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Citation:

HEAP, Vicky and PATERSON, Craig (2019). Democratic localism and the
implementation of the Community Remedy in England and Wales. Criminology and
criminal justice. [Article]

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Democratic localism and the implementation of the Community Remedy in England and Wales

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Abstract

This article assesses the development and implementation of the Community Remedy anti-social behaviour (ASB) policy by Police and Crime Commissioners (PCCs) in England and Wales. The Community Remedy, introduced by the Anti-Social Behaviour, Crime and Policing Act (2014), allows victims of 'low-level' ASB to select an informal action for their offender from a list designed by their local PCC via consultation with the public. This article reports the results of a benchmarking exercise that investigates how PCCs have translated this policy into practice by examining: public consultation procedures, the contents of the Community Remedy documents and police usage. The findings indicate an uneven implementation across regions with variable levels of engagement from PCCs, police forces and members of the public. We assess the enactment and adoption of this new power alongside its potential to stimulate democratic localism.

Key Words

Anti-social behaviour, Community Remedy, democratic localism, policing, restorative justice, victims

Introduction

The Community Remedy was introduced in England and Wales by the Anti-Social Behaviour, Crime and Policing Act (2014) as part of wholesale changes to anti-social behaviour (ASB) policy that sought to 'put victims first' (Home Office, 2012a). This new legislation marked a seminal moment in ASB policy because previous powers primarily focused on the activities of perpetrators. During the development of the new legislation, the Home Office (2012b) found that some police forces were using community resolutions and conditional cautions to address minor cases of ASB as an alternative to the formal criminal justice system, but they were not used consistently across forces. Thus, the Community Remedy was created to provide a transparent framework for both the public and victims to be involved in the justice process. The premise of the Community Remedy is that victims of crime and ASB are able to have a say in the punishment of their offender, by selecting a penalty from a predetermined 'document' of informal 'actions'. Police and Crime Commissioners (PCCs) and their

associated police forces were given the responsibility to create a bespoke, locally-relevant Community Remedy document¹ and enforce it within their area. The Remedy can be used when a community resolution², conditional caution or youth conditional caution³ has been selected as the chosen disposal, with police officers responsible for ensuring the chosen action is appropriate and proportionate to the offence. Both the victim *and* offender must agree to the Community Remedy as a course of action, with the offender having to admit their guilt for the offence (Home Office, 2014). Formulating the Community Remedy policy so it is delivered by the police alone marks a departure from the commitment to tackling ASB using a multi-agency approach (Cooper et al., 2009). Creating a police-led power does not reflect the wide range of agencies who are involved in tackling ASB, which often includes the local authority, registered providers of social housing and youth offending teams.

¹ 'Menu' and 'sanctions' were the original terms used in the draft of the Anti-Social Behaviour, Crime and Policing Bill (2012) and in the Home Office (2013) consultation report. However, these terms were replaced by 'document' and 'actions' in the Act itself (2014). Some police forces still use the original terminology; however the most recent terms will be used in this article.

² In England and Wales, a community resolution is a nationally recognised term that is used when an incident or crime is diverted outside of the formal criminal justice system. A community resolution can be used with both youth and adult offenders to administer a non-statutory, and often restorative, disposal. The views of victims are taken into account when reaching agreement about the disposal and offenders must take responsibility for commission of the act.

³ A conditional caution also diverts an incident or crime outside of the formal criminal justice system when an offender both admits to commission of the offence and accepts conditions imposed by a police officer. The conditional caution was initially introduced in the Criminal Justice Act (2003) and was updated in the Legal Aid, Sentencing and Punishment of Offenders Act (2012) which also established youth conditional cautions.

The research outlined in this paper is the first to examine the operationalisation of the Community Remedy powers by PCCs and the police, and provides a significant initial insight into whether the Home Office's promise to 'put victims first' has been translated effectively into practice. This is important because figures from the Crime Survey for England and Wales show ASB to be a widespread problem, with 1.66 million incidents recorded by police in 2017-18 (Office for National Statistics, 2018a). This is supported by data that highlights the proportion of people who perceive high levels of ASB in their area, which currently stands at 10% (Office for National Statistics, 2018b). The implementation of the Community Remedy offers an opportunity for this paper to explore the extent to which PCC's are seizing the initiative (or not) in this area and to provide some preliminary analysis of local variations in policy implementation. The aim of the paper is to present the findings of a benchmarking exercise, which ascertains how the Community Remedy has been established and implemented by PCCs⁴ and police forces at a local level. The research objectives were to: shed light on the scope and detail of the community consultations undertaken by PCCs, examine the availability and contents of the Community Remedy documents to the public, and assess police usage of the new power. The authors provide an analytical framework

⁴ When referring to PCCs we include Greater Manchester and London, where PCC responsibilities rest with the Mayor.

through which the implementation of victim-oriented strategies can be understood in local contexts. As a consequence of this, the paper informs debates about the realities of democratic localism when delivered through PCCs and provides some initial feedback on the utility of the Community Remedy as a victim-focused ASB policy.

