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