

Establishing pre-court diversion interventions: a guide for police forces

Introduction

While there are a large number of existing service providers that deliver interventions with those undertaking pre-court disposals, police officers have told us that deciding who they should partner with, determining the types of interventions they should commission, and ensuring that interventions are effective, can be, at times, overwhelming. In this evidence and practice briefing we outline what to think about when developing your menu of interventions, including best practice when working with partners, advice for commissioning services, and how to assure the quality of the interventions being delivered.

The new Police, Crime, Sentencing and Courts Act, which was passed into law in April 2022, simplifies the out of court disposal (OCD) framework into two types of statutory disposals: diversionary caution and community caution. The diversionary caution replaces the conditional caution. The community caution is an overarching disposal for outcomes such as penalty notices and simple cautions.¹

For a considerable time, there has been a range of activity taken by the police in response to low-level offending which does not involve taking cases to court. We use the term pre-court disposals as an umbrella term for all this activity – this includes OCDs, deferred prosecution and community diversion. We use the term community diversion to describe police-led, non-statutory disposals, most commonly community resolutions or activity recorded as an Outcome 22. Community diversion is when an individual involved in a low-level offending incident being offered short, simple programmes of rehabilitative, reparative or restorative interventions in exchange for avoiding being formally processed. These disposals can take place either pre-arrest or at the point of arrest.

There is strong evidence internationally, and moderate evidence from the UK that, when implemented properly, community diversion reduces reoffending.² The revised OCD framework, as well as the pre-court disposals, provide an opportunity to offer a swift and meaningful response to low-level offending; however, the reduction of reoffending and harm is often dependent on the provision of targeted and proportionate interventions. With the implementation of the new framework fast approaching, police forces will need to consider what interventions they have available and their effectiveness.

Key points

- Interventions that target the specific problems that cause offending behaviour have been found to have positive outcomes for those taking part.
- Mapping what is available locally will help determine what interventions are accessible and where there are gaps in provision.
- A referral into a scheme should be made as simple and straightforward as possible for practitioners.

The principles of effective interventions: What to aim for

Interventions that are specific and tailored to suit need

Interventions offered as part of a pre-court disposal or a community diversion should be tailored as much as possible to meet the needs of the individual and address why they have offended with the aim of de-escalating criminal justice system involvement. Interventions that target the specific problems that cause offending behaviour have been found to have positive outcomes for those taking part. The randomised control trial evaluation of Checkpoint, Durham Constabulary's deferred prosecution scheme, found that the prevalence and frequency of offending significantly reduced, and the time between reoffending was greatly increased for those who were offered Checkpoint compared to those who were not.³ A review of the evidence on OOCs identified a number of effective interventions including, skill development; social learning; changing relevant attitudes, behaviours, and life circumstances; and restorative justice.⁴

Research also suggests that specific interventions can work to assist certain groups to address their needs. The CARA project, which diverts low-risk, first-time domestic abuse perpetrators into a tailored workshop as an alternative to prosecution, found a significant reduction in involvement in further domestic abuse incidents.⁵ In our evidence and practice briefing 'Pre-court diversion for adults: An evidence briefing', we found promising evidence that the processes and interventions for young adults who offend should be distinct and recognise their variable maturity.⁶ One force we work with has a scheme for young adults that focuses its attention on interventions that address needs often deemed significant for this age group. These include accessing education, training and employment and skills development, such as opening a bank account and managing finances.

Invest in assessment

In order to achieve targeted intervention support that addresses criminogenic need, where possible, client assessments should be undertaken by trained navigators or link workers who have the necessary skills to assess an individual's needs and refer them to the relevant services. Assessments completed by navigators should focus on the specific behaviour or context behind the offending, this can allow for the effective intervention for the individual to be offered.