ASB, Victims and Restorative Policing

The policy repositioning of the Conservative-Liberal Democrat Coalition and subsequent Conservative governments has raised ASB victims' expectations of achieving justice, particularly through the two core victim-focused powers, the Community Remedy and the Community Trigger⁵, which set out to improve victim satisfaction with the criminal justice process (Duggan and Heap, 2014). The Home Office conducted a consultation exercise in 2013 to seek views from both ASB-related organisations and the general public about their plans to implement the Community Remedy. In general, the public supported victims being involved in the punishment of their offenders (Home Office, 2013). The Association of Chief Police Officers (now known as the National Police Chiefs Council) and police forces were in favour, but cautioned against increased bureaucracy and threats to police discretion. PCCs

⁵ The Community Trigger was also introduced by the ASB, Crime and Policing Act (2014). It forces the authorities to review their responses to complaints of ASB in circumstances where the victim feels no action has been taken, if a particular local reporting threshold has been met. See Heap (2016) for a critical discussion.

provided mixed responses, with the major concern being inconsistencies in practice. The most critical response was from the Magistrates' Association who felt that responses to ASB should be dealt with by the courts because a lack of judicial oversight and the informality of out of court sanctions would lead to more offending (Home Office, 2013). This viewpoint is challenged by a growing body of evidence which indicates that the use of informal community-based practices can lead to lower rates of re-offending, reduced costs and improved victim satisfaction (Bazemore, 2000; Shapland et al., 2008; Clamp and Paterson, 2016). This latter perspective seems to have been supported by Home Office guidance which offered much flexibility for local implementers.

Home Office (2014, 2017) guidance notes that each component of the Community Remedy must be appropriate and proportionate to the behaviour/offences for which community resolutions are employed and thus offers implementers the flexibility to translate the enhanced victim-orientation of the Community Remedy into practice. The Community Remedy actions are grouped into three categories, with each action requiring a:

- *punitive element: reflecting the effects on the victim and wider community; or*

- *reparative element: achieving appropriate restitution/reparation to the victim; or*
- *rehabilitative elements: helping to address the causes of the perpetrator's behaviour; or*
- *combination of these.*

(Home Office, 2014: 13)

Operationally, this translates into a range of actions such as: making an apology to the victim, taking part in a restorative justice activity, paying for any damage caused, or participating in structured activities (Home Office, 2014). In terms of the implementation process, PCCs were presented with a non-legally binding duty to consult the public as well as a *statutory* duty to consult their local authority and chief constable about the contents of the document. The Home Office Impact Assessment (2012b: 1) states that a public consultation about the Community Remedy would help PCCs 'make the approach to low-level crime and anti-social behaviour in their area more responsive and accountable to victims and the public'. However, paradoxically, the Ministry of Justice funding for PCCs to locally commission services for victims of crime does not apply to victims of ASB (Ministry of Justice, 2013a). Nevertheless, giving PCCs responsibility for the Community Remedy reflects one of their core remits; to involve the public more in the decision making process through localised, transparent

and more accountable decision making (Cabinet Office, 2015). The introduction of PCCs has not been without criticism from scholars, including Reiner (2013:174), who suggests 'the new system of police governance, with PCCs as the lynchpin, moves policing further away from democratic governance, disguised by a fig-leaf of populism'. We revisit this proposition throughout the paper by using the Community Remedy as a vehicle for assessing the role of PCCs as enablers of democratic localism.

The Community Remedy has the *potential* to meet victims' needs because it adds an element of restorative justice to the ASB agenda which had been largely missing from existing tools and powers. The contribution of restorative approaches to the justice process and, in particular, to reductions in reoffending has been increasingly recognised (Shapland et al., 2008; Sherman and Strang, 2012) yet questions remain about whether restorative principles will transfer effectively to ASB in a manner that empowers victims. Braithwaite (1989) explains how restorative justice should be understood as a holistic approach to individual and collective harms, yet the most widely used definition of restorative justice in the UK is Marshall's (1999:5) narrower description of 'a process whereby parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future'. In practical terms, this latter definition seeks to capture activities which re-

engage individuals and communities yet remain components of traditional justice processes.

