



## A summary of responses to the 'Revised code of Practice for Conditional Cautions: a Consultation Paper' and the Government's response

### Background

1. The consultation exercise on the revised Code of Practice for Conditional Cautions was launched on Tuesday 6 March 2007.
2. The existing code, approved by Parliament in July 2004, was revised significantly to reflect subsequent developments, including changes to the Criminal Justice Act 2003 made by the Police and Justice Act 2006 (which extended the scheme to allow punitive conditions and provided a specific power to arrest and detain offenders suspected of non-compliance with the conditions of a conditional caution without reasonable excuse). In addition, the requirement for an admission in a PACE interview was removed and a number of additional safeguards were included. There were also a number of structural changes to the document, designed to make the document clearer and easier to understand.
3. The consultation paper was distributed to a wide range of criminal justice practitioners and key stakeholders. It was also made available on cjsonline. The deadline for responses was Tuesday 29 May 2007.
4. Two specific questions were asked:

Question 1: Are you satisfied that the draft Code of Practice for Conditional Cautions meets the needs of criminal justice system practitioners, victims and offenders within the terms of the legislation?

Question 2: If not, what changes need to be made?

### Summary of responses

5. A total of 42 responses to the consultation paper were received. Twenty two were from practitioners involved in the implementation of conditional cautioning schemes. Seven responses were from Government Departments/other prosecutors. Six were from individuals, magistrates and voluntary organisations. Responses were also received from the then Senior Presiding Judge, the Council of Circuit Judges, the Magistrates' Association, the Justices' Clerks' Society, the Association of Chief Police Officers, the

Police Federation and the Criminal Bar Association. A full list of respondents is annexed to this paper.

6. Ten respondents indicated that they were satisfied that the draft Code of Practice for Conditional Cautions met the needs of the criminal justice system, victims and offenders within the terms of the legislation.
7. Twelve respondents expressed reservations about the principles of the conditional cautioning scheme or made general comments on conditional cautioning.
8. Twenty-four respondents raised points of detail on the Code. The issues most commonly raised were:
  - Removal of the requirement for an admission of the offence in a PACE interview – respondents were evenly split;
  - Concern about how the means of an offender will be established in order to set a financial penalty condition and about the length of time allowed for the payment of financial penalty conditions;
  - Concern that the right to retract a conditional caution would increase bureaucracy; and
  - General support for the new power of arrest and detention, subject to some clarification.

### **Government Response**

9. The Government is grateful to all those who responded to this consultation exercise. The responses are being given very careful consideration, and the Government is considering what amendments to make to the Code in light of these comments, particularly with a view to clarifying aims and removing ambiguity. A final decision on the way forward will be made once national roll-out of the existing scheme has been completed next spring.
10. Provisions relating to the power of arrest and detention were brought into force on 29 June 2007. Separate operational guidance was provided on this.

Office for Criminal Justice Reform  
17 December 2007

## **ANNEX**

### **List of respondents**

Association of Chief Police Officers  
Avon and Somerset Criminal Justice Board  
Bedfordshire Police  
Blessington, Colonel (Retd), JP  
British Transport Police  
Council of HM Circuit Judges  
CPS West Midlands  
Criminal Bar Association  
Department for Education and Skills  
Department for Environment, Food and Rural Affairs  
Derbyshire Criminal Justice Board  
Devon and Cornwall Constabulary  
Dorset Police  
Durham Constabulary  
Dyfed-Powys Police and CPS (joint response)  
Environment Agency  
Gloucestershire Constabulary  
Greater London Domestic Violence Project  
Greater Manchester Police  
Higgins, Brian, JP, Chairman Eastern Sussex Bench  
Justices' Clerks' Society  
Lancashire Constabulary  
Magistrates' Association  
Mckiernan, Janice, Metropolitan Police Service  
Nasser, Ruxana, Crown Prosecution Service  
Natural England  
NHS Fraud (CFSMS)  
Police Federation  
Restorative Justice Consortium  
Revenue and Customs Prosecution Office  
Senior Presiding Judge  
Serious Fraud Office  
Shaw, John, JP, Chairman of the Bench, Solihull Magistrates' Court

South Wales Police and CPS (joint response)

Thames Valley Police

Walsall and Aldridge Bench

West Mercia CPS

West Midlands CPS

West Midlands Police

West Yorkshire CPS

West Yorkshire Police

Wiltshire Police