Interventions that do not overdose or net widen

The cohort for pre-court disposals will, in most cases, primarily be made up of individuals with a relatively low risk of reoffending and harm. It has been repeatedly demonstrated that employing intensive treatments - intended for those who commit high-risk offences or who persistently offend - to people who commit low-risk offences ('overdosing') may backfire, leading to further offending.⁷ There exists a potentially damaging (and often well-meaning) tendency of community diversion schemes to extend criminal justice contact by using enforceable requirements to meet a person's welfare needs, drawing them further into the justice system than necessary (net widening). Not only can this have a backfire effect, but can be seen as setting individuals up to fail by placing intensive conditions to treat their specific needs. For example, it is unrealistic to expect that a participant with a chronic alcohol problem will be sober after four months, and inappropriate to make addressing this need enforceable through the criminal justice system. Instead, facilitating a referral to a service for voluntary support is a more appropriate, achievable and proportionate expectation.

Efforts should be made to reduce the contact a person has with justice agencies. Changes to assessment processes, such as a one-time assessment to receive voluntary support, and removing requirements for mandatory attendance to sessions can reduce unnecessary escalation. For some cases, it may be defensible for individuals to receive no intervention. Not everyone who comes into police contact will require intensive support or treatment. Putting such conditions in place may increase their contact with people who offend and increase their likelihood of future offending.

It is worth noting that these lessons are already underpinned by the requirement in the current Code of Practice for Adult Conditional Cautions which determines that conditions must be 'appropriate, proportionate and achievable' and 'have the objective of rehabilitation, reparation, and/or punishment'.⁸

Considerations when partnering with or commissioning a service

We spoke with a number of police forces about what works well when partnering with intervention providers. This is what we found:

Map local intervention providers

'We want to want to create some uniformity across the country... we've talked about that in the past, about the possibility of mapping, see what organisations are out there, what services are available.'

Forces we spoke with pointed to the importance of mapping the provision of interventions available and creating key local partnerships during the implementation of their scheme. Some areas commission service providers that work across England and Wales, but other areas pointed out that in the more rural areas, access to such services (especially those that do not have online classes) can be difficult. So, mapping what is available locally will help determine what interventions are accessible and where there are gaps in provision.

One force told us that prior to launching, they invested valuable time mapping the support services and interventions available in their area. This scheme reported that by establishing strong working relationships with their local services and by spending time understanding what the different services offer they have avoided the costly and complex approach of commissioning or spot-purchasing placements. Instead, by creating a database for their navigators that outlines available local services, referral processes, types of intervention, and eligibility criteria, they are able to broker suitable intervention places for participants by utilising their existing local service provision.

Use data to understand the local picture

'My ambition is to get a lot more things commissioned.'

When speaking to police colleagues it was clear that there is a lack of ring-fenced funding to deliver interventions. Over-stretched police budgets and the challenge of making the case to budget holders about the necessity of some services were cited as barriers to intervention implementation. By looking at the arrest data and hotspot trends and the need in your area, alongside the data collected from mapping services, forces can demonstrate to commissioners and budget holders the importance of investing in programmes and interventions.

For example, a force found in their arrest and court data that they had a high number of 18-25-year-old males from Black, Asian and minority ethnic communities committing violent offences, but they did not have funding to provide additional intervention support. They used this data to influence their local commissioners to provide funding for a local service to deliver a targeted intervention service.

Sometimes the data could reveal a gap in provision which might require co-commissioning with neighbouring forces (because they will also be implementing the new framework). This will enable more opportunities for individuals to receive support and reduce a 'postcode lottery' of provision across police force areas. Sometimes existing local services already operate across multiple police force areas because the local authority and/or health service boundaries are different. Partnering with a

neighbouring force to jointly commission some services could be beneficial.

Consider if the intervention has been evaluated

‘This could be my lack of knowledge but I can’t say for sure what has been evaluated and the outcomes.’

Evaluations can tell us if an intervention is being delivered as intended, how and what to improve or replicate, and whether it is value for money. If the service you want to commission has been evaluated, consider what information you would like to gather - for example, you might be interested in an evaluation of the process (called a process evaluation), which seeks to understand how an intervention is functioning - or an outcome evaluation (such as randomised control trial or matched comparison evaluation), which seeks to test if the interventions are producing the intended outcomes. Positive data from an evaluation should, in most cases, align with the proven track record of the service. Feedback on the service user experience is key to building trust and confidence with service users and police officers alike, this could be demonstrated through testimonials and case studies on the user experience. Favour providers that gather feedback from service users and use this to improve their service.