Police use of restorative justice in England and Wales emerged during the late 1990s although this initial experimentation stagnated and many of the pilot programmes disappeared (Paterson and Clamp, 2012). Since 2013, the Home Office and Ministry of Justice have encouraged the police to undertake further innovations with restorative and other community-based resolutions via additional funding (Ministry of Justice, 2013b), new legislation (for example, the Crime and Courts Act (2013)), a nationwide action plan (Ministry of Justice, 2014) and the promise of enhanced officer discretion to deliver more victim-focused policing.

Successful police-led restorative programmes have often been driven by community demands for justice and security, with prominent victim voices that have been captured and co-ordinated alongside engaged local agencies (Moore and Forsythe 1995; Bazemore 2000; Paterson and Clamp 2012). This means that the extent of consultation and community engagement during the policy implementation process is likely to be indicative of the relative success or failure of the Community Remedy. It also means that local variance should be expected. While questions have been raised

about fairness and equity when local variance in the implementation of criminal or community justice sanctions emerges (Crawford and Clear, 2001), it is also possible to view differences in practice as evidence of the strengthening of democratic localism.

The Community Remedy process seeks to mobilise the democratic potential of civic enterprises and 'informal modes of organising space, livelihood and citizenship' (Roy, 2010). Using 'informality' as a response to urban problems has been most evident in the Global South where state services and resources are limited, although it is evident that similar shifts in governance can emerge in developed states experiencing neoliberal roll-back (Featherstone et al., 2012). Citizen distrust in formal local and national administrations can be counteracted by bottom-up initiatives that operate in a democratic and inclusive manner that incorporates the concerns of the victimised and marginalised. Victim-oriented approaches challenge the offender-oriented assumptions and priorities of state officials and their tendency to focus upon victims' administrative needs to the detriment of mechanisms for building resilience and community capital (Walklate, 2011; Duggan and Heap, 2014). The emphasis placed upon the agency of individuals and inter-personal relationships avoids disempowerment and situates the individual as an active social agent in the justice process. It is at this point that the aspirations of victim-oriented ASB and victim-

mobilising restorative approaches connect and are embedded in policy structures through the democratic localism of PCCs. Yet, despite the theoretical promise of victim-oriented programmes there remain a number of challenges to policy development and implementation – most notably, the tendency of governance structures to co-opt innovation for its own purposes.

Previous analyses of restorative policing initiatives in the United Kingdom have identified varying degrees of dilution of restorative values and principles during the implementation process of new programmes (Paterson and Clamp, 2016). The term ‘restorative policing’ recognises the central role played by the police in restorative practices that focus on an underpinning philosophy of diversion and informal approaches to social control which create the space for informal actors and agencies to focus upon building community capital (Sampson et al., 1997; Clamp and Paterson 2016). This focus upon the underlying causes of crime and insecurity should help to address some of the criticisms previously made about ASB, particularly its emphasis on stand-alone enforcement measures (Hodgkinson and Tilley, 2011). The Community Remedy has the potential to embed restorative policing practices in cases of ASB, although potential conflicts remain with the competing punitive and rehabilitative elements of the Community Remedy.

Both restorative policing and ASB discourse seek to promote informal modes of citizenship and organisation while simultaneously responding to the legitimacy and resourcing challenges faced in neoliberal criminal justice contexts. Viewed from this perspective, and the drive for a locally situated victim-oriented policy, it is possible to align the reparative elements of the Community Remedy with the more punitive and enforcement-led aims of traditional ASB sanctions. The devolution of democratic responsibility to local decision-making structures provides opportunities for both radical interpretations of new policy initiatives as well as the continuation of traditional offender-oriented criminal justice. Where community ownership and criminal justice buy-in is achieved, there are opportunities to achieve long-term sustainable change (McCold and Wachtel, 1996).

The shift towards democratic localism in England and Wales is exemplified by the increasingly influential role of PCCs in delivering an enhanced victim-focus in partnership with their communities (Association of Police and Crime Commissioners, 2019). Diversity in the extent of consultation, implementation, governance and use of the Community Remedy is expected from police forces and shines a light on local policing philosophies and the networks of influence and power that direct policy and

practice at the local level. Analysis of the implementation of the Community Remedy thus offers an opportunity to interrogate the dynamics that influence policy articulation, development and implementation at the local level.

Methodology

To assess the range of research objectives, a cross-sectional research design was employed to examine and benchmark a range of factors relating to the local implementation of the Community Remedy. The actions undertaken by all 43 PCCs and police forces in England and Wales were considered and the majority of data collected between July and October 2016, with supplementary data gathered in July 2017 and July 2018.

