



Home Affairs Committee

Oral evidence: Out of Court Disposals, HC 799

Tuesday 6 January 2015

Ordered by the House of Commons to be published on 6 January 2015.

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Members present: Keith Vaz (Chair); Ian Austin, Nicola Blackwood, Mr James Clappison, Michael Ellis, Paul Flynn, Lorraine Fullbrook, Dr Julian Huppert, Tim Loughton, Yasmin Qureshi, Mr David Winnick.

Questions 1 – 80

Witness: **Richard Monkhouse**, Chairman, Magistrates' Association, gave evidence.

Q1 Chair: Welcome, Richard Monkhouse, the Chairman of the Magistrates' Association as the first witness in our short inquiry into out of court disposals, an inquiry that was recommended by Mr Ian Austin. Mr Monkhouse, is this a concern to you? Do you believe, as your predecessors did, in particular one of the former chairs of the Magistrates' Association, who were concerned about the number of out of court disposals? Are you concerned about this still?

Richard Monkhouse: I think, yes, but less so because some things are happening. Can I say at the outset that although I am a judicial officer, I am not here as a judicial officer? I am here as Chairman of the charity that is the Magistrates' Association, so that may help to put it into context. We have been concerned at the number of out of court disposals that were being given to not first-time offenders and for serious offences. That was the basis for all the work that we have done over the last five or six years. There seemed to be a perception that some serious offences were being dealt with not in court where a court can deliver the kinds of sentences that are rehabilitative as well as punitive.

Q2 Chair: Give me an example of the kinds of sentences that your fellow chairs have reported as being those that have been dealt with outside court that cause you concern. I have offences such as cannabis warnings, fixed penalty notices and other issues of that kind. Are there more serious cases than those?

Richard Monkhouse: Yes. There are examples of cases that are indictable-only, so that if they came into a magistrates' court they would not stay in a magistrates' court because our sentencing powers are not sufficient. There are not many of those. One of the problems has been that the initial recording of the charge has been diminished over time so that the end result of a caution or whatever out of court disposal has not actually applied to the

charge as it was initially put. There were examples of rape, not very many but certainly some, that you think how on earth is that given an out of court disposal. When you look in greater detail at each particular offence, you can understand how that has been downgraded and maybe in some circumstances an out of court remedy was the most appropriate sanction, but nevertheless that is not what the public sees or the media portrays. The media will portray what that offence actually was. There was clearly a lot of work needed to be done to understand how cautions were being given, for what offences they were being given and for what types of offender they were being given.

Q3 Chair: As far as numbers are concerned, I have some figures from 2009 that show that 38% of the 1.29 million offences solved by the police were dealt with out of court. Do you have more up-to-date figures than that? 1.29 million sounds like a huge number of offences.

Richard Monkhouse: The numbers have fallen, but then the numbers of offences themselves have fallen. We don't believe the percentages have fallen significantly. There are still a large percentage of cases that are dealt with inappropriately, not in the courtroom where they should be dealt with. I am thinking of cases where there are identifiable victims, violence involved and sexual behaviour involved. These are cases that in our view should not be sorted out out of court.

Q4 Chair: Simon Reed, the former Vice-Chairman of the Police Federation, said that the increased use of out of court disposals, which he alleged was being done because of Government pressure, and the increasing pressure on frontline officers to opt for this solution not only fails the public but results in a dumbing down of the criminal justice system. Do you agree with that?

Richard Monkhouse: I would not be quite as vehement as that. I think there are places for out of court disposals without any doubt, but if you are looking at the five reasons for sentencing that any judge has, they are not served particularly well by dealing with cases out of court where there are rehabilitative issues and issues that are causing the offending. If one of the aims of the criminal justice system is to reduce offending, you have to identify why somebody is offending, why they are offending repeatedly, and out of court disposals don't generally address that. That can only be addressed when you bring somebody into court where you are sentencing using facilities such as the probation service, the new CRCs. That is the way to reduce reoffending.

Q5 Mr Clappison: I am going to try to clarify something but can I add the rider to the question I am asking that I am a great supporter of non-custodial rehabilitative sentences, of which I do not think there are sufficient or sufficient that are effective? But what we are talking about today, of course, as you have made clear, are disposals that do not come into a court at all and do not receive any sort of sentence, non-custodial or custodial. What I would like to clarify with you, if I may, is what you were saying about the serious offences, the indictable-only offences, that have been dealt with by way of an out of court disposal. An example was taken of rape and you referred to a downgrading of the charge. Did you mean

by that that the charge started as a charge of rape and was then downgraded to a lesser offence?

Richard Monkhouse: Yes.

Q6 Mr Clappison: Are there any cases where rape itself has been dealt with by an out of court disposal?

Richard Monkhouse: We don't have particulars on each of the offences, each of the cases. That is why we recommended that scrutiny panels were set up, which are now being set up across the country, so that these offences that have a question mark around them can be investigated and looked at, not for the purpose of resentencing but the purpose of feeding back to those who are giving those sanctions in the first place.

Q7 Mr Clappison: Are we talking about something that was then reduced to a lesser charge than rape?

Richard Monkhouse: Yes.

Q8 Mr Clappison: When we say that there were cautions or out of court disposals given for indictable-only offences, was that the initial charge or was that the final charge?

Richard Monkhouse: That was the initial charge, but that is how it remained recorded in the system. When we looked at Government data, which is all we have looked at, both from the published data and also from Freedom of Information, we have found that that is what the original charge stated. When it has gone to things like scrutiny panels, they have relooked at it and discovered that the final sanction was not given for rape but the initial charge, which is how it is in the figures, seems still to be rape, so there are some difficulties. It seemed to us that people were collecting data and then nobody was looking at it.

Q9 Michael Ellis: Mr Monkhouse, do you accept that there will be certain circumstances, they might be quite rare, in which an out of court disposal like a caution might be the only thing the police or the prosecuting authority can get in a given circumstance and therefore it is better than nothing?

Richard Monkhouse: Yes.

Michael Ellis: For example, one would not normally caution someone for robbery but there is a one-in-a-thousand case where there is not any other evidence but there is an admission of guilt. Other evidence has fallen away, either because it has been lost, contaminated or the witness has disappeared, a case that previously existed has disappeared, but they have an admission. They might as well accept a caution for that and at least have that on the person's record for a period of time than end up with

nothing at all. Do you accept, just looking at the broad statistics—for goodness sake, why would anybody be cautioned for such a serious indictable-only offence as robbery—that there might be a background story to that that otherwise we would have ended up with nothing?