Questions to ask when enquiring about an evaluation:

- Has this service been independently evaluated?
- What type of evaluation has this service had?
- Is the data publicly available?
- Has this been replicated?
- Are the voices of service users included?

Even if an evaluation is not available, it is still possible to get external, independent views about an intervention before partnering with the service. Some areas have found it useful to ask providers to share details of who else funds them in order to obtain feedback.

All partners should share an agreed vision/aim

Police need to work with intervention providers to ensure that all the agencies involved have a shared vision and aims of how the intervention should be delivered. Unsurprisingly, successful community diversion schemes require agreement of all partners as to the underlying philosophy of the scheme and the resulting interventions. For example, in the context of drug diversion, we found evidence that where there is no such agreement on philosophy (say harm minimisation rather than abstinence), the effectiveness of the scheme is risked. We note that, in the area of pre-court disposals, the police are most often the lead agency and it is beholden on them to ensure that partners are involved actively - not simply in the execution of the pre-court diversion scheme but in its planning and ethos.⁹

Avoid using ‘offender pay’ schemes

‘We’re trying to move away from offender paid interventions as morally it doesn’t sit right with us.’

Research suggests that offender pay schemes create wealth-based inequalities within the criminal justice system as the fees are not affordable for everyone.¹⁰ Diversion ultimately aims to avoid putting people through formal criminal justice processing, yet individuals who cannot pay the fee will not be diverted even if they are eligible.¹¹ Also, those who do not complete the schemes can also be subject to penalties which result in the participant being repeatedly fined.¹² Thus, charging a one-off fee, no matter how small, creates a barrier to diversion. In order to successfully divert all appropriate individuals, schemes must be easily accessible and voluntary.

However, we are aware of how difficult it can be to commission services. To offset this, some areas signpost individuals to online resources such as this [NHS mental health guide](#). This is particularly useful for participants who might need to access support for free and without time constraints.

After partnering with or commissioning a service

Develop a plan to capture outcomes and monitor progress

‘A monthly or quarterly report will say who did attend, whether they completed and whether they filled out the evaluation survey form. It is automated or communicated very well by the providers’

Continued referrals into services depends on maintaining police confidence in the scheme. For this reason, a formalised process whereby service providers regularly report back on engagement and progress is a good idea – both to highlight the reduction of reoffending and harm, and so that police are kept updated on the service’s success.

One force talked to us about the importance of relaying outcome measures and the effectiveness of their diversion scheme to frontline officers and staff not directly involved in its operation. Not only do they inform the arresting officer of the progress and outcome of the participant once they have completed the programme, but they also highlight overall statistics and successes in their quarterly internal newsletter and staff briefings. They explained how they have found it effective to not only communicate and publicise their diversion scheme during establishment and implementation, but that regular and ongoing communication of their success measures is essential to achieving cultural change, ensuring diversion is fully integrated into business as usual.

Service user feedback and testimonials are another valuable means of assuring the quality of the interventions being delivered and can provide a powerful case for continued investment in pre-court diversion.

Ensure providers have the appropriate policies and procedures in place

Service providers should have their own procedures and policies in place - such as safeguarding for adults, risk management and data protection arrangements, but it is also important to review and compare these policies against the ones you have in your police force. Practitioners talked to us about the importance of transparency with partners and told us it was crucial to devise key protocols to support this, including: a clear complaints and escalation procedure, information sharing protocols, and safeguarding guidance.¹³

Provide a clear referral process for police officers

‘The process can be quite arduous despite it being an online form and email referral.’

Police highlighted that due to a mixture of over-complicated processes and lack of knowledge of intervention providers available, referral uptake is often low and inconsistent across the forces. A referral into a scheme should be made as simple and straightforward as possible for practitioners. Some schemes have had success with developing a simple, visual representation of how they operate, and running scheme awareness training for all potential referring practitioners. However, officers have suggested that the high turnover of police officers, paired with newer police recruits and larger caseloads, can reduce the capacity of officers and time for training. To remedy this, some areas have opted for creating an app that can reduce the administrative burden and make a speedy referral to providers automatically. This cuts out the time it takes for officers to return to their base and write up a referral. Schemes certainly recognise the importance of speedy referrals, with most ensuring that, once a participant is accepted onto the scheme, a meeting with the navigator (or equivalent) is scheduled within 24-72 hours.

