) expressed doubt that O OCDs would be able to deter offending. Reasons given included believing that some people will not be deterred from offending by any kind of sanction or outcome and the opinion that O OCDs specifically don't offer serious enough sanctions to deter offending.
- A number of respondents (25%) gave responses that were coded as 'other suggestions'. Some of the suggestions for improving O OCD deterrent effect were limiting their use (e.g. by offence type or previous offence history), involving restorative justice approaches, and communicating to recipients of O OCDs what will happen if they offend again.

Figure 4. Do you think the current O OCD framework deters people from committing crimes?



Disclosure of OOCs (question 4)

- Respondents were asked whether they thought the consequences of accepting an OOC (e.g. potential for caution to be disclosed in a DBS check) should be made clearer. This question was answered by 154 respondents (90%).
- Most respondents (82%) said they thought consequences should be made clearer. A small number (6%) thought that consequences were already made clear enough. Some respondents said they didn't know enough about how clear they currently are to be able to express an opinion on need for change.
- Very few respondents addressed the issue of whether disclosure should be changed or stay the same.

Punish Offenders (question 5)

- Respondents were asked what kind of punitive elements OOCs should be able to deliver. The question was answered by 150 respondents (87%).
- There was support (49%) for financial penalties as part of OOCs.
- There was also support (40%) for restorative justice approaches being part of OOCs, though this was not necessarily seen as being punitive.
- A form of unpaid community work was suggested by a number of respondents (25%).
- Some respondents (7%) felt that OOCs should not be delivering punishment.

Offences Suitable for OOC (question 6)

- Respondents were asked what sort of offences they thought OOCs were appropriate for. This was answered by 153 respondents (89%).
- Over half of respondents (54%) said that OOCs should be used for "low-level" or "minor" offences. Some respondents specified types of low level crime they could be used with whilst others were more general.
- Disorder and anti-social behaviour were specified as being appropriate for OOCs by some respondents (18%).
- Some respondents (14%) felt that OOC use should be based on the specific circumstances rather than being limited to certain offence types.

Domestic Violence (DV) and Hate Crime (questions 7–9)

- Respondents were asked whether they thought OOCs should be available for use in cases of domestic violence and hate crime.
- The question regarding domestic violence was answered by 153 respondents (89%): 56 per cent said that OOCs should not be used in DV cases and 44 per cent said that they should be available.
- Respondents were then asked to comment on their opinion about whether OOCs should be available for DV. Answers were provided by 147 (85%) respondents.
- A number of respondents (22%) said that DV is always too serious for OOCs to be appropriate, with some mentioning that using OOCs for DV could communicate to victims and the public that DV is not taken seriously.

- Others (24%) gave other reasons for opposing the use of OOCs with DV. These included the OOC regime not being able to provide adequate protection to victims, police not being skilled enough in the area to be able to assess the situation and what would be best for the victim, the potential for use of OOCs for DV to lead to lack of public confidence in OOCs, and the potential for offenders to coerce victims into supporting an OOC rather than prosecution.
- There was some support (23%) for OOCs being available for use in some cases of DV, depending on the circumstances. Some respondents gave examples of situations in which they thought it could be appropriate, such as minor offences between non-partner family members (e.g., siblings, child to parent).
- Other respondents (12%) said that OOCs should be available, but with rehabilitative conditions attached. Some (13%) gave other reasons and specifications for supporting availability of OOCs for DV; these included a risk assessment always being used and OOCs potentially being useful when the victim does not want the offender to be prosecuted.
- The question regarding availability of OOCs for hate crime was answered by 150 respondents (87%): 52 per cent said they should be available and 47 per cent saying they shouldn't.
- Respondents were then asked to comment on their opinion about whether OOCs should be available for hate crimes. Answers were provided by 140 respondents (81%).
- Similar to the responses for DV, a number of respondents (17%) said they felt that hate crime is always too serious to be dealt with through OOCs. Some respondents (16%) gave other reasons for their opposition, including the belief that OOCs would not stop offenders from repeating the behaviour and the opinion that OOCs are not appropriate because hate crimes are often part of a pattern of repeated behaviours.
- There was some support for the use of OOCs being available for hate crime dependant on the circumstances and severity (20%) and for their use with rehabilitative/educational conditions attached (16%).
- Respondents were asked how, if they thought they should be made available, OOCs could work for DV and hate crimes. Answers were given by 101 respondents (59%).
- In response to this question, a number of respondents reiterated their opposition to OOCs being used in these types of crimes.
- There was some support for special emphasis on the wishes of victims in these cases (23%) and the use of targeted conditions such as rehabilitation or education (18%).
- A number of respondents gave other suggestions for making OOCs work for DV and hate crime (42%); these included restricting use to low level offences, involving local groups that specialise in supporting victims of these crimes, and monitoring of and consequences for offender failure to comply with conditions.