Richard Monkhouse: I think that is really what I was saying, that there are circumstances that you can perfectly well understand. We have never said that out of court disposals are never appropriate; they are often appropriate. What we are saying is that they should be restricted in the main for first-time or early offenders and for less serious cases. That should be the general hallmark. When you see people being cautioned for multiple robberies, multiple burglaries that is when you start to think, “Hang on, isn’t there something going wrong here?” The data does not match up with the justice system and that is when the public starts to think, “Is the system broken or is it not broken?” I don’t believe it is broken but I believe that there are steps that can be taken, and are being taken.

Q10 Michael Ellis: It would not necessarily happen with cautions but it might happen, for example—and I prosecuted a number of cases like this—that if a person is charged with fraudulent use of someone else’s credit card and they have used that credit card 30 times before they have been apprehended but they admit to using it 25 times and they refuse to accept they used it the other five times, then the prosecuting authorities know that in reality the sentence is going to be the same whether the judge has 25 or 30 offences and therefore it is not in the public interest to pursue the remaining five even though everybody knows that that person is responsible for all 30. Consequently, those other five may be left to lie on the file, that is an out of court disposal, because it simply is not worth prosecuting a trial when it is not going to make any difference to the penalty that is given at the end of the day.

Richard Monkhouse: Yes, I agree.

Q11 Ian Austin: You have talked about rape, but for what other serious offences do you think out of court disposals are being used inappropriately? Magistrates locally have told me that they have been used for burglary and violent assault, and that they are not on the technical grounds that Mr Ellis outlined but much more frequently than that. Would you say that is true, from your experience?

Richard Monkhouse: Yes.

Q12 Ian Austin: How frequently would you say that they are being used for serious offences like burglary or violent assault, the sorts of things for which they were never intended in the first place?

Richard Monkhouse: When Her Majesty’s Inspectorate did their survey in 2011 they suggested that between 30% and 35% of the cases that they dip-sampled should not have been given out of court disposals. That matched with our figures but we did not look at individual cases. We did not have that facility nor were we actually interested in that. We wanted to see what the broad picture was. HMIC then did their survey and came out with a

similar sort of figure. Scrutiny panels now are suggesting that between 20% and 30% of cases were inappropriately given out of court disposals and these will be cases where you have frequent offenders and serious offences.

Q13 Ian Austin: The figures I have say that out of court disposals for domestic abuse have risen from 1,337 in 2009 to 3,305 in 2013. Is it appropriate that domestic violence is being solved by out of court disposals on that scale and what do you think is behind this increased trend?

Richard Monkhouse: First of all, domestic violence is a really serious issue. Magistrates are specially trained in domestic violence issues. We have special domestic violence courts. They follow through from the police's concentration on domestic violence. To think that somebody can be cautioned for that, where no treatment is given, where you have an offender who is maybe using their power over their partner or their ex-partner, to think that that can be resolved by a caution just defeats us, whereas if you bring them into court—

Ian Austin: Did you say “It is just—”? I didn't hear the word you said then.

Richard Monkhouse: Inconceivable. I am not sure if that is the word I actually used but that is basically the word I meant. How can anybody be treated for behaviour of a domestic nature by doing nothing? There are many probation programmes around the country—they are different; some of them are the same—that address this and that is the only way that it will be stopped. Custodial sentences are not necessarily a way to stop it, unless they become so frequent, but at the other end a caution is similarly not going to change somebody's behaviour.

Q14 Ian Austin: Just one final question: what is behind this increased use or the inappropriate use? Is it that the police are using them? What do you think is the explanation for this?

Richard Monkhouse: I don't think there is a simple explanation, but there has been an issue of a target culture, the fact that out of court disposals are covered by guidance rather than statutory provisions and that there are 43 chief constables in the country who will all interpret it in a slightly different way to suit their own areas. I think that is one of the reasons, but also there seems to be a concept of, “We can get this dealt with quickly. Never mind addressing the offender's behaviour, never mind stopping their offending; we can just deal with this quickly”.

Q15 Ian Austin: One final question: I became interested in this because there was a proposal to close the magistrates' court in Dudley. When I looked at the figures you could see the number of cases going through the floor and that was being used as evidence to support the proposed closure of the criminal courts. Do you think there is a link between the closure of courts and the increased number of out of court disposals?

Richard Monkhouse: I don't think there is a definite link. There are fewer cases being reported and fewer cases coming to court but that is for an awful lot of reasons, so I don't think it is just about out of court disposals.

Q16 Chair: There was a public consultation that was completed last year. The Minister for Policing and Criminal Justice at the time was Damian Green and he said that there was a lack of public confidence that out of court disposals were punishing offenders in the right way. That is quite a firm statement from a Minister. What has happened since that consultation? I have just met Damian Green in the lift and I mentioned this consultation to him and as far as he is concerned it is in the Home Office and it has not been taken further. Do you know what has happened to the results of this consultation?

Richard Monkhouse: Was this the consultation on the future of the magistracy?

Chair: It was a consultation about out of court disposals in particular.

Richard Monkhouse: The thing that we have seen is the growth of scrutiny panels, which we proposed a few years ago, that look at examining in retrospect cases that were given out of court disposals. That is a very positive step. Not all of them have been set up in the same way but it is a very positive step. There is a new proposal, the pilot that started in November, for three areas to change the number of out of court disposals.

Chair: So that comes out of the consultation?

Richard Monkhouse: We have no data on that but that must be starting to take effect and over the next 12, 18 months we will certainly look at the results of it. I think it would be wrong to say nothing has happened.

Q17 Chair: As a result of the consultation there are pilots that are ongoing about this issue?

Richard Monkhouse: Yes.

Chair: That is very helpful.

Q18 Lorraine Fullbrook: Mr Monkhouse, the out of court disposals were introduced to give a proportionate response to so-called low level crime, and they do play a vital role in the criminal justice system. In your opinion, where should the balance lie between swift justice and the process of the justice system?

Richard Monkhouse: I hesitate to answer that because I don't think it is up to us to say that. It is up to Governments to decide how their proposals are going to be put in place. Our perspective is and always has been that out of court disposals are absolutely right for low level offending and for first-time offenders because otherwise if every case came into court the courts could not manage and would be seriously clogged up. There is no doubt about that at all. We have never said there is no place for them. I really don't think it is up to us to say where that line is drawn.

Q19 Lorraine Fullbrook: Everything I am hearing from you so far is that the system as it is laid down is fine but the people who are putting crime through the system are not using the system properly.

Richard Monkhouse: I would question whether there is a statutory system, because it is all about guidance. It is about you can use cautions, penalty notices for disorder, cannabis warnings, conditional cautions, and there does not seem to be any commonality about how those are to be used. As I say, it is not up to us to say how those are done. For example, there are conditional cautions in the system and there have been for the last 10 years. In the last 12 months fewer than 1,000 were given. Conditional cautions are those cautions that have some sort of element to add on to the caution that says, “You will do some recompense. You will write a letter of apology. You will do some unpaid work”, these sorts of elements.

