



Conditional Cautioning Adult Offenders Procedure

Abstract

A conditional caution is a statutory disposal introduced by the [Criminal Justice Act 2003](#) It is a caution with conditions attached which must be rehabilitative and/or reparative.

Supporting Documents

- [Criminal Justice Act 2003](#)
- [CPS Director's Guidance on Conditional Cautions](#)
- MOJ's [Code of Practice for Adult Conditional Cautions](#)
- [Adult Gravity Matrix V3 \(2019\)](#)
- CJ Guidance Hub site [CJ Guidance Hub - Out of Court Resolution Hub- Conditional Caution](#)
- DA Conditional Cautions [Principles for Domestic Abuse Conditional Cautions v1.1](#)

Policy

1. Introduction

- 1.1 **A conditional caution is a statutory disposal introduced by the [Criminal Justice Act 2003](#)** It is a caution with conditions attached which must be rehabilitative and/or reparative.

2. Scope

- 2.1 This policy is applicable to all Police Officers and police staff

3. Policy Statement

- 3.1 Surrey Police will administer Conditional Cautions that are appropriate, proportionate, and achievable.

Procedure

1. Out of Court Resolution Hub

1.1 Conditional Cautions can be administered for all non-motoring summary offences and common either way offences including theft, fraud, criminal damage and simple possession of drugs (see [CPS Director's Guidance on Conditional Cautions](#).) Using the Gravity matrix and DPP's guidance a police Sgt/staff equivalent can decide if a case is suitable for a conditional caution disposal, in most cases. The decision rationale must be recorded and all national guidance considered.

- 1) OICs must refer cases where a Conditional Caution is required to the Out of Court Resolution Hub via Niche. The Out of Court Resolution Hub will conduct a needs assessment with the offender and put together conditions to target the underlying reasons for offending and address the needs of the victim. The conditions must be appropriate, proportionate and achievable. The Out of Court Resolution Hub caseworkers have been granted Designated Powers allowing them to administer conditional cautions. The caseworkers will ensure the following requirements are considered and complied with:
- 2) they will take into account the victim and offenders needs and personal circumstances which could include disabilities (including learning/developmental disabilities and neurodiversity), mental health, vulnerable adults (including age) and those who do not speak English as their first language. They will adapt the process, requirements and intervention/conditions to meet the individuals needs to ensure full understanding of the process. They will do this by ensuring an individual has a carer or responsible adult present, if required. They will use a BSL interpreter, or a foreign language interpreter, if required. They will consider if an individual has or requires a Pegasus card. They will liaise with professionals supporting the individual's, if necessary and relevant.
- 3) explain the process to the offender, including the right to legal advice, the requirements of the conditions and verification of compliance, and the consequences of not complying with the conditions;
- 4) explain the implications of receiving a conditional caution, including the significance of the admission of guilt and criminal record implications, particularly potential DBS implications;
- 5) confirm that the offender admits the offence and is willing to comply with the conditions – the offender should sign a form (MG14) indicating admission and compliance with the conditions;

1.2 The OIC must ensure the conditional caution is recorded appropriately and biometrics collected. The offence and subsequent outcome must be recorded in

line with the NCRS and the HOCR for crime. Notifiable offences must be recorded within 24 hours of the requirement to record. For further information, please visit the Surrey crime recording SharePoint site [here](#).

- 1.3 The Out of Court Resolution Hub will engage with victims and work through the process with offenders to conclusion. The statutory timeframe for completing the conditions is up to 16 weeks from the point of issue. The agreed completion date is noted on the MG14 which the offender signs. The Out of Court Resolution Hub will monitor the case throughout and close it when they are satisfied all conditions have been met and offender has engaged. More information about the process is available [here](#). If the offender complies with the conditions of the caution, no further action is required. The file will be returned to OIC for finalisation.
- 1.4 If the offence is summary, the statutory 6 months to bring a prosecution timeframe applies. Therefore, it is imperative officers gather evidence and pass the case to the Out of Court Resolution Hub as soon as possible. Officers must ensure there is at least 4 months remaining of the 6-month statutory time limit for a prosecution, in the event the conditions are not complied with.
- 1.5 Officers must advise individual's that if they fail to comply with or withdraw from the caution process, they may be prosecuted for the original offence. In instances of disengagement or non-compliance, the Out of Court Resolution Hub will evidence the non-compliance and attempts to gain engagement before returning the case to the OIC. The OIC will need to raise a summons or seek charge from CPS for the original offence.

2. Options for Conditions

- 2.1 The following are considered appropriate, proportionate and achievable conditions:
 - Writing a letter of apology;
 - Make right i.e. fixing the harm caused to a person or the community by repairing or making good damage/loss;
 - Compensation;
 - Diversion (education/rehabilitation e.g. women's centre attendance);
 - Treatment course (i.e. Offender Pay/drugs, alcohol or victim awareness schemes);
 - Unpaid work;
 - Non-contact condition with specific individuals or groups;
 - Geographical exclusion.
- 2.2 If a case meets the criteria for a conditional caution but is not believed to be the most suitable outcome, then the Out of Court Resolution hub will consider the

lesser outcome of a Checkpoint (deferred prosecution), a simple caution or return to the OIC for an alternative outcome.

3. Authorisation – Police Sergeants, Inspectors or CPS

- 3.1 Certain serious either-way offences must be authorised by an officer not below the rank of Inspector where serious exceptional circumstances exist and their decision rationale is recorded. (Either Way Offences Having a Sentencing Starting Point in a Magistrates' Court at Custody or High Level Community Order) These offences are generally either way offences having a sentencing starting point in a Magistrates Court at custody or high level community order. Upon review of the case, the Out of Court Resolution hub will ensure this authorisation is obtained and documented.
- 3.2 Generally Conditional cautions for Intimate Domestic abuse matters are considered inappropriate. However, from 2024, nationally the Police may offer Conditional Cautions where the case meets the following criteria for intimate and non-intimate DA matters:
- the case involves lower-level offending (less serious offences where the circumstances of the offending mean the suspect would not receive a custodial sentence or high-level Community Order), and
 - the victim is of standard risk, and
 - the case complies with the pre-conditions set out in the [Principles for Domestic Abuse Conditional Cautions v1.1](#)
 - A Sergeant must approve the Conditional Caution by providing their documented rationale.
 - All other cases falling outside of the above eligibility must be referred to CPS who can approve a Conditional caution or prosecution.
 - All matters where a DA CC is considered must be referred to the Out of Court Resolution Hub, as above.
- 3.3 Conditional Cautions are generally inappropriate in Hate Crime cases and can only be given in exceptional circumstances with the authority of CPS.

4. File Requirements

- 4.1 All corroborating evidence including any appropriate types of video and/or audio footage must be uploaded onto NICHE or appropriate databases.
- 4.2 The evidence must meet the Full Code Test and the following must be presented in case of a future prosecution being brought:
- MG5;

- MG11(s) from key witnesses
 - CCTV and other video or audio files
 - Precons/antecedents.
- 4.3 The standards for a conditional caution are the same as those for charges and, therefore, the evidential test must be met to commence a prosecution via traditional means. The evidence must be present and recorded and there must be a realistic prospect of conviction.
- 4.4 Should the case be returned to the OIC following non-compliance or non-engagement then a prosecution **MUST** be sought. Any lesser outcome must be documented by a Borough Commander.