Provide opportunities for victim engagement

‘... our restorative justice is what victims want primarily, so we’ve got a restorative justice that’s bespoke.’

The evidence suggests that increased victim satisfaction rested on police clearly explaining why they believe that pre-court disposals such as community diversion is best for reducing offending behaviour with the person concerned. This has been shown to be important for fostering the feeling that the police are being proactive about fighting crime. Higher levels of victim satisfaction recorded in a study on the deferred prosecution scheme, Turning Point, were linked to victim conversation scripts, ensuring the explanation of community diversion to victims is consistent, regardless of who explains the programme.¹⁴ Engaging with the victims, whether this is through restorative justice, victim questionnaires or signposting them to further support, can improve the legitimacy of the interventions provided.

Have agreed guidance on non-engagement or breach

‘We would try and give someone a bit of a chase, but ultimately we put the ball back in their court. We’re willing to accept that not everyone complies first time with these requests.’

Most schemes report having a policy of two strikes after which the participant is expelled from the programme. In reality, we have seen that the ‘breach threshold’ is quite flexible, with keyworkers and support officers given discretion to report on engagement levels. Most speak of having a common sense/pragmatic approach towards breach. Decisions are often made in partnership and are not down to individual officer decision making. One scheme has a step-by-step guide to breach in their protocol. It includes agreeing a method for contacting the participant, how and when (with a timeline) to chase and what do if there is no response from the participant. It also contains examples of acceptable reasons for absences.

Often, participants are not fully aware of what is expected of them or the possible consequence of non-compliance. A quick phone call or follow-up with participants after a period of non-engagement can reduce the need to escalate further. However, in some cases, no further action is justifiable. As the intervention should be voluntary, the intervention provider and officer in charge should have an agreed understanding of when it is necessary to end involvement with the individual if it is unlikely that reoffending will occur.

Learning from others

We know the commissioning process can be extensive, especially working with partners. There are many lessons taken from commissioning within Public Health that can be applied to the criminal justice system. Here is a list of factors to consider when commissioning a service:¹⁵

- What services are currently being commissioned in your area, e.g. young people, women’s services, drugs and alcohol, employment, mental health services?
- What are your general intentions or specific plans for future commissioning?
- How can service users and the relevant populations be engaged throughout the whole commissioning process?
- Who will be enabling/facilitating the provision of information, advice and sign-posting for the relevant population?
- There needs to be a level of integration. Is there scope to integrate or develop partnerships with other sectors to deliver a holistic need?
- What is the current and potential future need? Have a good understanding of need, outcomes, demand and supply.

- Commissioners and providers need to improve quality so service users have a service that meets their need and delivers the desired outcomes. Service user satisfaction is fundamental.
- Commissioners and providers need to be open to new ways of doing things. They will need to understand potential new models of commissioning and service delivery and be able to spot and source innovation.

You can find useful advice on commissioning [here](#).

How we can help

We are funded to provide support to police forces interested in establishing or developing their pre-court disposals whether this is OOCs or community diversion. Establishing effective partnerships, and commissioning services and interventions continue to be our most asked about area of support. This is a summary of what we've found after tapping into the evidence base and speaking with police forces across the country. We will continue to update the field as and when new information and evidence comes to light.

If you are interested in our tailored support for your force, please get in touch with Bami at: bjolaoso@justiceinnovation.org.

Endnotes

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13. Centre for Justice Innovation (2022) Pre-court diversion for adults- toolkit for practitioners
14. Ibid.
15. Connect to commissioning support (2022) available at <https://commissioning.connecttosupport.org/s4s/WhereILive/Council?pageId=1761>

About the Centre for Justice Innovation

The Centre for Justice Innovation seek to build a justice system which all of its citizens believe is fair and effective. We champion practice innovation and evidence-led policy reform in the UK's justice systems. We are a registered UK charity.

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