I think the feeling is that they are a little bit too bureaucratic so they are less easy to set up and administer. In that same time there have been almost 200,000 simple cautions where there is no add-on condition, where it is simply, “You acknowledge your guilt. We will give you a caution. It will go on your record but it is not a proper criminal record”. Those are the ones that in many circumstances, when you are dealing with people who have reasons for their offending behaviour—and there are many of them; we see them on a daily basis—nothing is being done to them. They are going to be given a caution, they are going to walk away shrugging their shoulders and saying, “I am quite happy doing that again”.

Q20 Lorraine Fullbrook: Basically you are saying this is an easy route?

Richard Monkhouse: That is what it seems to be. It seems to be an easy route to get rid of those cases that are at that sort of level, and provided they are kept at that level, fine.

Q21 Lorraine Fullbrook: Whose fault would that be, in your view?

Richard Monkhouse: I am not apportioning blame to anybody. There is a system in place. I don’t know how the police or CPS work. I would much rather you ask them.

Q22 Lorraine Fullbrook: That is my point. The system seems to be okay but the people using it are using it incorrectly.

Richard Monkhouse: I am sure they can argue there are very good reasons in certain circumstances. I am not laying the blame with anybody in particular because I know that police officers on the street are doing what they are told to do.

Q23 Chair: This is primarily a police issue. You mentioned the CPS, but it is the police who make these decisions, isn't it? It is not the CPS.

Richard Monkhouse: Yes.

Q24 Yasmin Qureshi: Before I ask my couple of questions, I wanted to declare for the purpose of today's proceedings as somebody who was employed as an in-house prosecutor for 15 years and has looked at the guidelines that Mr Monkhouse is talking about that exist.

Chair: That is very helpful. Thank you. We have noted it carefully.

Yasmin Qureshi: Thank you. My colleague here was asking was there any suggestion that the closure of magistrates' courts somehow may be linked to the number of cases where cautions and conditional cautions are being used. You quite fairly said you couldn't say one way or the other. I think this is quite important because if you are talking about public confidence about issues, people may well think that courts are closing down because maybe everyone is being disposed of in an easy way. Is it not right that over the last 20, 30 years, about 20-odd years ago every single traffic case used to end up in the magistrates' court and officers were reading from their handbooks, so everything used to take a lot longer and the courts were clogged up with it? Some years later they went on to section 9 statements where you just read the statements. Now I think you have reached a stage where very few traffic cases are getting into the court system. They are dealing with administrative purposes. Could that be one of the big reasons why there has been a reduction in the cases being dealt with in the magistrates' court? I think the public should have a better knowledge or a clearer picture of the reduction in court usage.

Richard Monkhouse: I think so, but I still think it is only one of the reasons. Another major reason is the magistrates' courts, even five or 10 years ago, were hearing cases five or six times before they were concluded. We don't anymore. The average now is just over two hearings per case; 70% to 80% of cases coming into the magistrates' court are finished on that day. The speed element is not the speed of how the magistrates' court works when the case gets into court. It is the time taken to get from the offence through the preparation of case papers to listing. Once it gets into court it is quite fast. That is the area that needs to be looked at.

Q25 Yasmin Qureshi: But also, of course, you know that loads of indictable offences now are not going to the section 6(1) committal procedures with live witnesses. Then they abolished live witnesses and went into reading statements and now they are going straight into the Crown Court, bypassing the courts' work. I suppose I am trying to say that there are other very plausible changes that have happened in the criminal justice system that has made everything quicker that can also explain it and it is not just one thing. People out there thinking it is because of disposals or cautions means that nobody is—

Richard Monkhouse: There are even further measures. There is the measure for the single magistrate, which has not been enacted yet but when that happens that will speed up a lot more regulatory cases. This is absolutely fine. There is no reason to have a long drawn-out process and some of these out of court disposals are to avoid that and are absolutely right.

Nobody is even dreaming that every case should be coming into the court. What we are saying is that there are still serious cases that are not coming into the court but are being disposed of by way of a caution, serious cases like ABH, even GBH, common assault, domestic violence.

Q26 Yasmin Qureshi: Coming on to the issue about cases where you say there are cautions, you talked about the guidelines. I think you probably know that there are guidelines that exist, which are given to prosecutors as well as the police, on every range of offence about the criteria to be used. They are decided upon by the Home Office, the Ministry of Justice, judges; a whole lot of people have put these guidelines through. It is not just one person sitting by himself or herself coming up with these things. They are guidelines made by the police, judges, all sorts of different groups of people who work out what are appropriate guidelines. I think it is also important that the public at large who are watching this know that this is not somebody just sitting there making things up as they go along. A lot of these guidelines have been put by people for considered, rational reasons. Would you agree with that?

Richard Monkhouse: Yes, but I would say that the evidence is that there are still offences being dealt with out of court that should be in a courtroom.

Q27 Yasmin Qureshi: The final question I have is that—and you may not be privy to this because as a magistrate you will not be told this—from my years as a prosecutor working with the police and everything we also know that a number of cases lead to cautions because there is often an interesting or unique set of circumstances of a case and it is a case where you probably are not going to get a prosecution or a conviction and sometimes the only thing you may be able to get out of the whole thing is a caution, and that is even by using the whole process of compelling witnesses to give evidence.

Richard Monkhouse: Yes.

Chair: That is extremely helpful. I must remember next time, Ms Qureshi, to ask you to be one of the witnesses at our future inquiries. Thank you very much.

Yasmin Qureshi: I think it just needed some perspective.

Chair: You are absolutely right and the benefit of your experience and that of Mr Ellis always is very helpful to this Committee. We will go to a non-lawyer now.

Q28 Paul Flynn: I would like to congratulate you on your terse responses, which sometimes have been a hundredth of the length of the questions that were asked, which is the reverse of what is happening.

Richard Monkhouse: This is how magistrates work these days.

Paul Flynn: I hope you are enjoying the evidence we are giving to you. There is a new system for out of court disposals being used in Staffordshire, Leicestershire and

West Yorkshire at the moment. Can you give us some idea of what the aim of this is and any indications of what the results of it might be?

Richard Monkhouse: It is difficult for me to say because we did not set these up. We are simply looking at them. I think the aim is to see whether there is a better system than the six alternatives that exist at the moment. They have been reduced to three but one of them, the suspended prosecution, is effectively a conditional caution. Those have been on the books for 10 years and still are as rare as hen's teeth.

Q29 Paul Flynn: Do you think one of the beneficial effects of out of court disposals is the virtual de facto decriminalisation of cannabis in that victimless crimes like cannabis use are now rarely taken to court and it means that the system is in advance of political opinion, where there is not the political courage from any party to do the obvious thing and decriminalise a victimless crime like using cannabis?