Repeat offenders (question 10)

- Respondents were asked what kind of OOCs they thought were appropriate for use with repeat offenders. Answers were given by 154 respondents (90%).

- There was support (50%) for OOCs being available for repeat offenders in at least some circumstances. There was some support for use of conditional cautions (7%) and financial penalties (6%) for repeat offenders.
- Very few respondents addressed the issue of whether time since last offence should matter, but small numbers each said that offences from two or more years prior shouldn't count (7%) and that all offences should count regardless of time elapsed (11%).
- Similarly, few respondents addressed the issue of whether similarity of offences should matter, but some said that only similar offences should count (14%).

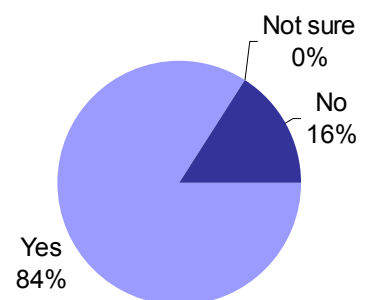
Consequences (question 11)

- Respondents were asked whether they thought that some offences or offenders should face more severe penalties if they don't comply with the conditions of their OOCs. Answers were given by 154 respondents (90%). However, it was clear from the responses that the vast majority of respondents were not considering whether consequences for non-compliance should vary by offender or offence, and instead were considering whether consequences should be more severe (than they currently are) across the board. Responses were therefore coded with reference to the latter issue.
- There was very strong support (72%) for more significant consequences for offenders who fail to comply with the conditions of their OOC.
- Few respondents (8%) stated that consequences did not need to be increased.

Make Reparation (questions 12 and 13)

- Respondents were asked how they thought practitioners should involve victims in making decisions about OOCs. This question was answered by 157 respondents (91%).
- There was support (41%) for police considering victims' wishes in their decisions about OOCs but not being bound by those wishes. A number of respondents (29%) were generally supportive of victim involvement in the decision, but did not specify the form they thought that involvement should take.
- Few respondents (3%) said they thought victims should not be involved.
- Respondents were asked whether they thought that the system through which offenders "pay back" to the victim or society through OOCs could be improved or made more efficient (in a multiple choice question). This was answered by 127 respondents (74%): 84 per cent said 'yes' and 16 per cent said 'no'. See Figure 5.
- Respondents were then asked to comment on their opinion on whether the system for 'paying back' could be improved. Answers were given by 135 respondents (78%).
- There was some support (20%) for using more non-financial ways of offenders paying back to victims and society, such as unpaid work.

Figure 5. Do you think that there are ways we could improve the system by which offenders can "pay back" to victims and/or society, and make it more efficient?



- There was also some support (11%) for harsher consequences for non-compliance and improvement of methods of collecting payment (9%).
- A number of respondents (23%) gave other specific suggestions for improving efficiency.
- A few respondents expressed opposition to paying back in general being part of OOCs (8%) or to financial penalties in particular (1%).

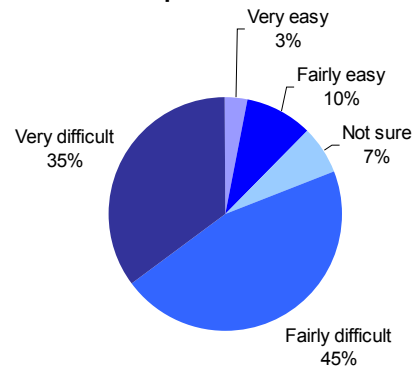
Reduce reoffending (questions 14–16)

