

Breaking the Cycle: effective punishment, rehabilitation and sentencing of offenders: The Police Foundation Response

The Police Foundation is the only independent charity focussed entirely on developing people's knowledge and understanding of policing and challenging the police service and the government to improve policing for the benefit of the public. The Police Foundation acts as a bridge between the public, the police and the government, while being owned by none of them. Founded in 1979 by the late Lord Harris of Greenwich, The Police Foundation has been highly successful in influencing policing policy and practice, through research, policy analysis, training and consultancy.

We welcome the publication of the Ministry of Justice Green Paper, 'Breaking the Cycle.' The Paper is a positive sign that the Coalition Government's response to offending has moved from a focus on punishment to a drive towards rehabilitation and crime prevention. We are particularly encouraged to see an increased emphasis on restorative justice for juvenile and adult offenders as well as a greater emphasis on diversion for offenders with mental health and substance abuse issues where appropriate. We also welcome the reduced reliance on performance targets in policing, a theme outlined in both the Police Reform and Social Responsibility Bill and the Green Paper.

The main aspect of the Green Paper to which we would like to respond is the section on conditional cautions and neighbourhood panels. We would however also like to take this opportunity to raise a number of issues that are connected to and have implications for some of the other questions raised in the Green Paper. These include:

- The role of the police in crime reduction and prevention of re-offending
- Police resources
- Police and Crime Commissioners
- Payment by results

Conditional Cautions

Q45. Should we give the police powers to authorise conditional cautions without referral to the Crown Prosecution Service, in line with their charging powers?

Q46. Should a simple caution for an indictable only offence be made subject to Crown Prosecution Service consent?

We note the increased emphasis in the Green Paper on out of court disposals. We welcome the move towards diversion and restorative approaches where appropriate and particularly endorse this rather than formal criminal processes for non-serious offences committed by young people, but always providing they are used to replace more serious disposals and that any conditions imposed remain proportional to the offence committed and are achievable. To ensure this occurs, it may be appropriate to require the CPS to exercise some form of

oversight function and, in the case of juveniles, for the police to first consult the Youth Offending Team, building on what is currently happening in those areas that are piloting triage procedures in police stations¹.

We believe that care needs to be taken - perhaps through guidance and additional training - to ensure that the police use their discretionary powers in such a way as to ensure that young and vulnerable suspects are not unduly pressured into admitting guilt inappropriately and that the police are not wrongly perceived to be acting as judge and jury. In all cases, those who agree to a conditional caution should be made aware before admitting guilt that it will attract a criminal record, that this will be cited in court if future offences are committed and may militate against their future employment chances until the offence is spent, as currently set out under the Rehabilitation of Offenders Act 1974.

In the case of simple cautions for indictable only offences, requiring CPS consent would help to ensure the police use their discretionary powers appropriately, but since this would result in considerable resource implications we would prefer the police to adopt the procedures as outlined above with sufficient oversight safeguards built in to ensure they are doing so effectively.

In the case of juveniles, we believe that the default position should be that all conditional cautions should contain a restorative justice component. Research shows that restorative interventions are popular with participants and provide a timelier (and hence cost-efficient) use of police time compared with reprimands and final warnings. We would therefore suggest that the Youth Restorative Disposal should be rolled out nationally, that it must count as a sanction-detection for performance measurement purposes, that the police should receive appropriate training to ensure it is effectively used and that quality assurance mechanisms are put in place.

Neighbourhood Panels

Q56. What sort of offences and offenders should Neighbourhood Justice Panels deal with and how could these panels complement existing criminal justice processes?

As mentioned above, we wholly support the use of informal measures, including restorative justice, providing they do not expand rather than contract the overall numbers dealt with by the CJS (i.e. widen the net). In our view, it will therefore be important to ensure that Neighbourhood Justice Panels deal with offences that would otherwise have been dealt with in court. It would be expensive and counter-productive if they were used for offences that could otherwise be dealt with using informal measures. In our view, Neighbourhood Justice Panels, especially when dealing with juveniles, should be restorative, using trained coordinators along the lines of Youth Conferencing in Northern Ireland rather than volunteers (as in Youth Offender Panels), although we recognise that this would require some up-front investment. If not restorative, then care would need to be taken to ensure that appropriate safeguards are in place to ensure that justice is done.

¹ The introduction of triage schemes has led to a significant reduction in the number of 'first-time' entrants to the youth justice system and hence considerable cost savings.

The Role of the Police in Crime Reduction and Prevention of Re-offending

In her address to the Annual Conference of the Association of Chief Police Officers the Home Secretary, Theresa May, recently stated “*I couldn’t be any clearer about your mission...it is to cut crime. No more. No less.*” The Green Paper echoes this, emphasising that the police have an important part to play in crime reduction and offender management.

Crime reduction and reducing reoffending are highly complex areas and there is considerable disagreement amongst experts as to the reasons why crime rates fall and how to reduce reoffending. As well as policing, probation intervention, health, social care and education, other factors influencing crime rates include economic inequality, changes in drug markets, low unemployment and population demographics. The police role in crime reduction remains heavily contested both in terms of the extent to which the police can reduce crime; which strategies are the most effective; and how the police can best contribute to working with probation and other partners in reducing reoffending. We believe it is important to have realistic expectations about what the police can be tasked with achieving, however we welcome support for promising interventions post-release for those sentenced to short-term custody that include partnership with the police.

We are encouraged to see that the Ministry of Justice recognises that policing alone cannot reduce crime and that support will be required from other agencies such as health and education. This understanding is reflected in the tone of Chapter 6 of the Green Paper and we hope that this approach is on-going. We also welcome the Government’s intention to undertake more research on policing.

Police Resources

Following the government’s recent Spending Review, the Police Service will have to find close to 20 per cent reductions in funding over the next 4 years. With 80 per cent of the police budget going towards staff costs, this is likely to lead to reduced numbers of frontline officers in spite of reassurances to the contrary. Community and neighbourhood policing is a crucial part of the police’s influence in the sphere of crime prevention and we believe it will be important to maintain neighbourhood policing over the next few years and the Government’s plans to allocate resources separately for this are welcomed.

Police and Crime Commissioners

Alongside their greater role in crime prevention and the severe budgetary cuts, the police are facing a change in culture and structure with the introduction of Police and Crime Commissioners. We have already raised a number of issues relating to Commissioners (see <http://www.police-foundation.org.uk/site/police-foundation/latest/policing-in-the-21st-century-?>), but repeat here that with the increased emphasis on localism this role will become more crucial. The Police Foundation continues to support the move towards a more accountable, local police service. However we are concerned that the introduction of Police and Crime Commissioners may result in an emphasis on populist measures to reduce the most visible problems, such as anti-social behaviour; reducing resources available to deal with less visible but potentially more serious crime, such as organised crime and e-crime. Elected

Commissioners may also be tempted to over-claim the ability of the police in reducing crime and disorder to improve their chances of re-election, unduly raising public expectations which the police may be unable to meet.

Payment by Results

We support the concept of linked working across local agencies but seek greater clarity about the Payment by Results scheme, in particular around:

- What implications the scheme will have on the police, who have already been given a duty to reduce crime?
- Will PBR have the unintended result of creating a 'target' measurement system for the police and partners?

We look forward to the results of the six new pilot schemes.

In conclusion we are very much encouraged by the direction of the Green Paper and we support many of the proposals it contains. We would like to see more detail in a number of areas, but as a new beginning, the tone and ethos of the Paper is greatly welcomed.

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March 2011