Richard Monkhouse: I couldn't possibly say. I really couldn't possibly say.

Q30 Paul Flynn: If we take a look at the work of the judicial system, the magistracy, the courts, probation, prisons, over the last 43 years there has not been one iota of improvement in the number of recidivists. It is the same number of repeating crime now as it was in the late 1960s. In view of that, it was a failure by all parties, the whole judicial system, to have spent billions on the system but actually create no improvement. Could you see these out of court disposals as a way of simplifying the system and making sure that inappropriate cases are not taken to court?

Richard Monkhouse: I think used properly out of court disposals are absolutely right. I keep saying that; there is no doubt about that. It is where the cases are wrong. You talked about drugs. It is absolutely right that somebody picked up on a street corner with a spliff is given a cannabis warning, but should somebody selling drugs outside a school be given a caution, because they are.

Q31 Tim Loughton: Quite clearly you have said there are appropriate circumstances where they can be used, as long as they are used properly. One of the things that concerns me, whether you think it is right or not that they should be used in certain cases, is the inconsistency with which they are being used around the country. Is it right to say that there are big regional differences in how individual constabularies use these forms of disposals and should more be done to try to centralise so that there are thresholds that have to be reached? If you were just given a caution in Oxford, say, for being a smoker of a spliff outside a school then you would be dealt with equally firmly or not if it were in Cambridge or Wrexham or wherever it might be.

Richard Monkhouse: That was one of our main issues. When we first did the data,—and I know from personal experience because I looked at the data—we found that the two areas who were at either end of the graph were Cumbria and Gloucestershire. In Cumbria something like 70% of all cases went to court; in Gloucestershire something like 30% of

all cases went to court. It is a huge regional difference and we produced quite a pretty graph, I thought, that demonstrated the regional variance. The only thing we could understand from that was the different way that different chief officers were applying the guidance as to when and how to use cautions. That is why when we put our report together we said, “Wouldn’t a good way of looking at this be setting up scrutiny panels?” I have mentioned them several times. They have the ability of saying, “Let’s look at some of those cases that have question marks around them. Let’s see in retrospect whether that was the right thing to do”. It is a learning exercise and those are beginning to work really well because they are providing feedback to the officer on the beat who is able to then say, “This guy has had 10 cautions in the last two years. Do you think it is right that he gets another one? Probably not”.

Q32 Tim Loughton: That is a huge differential that you have quoted between those two constabularies for example. Did you drill down into any other spinoff implications there were from that in terms of—was Cumbria the tougher one or Gloucestershire?

Richard Monkhouse: It depends what you mean by “tough”.

Tim Loughton: Which were sending most cases to court?

Richard Monkhouse: I think Cumbria was.

Tim Loughton: Was Gloucestershire boasting of better progress in reducing crime, for example?

Richard Monkhouse: Probably locally, but we did not really drill down. We got local branches to try to understand a little bit more, but our main aim was to paint a broad picture because it is not in our remit to start saying, “You are doing this wrong, you are doing that wrong”.

Q33 Tim Loughton: Sure, but there is a big issue here, isn’t there? Mr Austin asked if there a direct link with closure of magistrates’ courts. There is a link in that if they have less work to do then they are likely to be more vulnerable, although it is not such a direct link. You could make a case it is being deliberately used as a measure in order to close down magistrates’ courts but we don’t have the evidence of that. Here a job of work should be done, surely, to see if there were certain constabularies who were claiming greater success in “fighting crime” linked with the number of cases that they were deciding unilaterally to deal with outside of court and therefore giving a rather artificial picture of the level of crime at whatever threshold within their area. Has that work been done? Is there any pressure for that work to be done? Would you like to see that done?

Richard Monkhouse: The simple short answer is, yes, that would be very valuable. I don’t think it is up to us to do that. Maybe the Ministry of Justice should be doing that, maybe put it out to an outside organisation. If the English and Welsh public is to believe that the criminal justice system is fair to you whether you live in Devon or Cumbria or Norfolk then these are the sorts of questions they will be answering, except that a person in south

Manchester, where I come from, will look at what is happening there and will be less concerned about what is happening in the rest of the country.

Q34 Tim Loughton: But that is a point, isn't it? Is there a role for the scrutiny panels to be undertaking some of this work? If I draw the analogy with local safeguarding children's boards, when I was the Minister responsible for this what I found is that local safeguarding children's boards were operating entirely in siloes and not talking to each other, and yet they were dealing with similar problems and had lessons to learn. We set up a network and they now learn from each other. Shouldn't those scrutiny panels be doing exactly the same thing so that the scrutiny panel in Gloucestershire should be saying, "Hold on, why is it that we are disposing of twice as many out of court as they are in Cumbria and let's go and have a chat with Cumbria?" for example?

Richard Monkhouse: We need to walk before we can run. The scrutiny panels are not up and active everywhere. In some areas they are further ahead than in other areas. I think that may be a logical development but let's get that bit sorted out first. Let's get that knowledge of when to do it back to the officer on the beat who administers the out of court disposals.

Q35 Mr Clappison: You mentioned earlier about the value of out of court disposals for first-time offenders. Do you think that there should be a particular focus, guidance given, that an out of court disposal can be, in an appropriate case, a good way of dealing with a young person, say, who is a first-time offender who has made a mistake?

Richard Monkhouse: I think there is evidence that is happening in the youth justice system. There are far fewer youth cases coming into court because there is an effort not to criminalise young people for making a mistake, for being silly. It depends on the level of how silly they have been, how much somebody has been damaged or whatever, but I think there is evidence that that is happening. Most youth offending teams will praise what they are doing and there is significant acknowledgement of that from the Magistrates' Association. We believe that people should not be criminalised inappropriately.

Q36 Ian Austin: You have mentioned scrutiny panels a number of times. Do all parts of the country now have scrutiny panels?

Richard Monkhouse: No.

Q37 Ian Austin: Why is that?

Richard Monkhouse: I think because they have only recently started to be set up. The longest-serving one is about two years. I think that is Cheshire. They are being driven by the police. Lynne Owens might tell you more about that. I just think these need to take a while to get going.

Q38 Ian Austin: In London the scrutiny panel meets just twice a year but the Met issues 70,000 out of court disposals. How could that be effective oversight? What proportion of out of court disposals do you think the scrutiny panel should look at: one in 100, one in 20, one in 1,000?

Richard Monkhouse: I think it is difficult to randomise them all. I mentioned 20% to 30% are being thought of as inappropriate. That is taken from a sample that is looking at the cases that were a bit iffy—and that is a technical term—that actually have a question mark. If you have an indictable offence on the face of it and it has been given a caution, say ABH, GBH, then that might be one that is looked at. If all you look at are the cases that were appropriate for out of court disposals you are not gaining anything. It is not about quantity, it is about quality, and it is about making sure that the cases that scrutiny panels are looking at are well chosen; they are not handpicked so that they make the police look good or the police look bad; that there is a proper statistical basis to them.