- Respondents were asked how they thought the right offenders could be given the chance to address the root causes of their offending. This question was answered by 139 respondents (81%).
- There was some support for use of rehabilitative conditions for all or some specific offences (14%) or early intervention by partnership organisations to divert people away from the CJS where appropriate (12%).
- Some respondents (30%) gave other suggestions, many of which were for the involvement of other organisations such as probation or community groups.
- Some respondents (9%) felt that OOCs were not the appropriate method through which offenders should be helped to deal with the causes of their offending.
- Respondents were asked how we can ensure front line officers know what services are available when they are making decisions about OOCs. Answers were given by 138 respondents (80%).
- There was support (35%) from respondents for training officers to enable them to fully appreciate what services are available in their local area at the point of issuing an OOC.
- There was some support for PCCs or local forces maintaining a list of services available to officers in their areas (14%), partnership working with other organisations in the area (14%), and for the use of technology to allow officers to identify appropriate services (11%).
- Some respondents (9%) felt it shouldn't be the role of police officers to identify services.
- Respondents were asked whether they had anything to add about how the OOC system could reduce re-offending. This question was answered by 67 respondents (39%).
- A wide variety of responses were given to this question, including support for clear communication about the consequences of OOCs (7%), not using OOCs with repeat offenders (6%), targeted rehabilitation conditions (10%), and conditions being punitive enough to deter future offending (7%).
- In addition to ideas around changing the OOC landscape some of the respondents reflected on the fact that there are many influences beyond the scope of this review which affect offender behaviour.

Increasing Public Confidence (questions 17–19)

- Respondents were asked whether they thought the current OOC system is difficult for the public to understand (in a multiple choice question). This question was answered by 136 respondents (79%): 35 per cent thought that it was very difficult to understand, 46 per cent thought it fairly difficult, 7 per cent said they were not sure, 10 per cent thought it fairly easy, and 3 per cent thought it very easy. See Figure 6.
- Respondents were then asked how they thought the OOC system could be communicated better. Answers were given by 145 respondents (84%).
- There was some support for communicating through local press and the media (17%), providing online materials about OOCs (14%), and providing simple materials on OOCs and guidelines aimed at the public (14%).
- Holding public forums in the community to educate the public on OOCs was also suggested by some (8%) respondents.
- Respondents were asked what more could be done to improve public confidence in the OOC system. Answers were provided by 143 respondents (83%).
- Some respondents (34%) suggested better communication about and publicity of OOCs to the public. Other suggestions included stricter guidelines for their use (12%), monitoring of OOC for instances of inappropriate use (11%), and collecting better quality data on their use (10%).

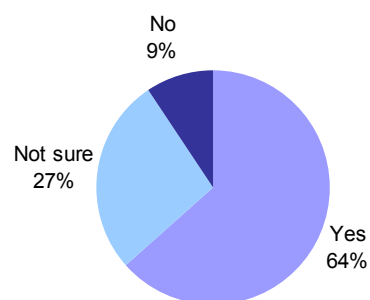
Figure 6. Is the current OOC system difficult for the public to understand?



Transparency and accountability (questions 20 and 21)

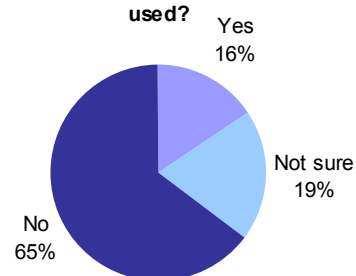
- Respondents were asked whether they thought that more information about OOCs should be shared with the public (in a multiple choice question). Answers were given by 139 respondents (81%): 63 per cent said 'yes', 27 per cent said 'not sure', and 9 per cent said 'no'. See Figure 7.
- Respondents were then asked, if they thought more information should be shared, what kind of information they thought that should be. This question was answered by 104 respondents (60%).
- Suggested information included rates of use of different kinds of OOCs (11%), OOC use by local area (9%), and OOC use by offence type (8%).

Figure 7. Do you think there is more information that should be shared?



- Respondents were asked whether they thought that the public is able to hold police accountable for the way OOCs are used (in a multiple choice question). Responses were given by 139 (81%) respondents: 65 per cent said 'no', 19 per cent said 'not sure', and 16 per cent said 'yes'. See Figure 8.
- They were then asked, if they thought the public are not currently able to hold police accountable, how they thought the system could be made more accountable. This question was answered by 117 respondents (68%).
- A number of respondents (30%) suggested the use of scrutiny panels.
- Other suggestions included publishing local area use of OOCs (11%), involving victims in decisions about OOC use (7%), and holding public forums about OOCs (5%).