Content analyses of both PCC and police force websites were undertaken to examine local public consultation and the accessibility of the published Community Remedy document. This analysis was initially conducted in autumn 2016 and, due to significant gaps in available information, further analysis and data collection was undertaken in July 2017 and July 2018. Using websites as an object of content analysis is potentially problematic because of their dynamic nature, and is contingent on the skills of the researcher collecting the data. Once every available Community Remedy document

had been located we conducted a further content analysis to determine the types of actions included in each document. In addition, the actions were compared to the examples provided on the Home Office (2014) guidance, to assess how locally responsive PCCs had been when compiling their bespoke document.

The website and documentary analyses were supplemented by Freedom of Information (FOI) requests to police forces to quantify Community Remedy usage. Under the Freedom of Information Act (2000) individuals and organisations can make requests for data held by public authorities, including the police. FOIs should be made in writing and the authorities must respond within twenty working-days, with either the requested information in full or a refusal to provide the information based on twenty-three exemptions detailed in the Act (see Bows (2017) for further details). Submitting FOI requests enabled us to access information from police forces that was not readily available in the public domain, which democratises the research process and allowed us to access a large amount of data within a small research project (Savage and Hyde, 2014). The findings from each data collection component built up a useful picture of how PCCs and police forces have adopted these nationally prescribed powers at a local level. They also demonstrate how each local force is catering for the needs of ASB victims (or not).

Findings

The findings from this study will be reported in three sections, namely: the public consultation, availability and contents of the Community Remedy documents, and usage.

Public Consultation

To determine the extent of the public consultations undertaken by PCCs, a search of their websites was conducted (see Table 1). Of the 43 PCC websites, 18 initially lacked *any* evidence of a consultation process during the first stage of data collection and analysis in Autumn 2016 despite this being an official (although non-legally binding) requirement (the statutory duty only applies to consulting with the local authority and local chief police officer). 8 PCCs had immediately published detailed information about their public consultations, providing details of the results, supplemented by tables and graphs. The remaining 17 PCCs simply stated that a ‘public consultation’ or discussion with ‘community representatives’ had been undertaken. There were no updates to the available data during the review conducted in July 2017 but when this data was reviewed again in July 2018 10 of the 18 websites had been updated.

It was clear, in many instances, that delays to publication had been influenced by other policy developments as the Community Remedy was integrated into wider reviews of ASB, restorative justice and the use of out-of-court disposals. Thus, there is evidence of divergence during the implementation process as regional policy entrepreneurs integrate the community remedy into ASB, restorative justice and other policy agendas. Table 1 provides an illustration of the data.

[INSERT TABLE 1 NEAR HERE]

Where details of a public consultation were provided, the preferred mode for collating responses was via a survey function on the PCC website, which was usually available for four weeks. Nevertheless, significant discrepancies were found between PCCs in relation to the numbers of responses obtained and the efforts put into generating public engagement. For example, one force obtained 3,500 responses (highest) compared to another that received only 100 (lowest). Some PCCs went to great lengths to generate a large sample size, such as emailing contacts (one PCC emailed 2400 agencies/groups on the PCC's mailing list) and others circulated press releases. Others fared poorly in comparison, with one website still containing a link to an out of date survey (by a number of months) and no further evidence of the outcome of the

consultation. While some regions were late implementers of the Community Remedy, it was also clear in the final stages of the data collection that many PCCs had improved the transparency of their consultation processes via dedicated webpages. Despite this, the method of presenting consultation data and reports remained divergent across the 43 regions.

These findings recall the 'postcode lottery' critique of other locally governed community justice initiatives (Heap, 2016). The data also demonstrates that on average, where sample sizes were reported, that consultations numbers were in the low hundreds. From a researcher's perspective this reflects poor external validity, even before the self-selecting nature of the participants is considered. Conducting a web survey also limits participation to those with internet access, and with the capacity to use/engage with this medium; who might not necessarily be the ones who are most at risk of suffering ASB victimisation.

Availability and Contents of the Community Remedy Documents

According to the Home Office guidance (2014: 11), 'the Community Remedy document must be published'. The guidance does not specify *where* it should be published, but given the prominence of the internet as a means of communication (Office for National