Q39 Ian Austin: But you would be confident that in London, where 70,000 cases are dealt with out of court and the scrutiny panel meets only twice a year, that can be effective oversight?

Richard Monkhouse: If they think it can be effective. I use the political analogy that when a poll is done of which party is going to win the next election they pick something like 1,100 people and as long as it is random then it is fine.

Q40 Ian Austin: Finally on the scrutiny panels, who do you think should sit on them and to whom should they ideally report? Do you think they should include members of the public or victims of crime? Is there any difference in the way that they are constituted?

Richard Monkhouse: I think that would be an interesting development. We are doing some research on them. I don't think any include victims of crime at the moment. That would be an interesting development. They are police-led, not magistrate-led. They are police-led; you might have magistrates, prosecution, defence, probation, CPS on them. It is a mix of people. You need that mix to be able to assess each case that you are looking at.

Q41 Ian Austin: So there is no consistency nationally in how they are established?

Richard Monkhouse: No.

Q42 Ian Austin: I had never heard of them until looking into this in more detail and I think they are probably completely invisible to the public, aren't they?

Richard Monkhouse: Largely, but I think there is a duty on them to report back, maybe through the police and crime commissioner or through other channels, maybe local justice boards. That information needs to be getting back, because one of the problems is perception and perception is driven by the media.

Q43 Michael Ellis: Aren't these scrutiny panels just an issue of more bureaucracy and more money spent on tiers of bureaucracy? Just play devil's advocate here for a moment. We ask the police—not the magistrates, with great respect—to deal with crime on the streets. Don't you think that we should give some exercise of their own discretion to decide when it is appropriate or not to caution an individual that they are dealing with and it is not for you or other magistrates to interfere in that process? You have your role in trying cases and convicting or acquitting individuals. It is for the police to decide, in conjunction with the Crown Prosecution Service, and they already have considerable overseeing authorities looking over them. Shouldn't we give the police some discretion in these areas?

Richard Monkhouse: I think they have that discretion and when you examine that discretion you realise that mostly it is working fine but there are cases where it is not working fine. I would bring in another party to that, the victim. We haven't mentioned the victim yet and the victim is key to this. The victim needs to be involved in the choice of out of court disposals and that is one of the things that I hope the pilots are starting to investigate.

Q44 Michael Ellis: You have mentioned about the differences between regions in the country. Isn't it also correct that there may be a difference in sentence from one magistrates' court in the same building for the same offence to another magistrates' court, and even more so with judges? People can appear in front of one judge who is notorious, for example, in passing severe sentences and get a very different sentence from another judge in the same court building for the same offence. As for regional differences, there might be a priority in one part of the country, for example on metal theft where there has been a prevalence of metal theft, that someone who appears before the court on metal theft will get a more severe penalty than someone in another part of the country where it is not so prevalent. That may account for regional differences as well. It does not necessarily mean there should be uniformity across the board. Do you agree?

Richard Monkhouse: As far as magistrates are concerned, we look at our sentencing guidelines, which are produced by the Sentencing Council and we must follow, and we do.

Q45 Michael Ellis: But they give a range, don't they?

Richard Monkhouse: Of course they give a range because there are no two offences that are exactly the same.

Michael Ellis: Exactly.

Q46 Nicola Blackwood: Mr Monkhouse, you have just said that we have not mentioned victims yet, and this has been something that has been rather absent from the discussion so far, and you have mentioned the scrutiny panels. Who is represented on the scrutiny panels? Are victims represented on the scrutiny panels?

Richard Monkhouse: Officially, no, because scrutiny panels are not official bodies. They are bodies that have been set up because there has been advice to set them up. You are better talking to Lynne Owens about this because they are led by the police. They are not led by magistrates, although magistrates will sit on them.

Q47 Nicola Blackwood: Is there any reason not to have victims on the scrutiny panels? Is there any statutory reason?

Richard Monkhouse: No statutory reason.

Nicola Blackwood: Is there anything preventing victims from being on these bodies?

Richard Monkhouse: There might be an issue of raising expectation from a victim that a victim may be able to say, “I don’t want this dealt with this way. Shouldn’t it be dealt with this way? I was involved in it”. You have to be very careful.

Q48 Nicola Blackwood: Do you think that victims are not able to understand that they are contributing to the general policy points, not to their specific personal case, if they are invited to join that body?

Richard Monkhouse: All I am pointing out is that there is potentially a danger of raising expectation. I personally believe—and it is a personal view, it is not an MA view necessarily—that there is a place for victims. I don’t know how they are represented, because I think that is up to each scrutiny panel to decide.

Q49 Nicola Blackwood: What about sharing of best practice and consultation between scrutiny panels? One of the concerns that you have raised is regional variation. How are scrutiny panels working on addressing this at the moment?

Richard Monkhouse: I don’t believe they are but I believe there is potential to do so, particularly in large urban areas. Take an area like Greater Manchester where there are 10 local authorities and eight magistrates’ courts. Should there be a scrutiny panel for Greater Manchester or should there be a scrutiny panel for each of the local areas? That is up to the police to decide and there is room for either.

Q50 Nicola Blackwood: One of the concerns raised by the HMIC and CPS investigation in 2011 was a sort of patchy understanding by police of the different out of court disposals that were available to police. There was a tendency between different forces for preferences to emerge and this caused a strange sort of bias within the data. In the pilot a two-tier

framework will become available where a first-time offender committing a minor offence will face just the statutory community resolution where they will have to provide either a verbal or written apology, pay compensation or fix the damage, and a more serious crime will be dealt with by a suspended prosecution with a more serious consequence. Do you think that will resolve that problem or do you think that it will lead to a lack of discretion available for the police?

Richard Monkhouse: It is a really difficult one to answer because we have not seen any data from these pilots at all. The simple caution is missing out of that. The simple caution is the thing that is used most frequently and for many cases a simple caution is entirely appropriate. That has gone from this new pilot and it would be very interesting to see whether after the pilot and the results of the pilot there is a desire to bring back the simple caution. We just don't know.

Q51 Nicola Blackwood: What were the levels of victim satisfaction with the simple caution?

Richard Monkhouse: I don't know. I don't think the victims have ever been asked.

Chair: Thank you very much, Mr Monkhouse. We are most grateful. If there is anything further you wish to add to your evidence, please do write to us. We are going to produce our report very quickly in view of the imminence of the prorogation of Parliament. Thank you for coming. Dissolution. Thank you, Mr Ellis. Could we call Lynne Owens to the dais?