Figure 8. Do you think that the public are able to hold the police to account for the way that OOCs are used?



Be Fair and Just (questions 22 and 23)

- Respondents were asked how we can ensure that the people making decisions about OOCs have the right experience and skills. Answers were given by 145 respondents (85%).
- There was strong support (56%) for training practitioners to ensure that they have the right level of skills and experience to make decisions.
- Other suggestions included ensuring that those who make decisions about OOCs have appropriate rank or time in service (15%) and having clearer guidelines on OOC use (14%).
- Respondents were asked how we can best ensure that decision-making about OOCs is both timely and thorough. This question was answered by 129 respondents (75%).
- Suggestions included having clear guidance to enable straightforward cases to be handled quickly (22%), requiring higher-up approval for certain cases (12%), and setting timeframes for decision making (9%).

Equalities considerations (questions 24 and 25)

- Respondents were asked how we can make sure that front-line officers have the right tools to make the right decisions about OOCs. Answers were given by 131 respondents (76%).
- There was strong support (53%) for training for front-line officers.
- Other suggestions included clearer guidance for practitioners (16%) and monitoring and feedback on officers' use of OOCs (13%).
- Respondents were asked how we can ensure that offenders are treated equally in the OOC system. This question was answered by 132 respondents (77%).
- There was support (12%) for analysing outcomes and investigating any discrepancies to ensure offenders are treated equally.

- Other suggestions included for improved training in OOCs (14%), limiting discretion so there is more consistency in OOC use (10%), and monitoring use and giving feedback to officers (10%).

Local considerations (question 26)

- The final question was about the balance between central guidance and local choice. Answers were given by 133 respondents (77%).
- A larger number of respondents (39%) were in favour of central guidance over local discretion.
- A smaller number of respondents (20%) wanted to see local discretion over central guidance, retaining a structure and standards but allowing the detail to be determined locally.

Digital Open Policy Making

Over 60 users registered to use the site, and there were five ideas submitted in response to challenges. As the number of responses was low, they have not been quantified. The challenges that were answered were about ensuring equality in the way OOCs are used; ways to keep the public informed (2 challenges); improving awareness of OOCs; and public confidence, accountability and scrutiny. The responses covered themes including applying sentencing guidelines to OOC use; using social media to publicise information on OOCs; removing criminal sanctions for cannabis, as some other countries have done; and working with the press to publicise more thorough and accurate information about OOCs, such as examples of the decision-making process that lies behind OOC use.

Annex B – List of consultation questions

1. Do you think the OOCDS regime needs to be made simpler? If so, how?
2. Do you think the current OOCDS framework deters people from committing crimes?
3. How do you think OOCDS can make people less likely to commit crimes?
4. Should the consequences of accepting or being given an OOCDS be clearer?
5. What type of punishment should OOCDS deliver? An example might include financial penalties.
6. What sort of offences do you think OOCDS are appropriate for?
7. Do you think that OOCDS should be available for domestic violence?
8. Do you think that OOCDS should be available for hate crime?
9. If so, how can we make sure that the OOCDS system works well for this type of offence?
10. What sort of OOCDS, if any, is appropriate for repeat offenders?
11. Do some crimes or offenders need more significant consequences if the terms of their disposal are not met? For example, if they are asked to pay a fine but do not.
12. When a practitioner (for example, a police officer) is deciding on an out of court disposal, how should victims be involved in that decision?
13. Currently, the OOCDS system includes ways in which offenders can “pay back” to the victim and/or society, sometimes financially and sometimes in other ways. Do you think that there are ways we could improve this and make it more efficient?
14. How can we make sure that the right offenders are given the chance to address the root cause of their offending?
15. How can we make sure that front line officers know what services are available in their local area when they are at the point of using an OOCDS?
16. If you have anything else to add on how the OOCDS system can help reduce reoffending, please add it below.
17. Is the current OOCDS system difficult for the public to understand?
18. How do you think it could be communicated better?
19. What more could be done to improve public confidence in the OOCDS system?
20. Do you think there is more information that should be shared?

21. Do you think that the public are able to hold the police to account for the way that OOCs are used?
If no, how do you think we could make the system more accountable?
22. How can we ensure that the person making the decision about an OOC has the right experience and skills?
23. How can we best ensure that decision making about what OOC to apply is both timely and thorough?
24. How can we make sure that front-line officers have the right tools to make the right decisions?
25. How should we make sure that offenders are treated equally?
26. How should the role of central guidance be balanced against the need for local choice?