Examination of Witness

Witness: Chief Constable Lynne Owens, QPM, Surrey Police, National Policing Lead on Out of Court Disposals, gave evidence.

Q52 Chair: Chief Constable, thank you very much for coming. You have heard the previous discussion and questioning of the Chairman of the Magistrates' Association. Are you concerned about the number of out of court disposals or do you think we have got it about right?

Chief Constable Owens: I think it is important to put this debate in context. You have already touched on the fact that there were a higher number of out of court disposals some time ago than there are now, so perhaps to start with some statistics. At their height, which was in 2007, about 10% of all solved cases were dealt with by out of court disposals, so about 10% of the totality. Last year it was 4.8% and that has been a steady decline over a number of years¹. Out of court disposals are a really important tool for the victim, the offender and in the interests of bureaucracy and therefore cost. I think what we have seen over a number of years is some real confusion, as I think Ms Blackwood said, because the system has grown up organically over time and there has been a lack of understanding,

¹ Note by witness: I wanted to clarify a point that I made during the hearing which related to the proportion of Out of Court Disposals. During the hearing I gave the correct figures of 10.8% in 2007 and 4.8% in 2014. However, I inadvertently referred to these as percentages of all solved cases when in fact it should have been a percentage of recorded crime cases. The figures themselves remain correct and the downward trajectory is entirely accurate.

both publicly and indeed in my own organisation and other criminal justice agencies, about what disposal is most suitable in what case.

Q53 Chair: Do you think that police officers themselves are aware of this? You said that there has been a lack of knowledge. Should there have been much more understanding within the police service as to exactly when they can use these disposals?

Chief Constable Owens: I think the challenge is because it grew organically over time, different police forces took different approaches at different times. Sometimes forces use community resolutions, sometimes they use cautions, sometimes they use penalty notices for disorder, sometimes they use cannabis warnings, and now we have the addition of the conditional caution. That is a very complicated framework and one of the reasons that I am very interested in these pilots is because what they try to do is simplify that model that I hope will, but we are yet to find out, bring more consistency over time.

Chair: I am afraid we have to vote now but we will return and continue with your evidence, so if you would excuse us. We will suspend the Committee until we are quorate.

Sitting suspended for a Division in the House.

On resuming-

Q54 Chair: We were hearing the evidence of Lynne Owens about out of court disposals. I think you had just finished your sentence. There seems to me to be something of a postcode lottery; different forces in England and Wales are doing different things as a percentage of the number of cases that they have. Do you feel that that is happening? If you look, for example, at Surrey and your out of court disposals for last year, are they up or down over the year before?

Chief Constable Owens: The out of court disposals of every force in the country are down. The whole country has had a downward trajectory for the last seven years, but I think you are right in your assessment that not every force operates in exactly the same way. It is why the pilots that we are running in three very different forces—Leicestershire, West Yorkshire and Staffordshire—are important, a small, medium and large size force, some with very diverse communities, some with less diverse communities, with all sorts of different crime problems. That will enable us to very closely look at and understand the different behaviours that might occur within a force. I am pleased that the Ministry of Justice has supported the pilots with some independent research so at the end of it we will have an independent company—I believe the contract has been awarded to Ipsos MORI—who will be able to give us some assessment of what the differences are, why they occur, and what works and what does not work.

Q55 Chair: But do you understand the public's concern?

Chief Constable Owens: Absolutely. Public confidence is so key to us in policing. We have to police with the consent of the public and I do think that some of the very misleading headlines that are not based on fact but are based on some very high profile cases do impact on public confidence. That is why a system that is simpler, less bureaucratic and easier to explain has to be in the public interest.

Q56 Tim Loughton: On the mechanics of how these things are issued to the offenders, what information do the police provide to the person, because for some of them you have to volunteer to take those forms of caution? There have been cases in the past where people have taken on these cautions without realising the implications of them and in some cases, although they will not appear on their criminal record, they will appear in things like CRB checks, for example.

Chief Constable Owens: This is one of the complexities of the current system. Some of the disposals are statutory disposals where they do appear on a criminal record, so a caution would appear on a criminal record and would be disclosable. When that is given to an offender, they would sign to say that they understand that is the case. A community resolution, as is currently constructed, is a much lower form of disposal and that is not recorded and disclosed as a matter of course but it is disclosed if, for example, somebody wants to undertake a profession where they work with children or require some other type of enhanced disclosure. That is one of the things that we need to resolve through this process because I think that has led to cases where some people have accepted an out of court disposal whereas if they had understood the consequences they may not have done.

There is already a process in place—it sits with the chief constables—where individuals can appeal disposals that they were given, either at the time or subsequently. I see cases over my desk where I have upheld the appeal because if an offender was being dealt with against today's rules they certainly would have not been given a caution. In some instances it is for very young people and it is really affecting their life chances.

Q57 Tim Loughton: Can the offender appeal against it subsequently?

Chief Constable Owens: Again it depends which disposal you are talking about under the current structure. They can decline to accept a caution and if they do the case will be put to the Crown Prosecution Service and it is likely that the case will go to court. If they are given a fixed penalty notice they effectively appeal by not paying the fixed penalty and again that goes to court. If they do not accept a community resolution then we should not be awarding them. But the process for each disposal is different, which is why we think a different and simpler approach is necessary.

Q58 Tim Loughton: As an example, how do you accept a PND physically? Does it have to be signed for?

Chief Constable Owens: It is signed for, albeit that an offender can decline to sign it. In some instances they are given on the street and in some instances they are given in custody. If they are given in custody, fingerprints, DNA and so on are taken.

Q59 Tim Loughton: But some of the others can be accepted without being signed for?

Chief Constable Owens: Any offender can sometimes decline to sign if they wish to.

Q60 Tim Loughton: The point I am getting at is that there has been confusion in the past in that people have not realised that they have been served with these forms of notices and they only find out about it when it comes off on an CRB check for a job application, for example. I have had more than one constituent's case of exactly that. There is a problem, is there not, hence my question, about the offender knowing exactly what he or she is letting him or herself in for and the process by which they should be notified of exactly the implications of them saying, "Yes, I accept that", sign on the dotted line or not sign on the dotted line if there is not a dotted line to say on, or saying, "No, I don't accept that. I want to have my day in court to be able to challenge it and prove my innocence"? That is all over the place, isn't it, in terms of how different police forces choose to do it?

Chief Constable Owens: We are expecting that issue to be resolved through these pilot sites that we are running, because the guidance makes that clear.

Q61 Tim Loughton: What role does the College of Policing have in all of this? Is it advising on guidance or what?

Chief Constable Owens: The College of Policing works very closely alongside me and my team on the business area. They have been involved in writing the guidance and if the pilots move forward in their current construct or indeed, based on the evidence, something else then the College of Policing will help us rewrite the guidance and we will issue it to all police forces.