Annex C – List of respondents

Kiron Read, Academic Institution
J Lovett, Academic Institution
Simon Holdaway, Academic Institution
Ed Woodall, Association of Convenience Stores
Mark Sayer, Association of Policing and Crime Chief Executives
Avon and Somerset Constabulary, Avon and Somerset Constabulary
Avon and Somerset Criminal Justice Board, Avon and Somerset Criminal Justice Board
Nigel Downey, Avon and Somerset Police
Clare O'Sullivan, Office of Avon and Somerset Police and Crime Commissioner
Sue Mountstevens, Avon and Somerset Police and Crime Commissioner
Laura Davies, British Retail Consortium
Nadia Ali, British Transport Police
Phillip Grime, Cambridgeshire Police
Benjamyn Damazer, Cambridgeshire Police
Adrian G Faulkner, Chamber of Trade
David Briscoe, Cheshire Police
Rob Dyson, City Co
Mairi Moore, City of London Police
Glen Ward, Cleveland Police
Corinna Hanley, Community Safety Partnership
Ele Hicks, Community/Voluntary Organisation
Keith Thomas, Criminal Barrister
Inspector Jon Sherlock, Cumbria Police
Andy Baines, Cumbria Police
Cartwright King, Defence Solicitor
Mel Stooks, Defence Solicitors
Steve Pont, Derbyshire Police
Hannah Hart, Devon and Cornwall Police
Ian Ansell, Devon and Cornwall Office of the Police and Crime Commissioner
Kelly Martin, Durham Police
Heather Harvey, Eaves for Women (Charity)
Kristin Dockar, Education Practitioner/Magistrate
Andy Champness, Gloucestershire Police and Crime Commissioner

Conroy Sproul, Greater Manchester Police

Roland Howard, Greater Manchester Police and Crime Commissioner

Shelley Bosson, Gwent Police and Crime Commissioner

Paul Eveleigh, Her Majesty's Inspectorate of Constabulary

Catryn Yousefi, Howard League

Robbie Walker-Brown, Humberside Criminal Justice Board and Humberside Police

Annie Hargreaves, Izzy Dix Memorial Campaign

Mark Hanna, Journalist

Amanda Cullen, Kent Police

Richard Case, Kent Police

Justin Watts, Kent Police

Rachel Harris, Kent Police

Steven Webb, Kent Police

Colette Todd, Kent Police

Paul Coughlan, Kent Police

Jill Gramann, Kidderminster Bench

Lesley Miller, Lancashire Police

Janet Arkinstall, Law Society

Sue Johnson, Law Solicitors Association

Karen Collins, Lincolnshire Police and Crime Commissioner

Andrew Hancock, Local Authority

Clive Brice, Magistrate

Jim Ludlam MBE JP, Magistrate

S Hayes, Magistrate

Martin Fiddler, Magistrate

Francis Fletcher, Magistrate

Andrew Acland, Magistrate

Peter Riley, Magistrate

David Phillips, Magistrate

David Milner-Scudder, Magistrate

Steven Knight, Magistrate

Philip Catterall, Magistrate

Elaine Hickman, Magistrate

Jane Elizabeth Phillips, Magistrate

Julia Hurrell, Magistrate

Carole Freeman, Magistrate

Ian Scott-Dunn, Magistrate
Andrew Worrall, Magistrate
Andrew Abbott, Magistrate
Tony Ayres, Magistrate
Denis Box, Magistrate
Graham Bingham, Magistrate
Aileen Little, Magistrate
Vanessa O'Dare, Manchester Youth Offending Service
Silas Reid, Member of Public
Sheila Sibson Turnbull, Member of Public
John Fassenfelt, Member of Public
Graham Phillips, Member of Public
R Hirons, Member of Public
Peter Pickthall, Member of Public
David Shaw, Member of Public
Malcolm Metcalfe, Member of Public
Alan Dewar, Member of Public
Keith Thomas, Member of Public
Richard Cross, Member of Public
Robert Howe, Member of Public
Ivor Grayson-Smith, Member of Public
Malcolm Kane, Member of Public
Tony Jackson, Member of Public
Peter Riley, Member of Public
David Farmer, Member of Public
M R Warner, Member of Public
Simon Dent, Member of Public
Martine Wakefield, Member of Public
Dennis Clarke, Member of Public
Eion MacDonald, Member of Public
Ian Mullen, Merseyside Fire and Rescue Service
Stephen Greenhalgh, MOPAC
Becky Rogerson, My Sister's Place – Specialist Domestic Violence Service
Santha Rasaiah, Newspaper Society
Nicole Casey, NHS Protect
Mary Ann Williams, North Wales Bench