Q62 Tim Loughton: Do you think that ultimately we should and will move to a system whereby there will be very clear instructions as to how each of the six different variations of these out of court disposals are issued, whether you be in Cumbria or in Gloucestershire? It will be very clear to the offender as to what procedures they should be subject to in order legitimately to have been issued with one of these notices or be able to challenge it and that will be the same in any part of the country. Do you think we can achieve that?

Chief Constable Owens: In the new system there will not be six disposals; there will be only two. There will be a community resolution and a conditional caution that may be called a suspended prosecution. That in itself will make it simpler. The current intention is that if you get a community resolution it does not count on your criminal record but there will be a national way of managing and auditing that. I should stress that is not in place at the moment and it does come at expense. That is one of the questions that we will have to

ask the Ministry of Justice and the Home Office at the time that the pilots conclude. Conditional cautions will be a criminal record and will be held on record, always disclosable. That is one of the areas that we will seek to clarify through the pilots. I do think that is achievable, yes.

Q63 Lorraine Fullbrook: What early feedback have you had from the pilots that are taking place?

Chief Constable Owens: Let's just be clear, they only started on 1 November, so it is very early findings. They were live across the whole of Staffordshire and the whole of Leicestershire as of 1 November and West Yorkshire are going for a slightly smaller rollout on the basis that they are a big force and therefore they need to test the implications as they go. The early feedback from officers, the CPS and victims is good but I would claim no more than that at these very early stages. What is going to be really important is the independent analysis that will take victim views, offender views and have a look at reoffending and cost, albeit that we will not get those after just one year because, of course, reoffending sometimes takes a longer period of time than that.

Q64 Lorraine Fullbrook: How do you think the scrutiny panels have helped to improve the system?

Chief Constable Owens: I think the scrutiny panels are key to community confidence. I heard questions asked earlier about how they are constituted. This Government's intention was for more localism so it is almost inevitable that different police and crime commissioners have suggested different structures for their local panels. My view is that it is good to have a victim's voice on that panel in some way, whether they be victims themselves or through Victim Support or other voluntary organisations. All of them involve the magistracy and some police representatives. Some of them include laypeople, some of them include the police and crime commissioners or the police and crime commissioner's office. But what they will enable us to do over time is deal with consistency issues and identify if there have been instances when out of court disposals should not have been issued and to provide that learning or feedback to the officers involved.

Q65 Lorraine Fullbrook: Presumably as these scrutiny panels are rolled out, that will come to light in each region?

Chief Constable Owens: Absolutely right, yes.

Q66 Dr Huppert: Chief Constable Owens, it is good to have you back here. Can I ask you about some of the evidence? Has there been anything more detailed or more recent than the June 2011 joint inspection, or is that the most recent?

Chief Constable Owens: That is the most recent inspection, albeit the HMIC did look at out of court disposals in their most recent crime data integrity inspection. The consultation that was referred to earlier was a consultation that was done on the back of a review that chief police officers did alongside the Home Office and the Ministry of Justice on cautions. That broadly found that cautions in most instances were given appropriately but that the whole out of court disposal framework was complicated and bureaucratic, and that is why we have got to a place now where we have the pilots.

Q67 Dr Huppert: The inspection does have some very interesting comments. It talks about many police officers exhibited patchy knowledge of the range of disposals. Is that still the case?

Chief Constable Owens: We completely accept that that is an issue. There are six disposals that have evolved over time, which is why we are keen to see these pilots and see whether they can make something a little simpler for the frontline officers so that we do apply it in a more consistent way across the country.

Q68 Dr Huppert: There are process issues in the number of options to choose between. I would also be interested to understand how much police officers understand what the consequences are of each. That inspection looked at a bizarrely small number of 198 cases—I don't know why it was quite so small—but they found for reoffending rates, for example, substantially the lowest for restorative justice disposals. I would be interested to know how many police officers realise that the evidence, at least there, is that is the best way of reducing reoffending. Similarly, they found the vast majority of victims being satisfied or extremely satisfied with the out of court disposals more so for conditional cautions and simple cautions and so forth. Do you think police officers realise the consequences of the decisions they are making in terms of victim satisfaction and reoffending rates?

Chief Constable Owens: The victim satisfaction point is a very interesting one. When we look at restorative justice—and we have done some very detailed work in Surrey looking at youth restorative justice—what we find there is that the victim satisfaction tends to be higher than if the case has got a caution or indeed gone to court. That is because the victim is very much involved in the process by which the offender is dealt with. Could I categorically tell you that every frontline officer understands those consequences? No, I would be naive to do that, but I do think that if the pilots prove to be successful we will be able to use frontline officers and staff to roll that out to the rest of the country. I should stress that many of the ideas that we have included in the pilots, as well as coming from victims groups and those that deal with offenders, have come from frontline officers and staff, and broadly the feedback from them has been very positive.

Q69 Dr Huppert: Your comment about restorative justice being popular with the victims fits with the research by Larry Sherman at the University of Cambridge, for example, which I am sure is not a surprise. What are you going to do to try to increase the number of police

officers who realise that restorative justice is the most successful at reducing reoffending and is the one most liked by the victims?

Chief Constable Owens: One of the things that we are going to have to test through these pilots is the mishmash of solutions that are currently out there by which we can deal with offenders. Some local areas have a very good level of investment in restorative justice and other diversion programmes for offenders, and other areas have less. The police and crime commissioners have a statutory duty to consult on the community remedy. Many of them have published the list of things that are available. What we are concerned about in policing is actually just what exists in communities to be able to service that demand. Through the pilots we will understand what works and what does not work, with a view hopefully to be able to influence the debate about what is procured very locally to deal with offenders.

Q70 Ian Austin: We heard earlier that out of court disposals are being used on some occasions for serious offences like rape, burglary or violent assault and on some occasions for repeated burglaries or repeated robberies. I think the public would be staggered to discover that that is happening. Do you think that is an appropriate use of these measures?

Chief Constable Owens: Can I break down the question into two halves? There is a question about seriousness and a question about repeats.

On the question about seriousness, just to take you back to the figures I quoted earlier, at the moment only 4.8% of the totality of cases are dealt with through out of court disposals. If you look specifically at cautions, only 0.2% of robberies are dealt with out of court and only 2% of sexual offences. Like you, when I hear the phrase “sexual offence” I imagine a stranger rape and, like you, I would agree that those sort of cases should never be dealt with out of the court, but when you look at the detail—and I have one that I have brought with me from my own force that went to our scrutiny panel and was approved by our scrutiny panel. A 17 year-old boy was walking home with a friend he had met and had known for a period of time, who happened to be an older au pair. On the way home he touched her breast and she rejected his advances. She was really upset by the incident so she reported it to police. She absolutely did not want to go to court. She felt he had misread her signals and he had indecently assaulted her but she did not want to support a prosecution. However, we were concerned that he did not properly understand boundaries and therefore we dealt with him through a restorative process. That would count as an indictable offence that has been dealt with out of court but in those circumstances, where there has been no previous history and no offence since, it would seem to be entirely right.