Alan Dewberry, North Wales Police

Leanne McConnell, North Yorkshire Police and Crime Commissioner

Richard Hall, Northumbria Office – Police and Crime Commissioner

John West, Not Specified

Pauline Hirons, Not Specified

Jean Watt, Not Specified

Paul Caine, Not Specified

Roger Witt, Not Specified

Andrew Abbott, Not Specified

S Patchett, Not Specified

Dr Llian Hobbs JP, Not Specified

H Barney Miller JP, Not Specified

Demise Rankin, Not Specified

Caroline Airs, Not Specified

Clare Laxton, Not Specified

M Nail, Not Specified

Gary Evans, Office of a Police and Crime Commissioner

Johanan Burne on behalf of Kevin Hurley , Office of the Police and Crime Commissioner for Surrey

Kathy Coe, Pathway Project

Richard Lyttle, Police

Mairi Moore, Police

Joanne Obaldeston, Police

Javid Oomer, Police

Jeff Bridgeman, Police

Johanna Burne, Police and Crime Commissioner

Martyn Underhill, Police and Crime Commissioner

John Dwyer, Police and Crime Commissioner

Paul Phillips, Police Criminal Justice Command – Northants Police

Alex Hewsen, Prison Reform Trust

Pat Royal, Probation

Elaine Hake, Refuge

Jo Todd, Respect Charity

Philip Stewart, Retail cctv

Robin Durham JP, Shropshire Branch of the Magistrates' Association

Linda Mayhew, South Yorkshire Criminal Justice Board

Cheryl Wynn, South Yorkshire Police and Crime Commissioner
Chris Wheeler, Surrey Police
Paul Ryan, Surrey Police
Stuart Duguid, Surrey Police
Andy Morris, Surrey Police
Lyn Payne, Surrey Police
Kelly Broughton, Surrey Police
Ailsa Quinlan, Surrey Police
John Willett, Sussex Police
Katherine MacDonald, Suzy Lamplugh Trust
Olwen Kelly, Swindon Women's Aid – Domestic Violence Organisation
Carole Freeman Dunn, Teesside Magistrates
Dr Chris Knight, Telford and South Shropshire Bench of Magistrates
Gary Evans, Thanks Valley Police
Karen Williams-Cuss, Thames Valley Police
Michael Shuck, The Association of Business Crime Partnerships
Child & Woman Abuse Studies Unit, The Child and Woman Abuse Studies Unit – London Metropolitan University
Jo Easton, The Magistrate's Association
Sara Grace, University of Bradford
Chris Lewis, University Of Portsmouth
Annie Hargreaves, Victims Group
Joe Allen, Victim Support
Sandy Skilton, Victims Group (The Izzy Dix Anti Bullying Campaign)
Anne-Marie Hughes, Voluntary Sector / Community Organisation
Michael Barnes, Voluntary Sector/Community Organisation
Becky Rogerson, Voluntary Sector/Community Organisation
Laurel Townhead, Voluntary Sector/Community Organisation
Clare Laxton, Voluntary Sector/Community Organisation
Stephen Moffatt, Voluntary Sector/Community Organisation
Shane Britton, Voluntary Sector/Community Organisation
Benjamyn Damazer, Voluntary Sector/ Community Organisation
Kathy Coe, Voluntary Sector/Community Organisation
Aileen Little, Voluntary Sector/Community Organisation
Martin Davis, Voluntary Sector / Community Organisation
John Hicks, Welsh Government

Chris Lewis, Wessex Hate Crime Scrutiny Panel

Tom Joyce, West Midlands Police

Richard Sumner, West Yorkshire Police Criminal and Restorative Justice Unit

Frances Brennan, Wiltshire Police

Lisa Potter, Wiltshire Probation Trust

Laurel Townhead, Women in Prison



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