Q71 Ian Austin: I don’t think anybody is going to argue with you about that, but how could you have a case of rape?

Chief Constable Owens: Rape is another very good example. If you have a 15 year-old girl who has a sexual relationship with a 16 year-old boy and that offence is reported to the police by a school friend or by social services and neither the victim nor the offender nor their parents are willing to support a prosecution to court, it is sometimes in the best

interests of the victim and the offender to get them to work with social services to try to prevent that young lad ever offending that way again. That is recorded as a rape because no consent can be given when the victim is under the age of consent, but in those circumstances I think we would find it hard to argue that that case should be prosecuted to court.

Q72 Ian Austin: Do all the cases of rape that have been disposed of in this way fall into that sort of category?

Chief Constable Owens: They do not all fall into that category but we are now, through my office, looking at every single case that the numbers are—

Ian Austin: But you are confident that they can all be explained in that sort of—

Chief Constable Owens: I am not confident they can all be explained in that way, but the numbers that can't are very small and we highlight those individual cases for chief constables and they deal with them appropriately.

Q73 Ian Austin: The other thing I have been struck by is this issue of domestic abuse. Here the figures on domestic abuse are not in line with the general figures that you have given us, because community resolutions for domestic abuse have gone from under 1,400 in 2009 to almost 3,500 in 2013. How can that be appropriate?

Chief Constable Owens: Let's be clear, domestic abuse is a most abhorrent crime. We know that it takes great bravery for survivors of domestic abuse to come forward, but there are two points to make. The first is that that title "domestic abuse" does not always only cover parental relationships. For example, it does cover a mother who might call us because she has a son with a mental health difficulty who in the heat of an argument assaults her. What she does is ring us because she wants some help to deal with his mental health capacity issues. We have to record it as a crime because a crime has been committed, but in many instances that mother may not want to see her son put through the criminal justice process. She will want support from another sector and as long as we can be confident that we have got that, that is an appropriate disposal.

Equally there are some instances where victims, despite every effort that we can put into persuading them, the support they might get from the voluntary sector, simply do not want to attend court and sometimes—very rarely—it is better to give an out of court disposal than to do nothing, particularly if we can build restorative justice within it. We are very closely looking at the issue of domestic abuse through the pilots because we expect those cases to be very rare, if at all, and we hope, in the assessment that we do, to be able to work with victims groups to understand the very rare circumstances in which that might be the right course of action. But I stress that we would see that being rare.

Q74 Ian Austin: Based on your knowledge of this so far, what proportion of the getting on for 3,500 would fall into this category of a child with a mental health problem assaulting a mother? Is that the general?

Chief Constable Owens: I would not want to guess. It is why the pilots are so important because at the moment there has not been that level of scrutiny in every individual case for out of court disposals. We are now looking at every single case that is disposed of out of court in those three force areas, so that allows us to understand the question you are asking in much more detail than we currently do. The scrutiny panels play a key role in domestic abuse. If you look across the country, most scrutiny panels are receiving all indictable offences and any case of domestic abuse so that they can look at the circumstances locally and provide advice to their chief constables, their police and crime commissioners and their local criminal justice boards about whether the disposals in those cases are right. All I joined policing for is to protect victims. That applies more in domestic cases than anywhere else and that is what drives most frontline officers and staff.

Q75 Ian Austin: There was just one final question. I think I interrupted you before.

Chair: Mr Austin, you have many final questions. Could this be the final one, please?

Ian Austin: I know, but I am afraid I interrupted.

Chief Constable Owens: Repeats?

Ian Austin: Yes, exactly on repeats. Sorry.

Chief Constable Owens: You raised seriousness and the second part was repeats. We are very clear in our current guidance for the pilots that it is an escalatory process. You should have one community resolution, one suspended prosecution/conditional caution and then you should go to court. We are not sure whether that will be workable because we know at the moment effectively we are putting six disposals into two disposals. So we are not sure whether that will work, but that is one of the things that we are testing.

Q76 Chair: Moving off the subject—and I will come back to Mr Ellis in a moment—to the diversity issues in the police force. You are a role model in the police as being one of the most successful women chief constables. Have you managed in Surrey to promote a good number of women in ethnic minorities while you have been chief constable?

Chief Constable Owens: I would not claim that to be my biggest success, if I am honest, Mr Vaz. There are lots of reasons for that, the first being that we are downsizing as organisations at the moment so the numbers of opportunities that we have available to us are diminished from what they have been previously. We currently have a recruiting campaign for officers and I am quite keen that in policing we take a different approach to entry to that which we might previously have taken. In Surrey historically we have relied on the Certificate in Knowledge of Policing and required people to take that before they join us, and I am slightly concerned that that is—

Q77 Chair: Do you think that is a barrier? We have taken evidence from the College of Policing and we are publishing a report on this. Do you think the £1,000 or so that people have to pay is a barrier?

Chief Constable Owens: I think it could be a barrier and therefore it needs to be one route but there need to be other routes too. We know that there are direct entry schemes and fast track schemes, but I think we need to do more work with those who we currently have in service so we have—

Q78 Chair: But you insist on the certificate before they join Surrey, do you?

Chief Constable Owens: We do at the moment. I do not think that will be sustainable on its own in the long run. I would like to see a way of converting special constables and those who are currently in police staff or volunteer roles. If you look at people in those roles, they represent a far broader cross-section of the community than those who naturally join and maybe come from white middle-class parents who can afford for them to do the CKP.

Q79 Chair: When you joined the police force—and you have had a very distinguished career—there were not that many women chief constables about and the issue of diversity was not at the forefront of people's minds but it is now, I think. Are you confident that things are moving in the right direction?

Chief Constable Owens: There is an absolute determination, I think, from within policing to move us in the right direction and it is taking us longer than it should do.

Chair: Mr Winnick has a supplementary on this and then Mr Ellis will close.

Q80 Mr Winnick: Excuse my absence. I was involved in the debate downstairs that led to a vote. Chief Constable, I have a brief about your position, as one would expect, but it does not mention when you actually joined the police force.

Chief Constable Owens: I joined the police force in 1989.

Mr Winnick: Has there been a change of attitude that you could—

Chair: Mr Winnick, I am going to have to stop you because the bell has gone. We will have to write to you on this, if we may, rather than keep you another 10 minutes while we go and vote. Thank you very much for coming in. If you don't mind, we will write to you on a number of issues. That concludes the session.