Statistics, 2017) and the fact that both PCCs and police forces all have websites (POLICE.UK, 2017), publishing the documents online would have the greatest utility. The websites of all 43 PCCs were searched during autumn 2016 to locate the local Community Remedy document (see Table 1). At this point, the document was published online by 32 out of 43 PCCs. By July 2018 the number of published Community Remedy documents had risen to 37 with only Humberside providing no indication of future plans for the Community Remedy. Dorset and Bedfordshire had incorporated the Community Remedy into reviews of out of court disposals whilst Thames Valley had re-designed all of their provision for victims of crime and incorporated it within a new service called Victims First⁶. Both Gloucestershire and Hertfordshire had followed a similar path with the development of Restorative and Victim Care hubs respectively. The final missing document was from the London Mayor's Office for Police and Crime (MOPAC). The MOPAC Community Remedy document had been published by the time of our second review of webpages in July 2017 but it had gone missing again by July 2018 amidst disagreements about the policy implementation process. Overall, these findings are illustrative of a disjointed policy implementation process across the country, which reflects both the early stages of the

⁶ Victims First was launched in April 2017. Although the Community Remedy is not visible within this work the website states that this new service incorporates all of Thames Valley's restorative justice services and is delivered by the Thames Valley partnership. It is notable that Victims First identifies itself as a victim-initiated, rather than police or criminal justice led, project and this may explain the absence of visibility given to the Community Remedy.

PCC-police force relationship and the different mechanisms that police organisations have established to administer the Community Remedy.

A content analysis of the 37 available Community Remedy documents was undertaken to provide an insight into the number and types of actions (reparative, punitive or rehabilitative) selected for inclusion (see Table 1)⁷. There was a large amount of variance between the contents of the local documents. For example, the number of actions they contained ranged between 3 and 13. This demonstrates that the amount of choice victims have is markedly different, depending on where they live. The underlying rationale for each of the actions contained in the document was also considered. Reparative actions were the most commonly listed, the mean average for each document was 4.1 (with a range of 1-7). Most of these actions were taken directly, or adapted, from Home Office guidance (2014) and were standardised across the sample. For example: paying for the costs of damage caused, mediation, and restorative justice activities. This aligns with the policy rhetoric and restorative policing theme. Punitive and rehabilitative actions were much less common, with mean averages of 1.2 and 1.1, and ranges of 0-3 and 0-4 actions respectively. Common

⁷ This includes the documents from City of London and Metropolitan Police which have since been withdrawn.

punitive actions were Acceptable Behaviour Contracts⁸, Parenting Contracts and actions that trigger tenancy/landlord involvement. Rehabilitative actions generally took two forms. First, referrals to treatment agencies, such as drugs, alcohol or anger management services. Second, engagement with structured activities, for example educational courses, funded by the PCC. Some forces also included actions that we categorised as 'other' during our analyses because they did not align with the original classifications. Only 8 forces included these types of actions and they reflected two options. Firstly, 6 forces included a 'bespoke' option that allows any action to be taken so long as it is agreed by both parties. Two of these forces stated that this must be agreed by the officer's line manager. Whilst adding flexibility to the process, this also opens the potential for discrimination based on the high level of individual discretion available. Finally, 2 forces included a 'word of warning from a police officer or PCSO' as an action.

We also examined how similar the published Community Remedy documents were to the Home Office guidance document, which contains a list of 7 example actions. We were interested to see how innovative PCCs had been in creating responsive actions to

⁸ Acceptable Behaviour Contracts are a voluntary written agreement between an ASB perpetrator and a responsible authority (e.g. police). They are commonly used as an early intervention to prevent low-level ASB.

meet the needs and demands of their local communities, and how much the public's views had been taken into account (based on the consultation process). Many of the documents demonstrated responsiveness to local issues, for example, some documents included reference to specific crimes such as graffiti, or specific locally-based structured activities such as litter picking. However, 100% of the actions on 6 documents were taken directly from the Home Office guidance. In one of these force areas, the PCC had not demonstrated any evidence of undertaking a public consultation. Nevertheless, 5 of the documents were from PCCs that did not demonstrate engagement with the community, which provokes questions about the utility and value of the consultation process.

Usage

All police forces in England and Wales were sent a Freedom of Information (FOI) request, which asked whether: the force had used the Community Remedy, the number of times it had been used between 20 October 2014 and 20 April 2017 (2.5 year period), with follow-up questions about the number of times different types of actions had been used (reparative, punitive or rehabilitative) if the data was available under the terms of the Freedom of Information Act (2000). We selected a recording period of 2.5 years since implementation to get a standardised measure of usage since

adoption. We received responses from 31 forces, with the information refused on 9 occasions⁹ (see Table 1). Where information was provided, the data we received was eclectic. Of the 22 forces that provided details, 2 stated that no information was held. The remaining 20 forces provided an extremely diverse array of data, which did not necessarily answer the questions posed (despite the questions being phrased to request very specific information).

In terms of usage, the Community Remedy has been used by 13 forces, 4 did not give a specific answer (e.g. 'X police force has considered the use of the Community Remedy'), with the remaining 3 forces saying they had used it, but referring to 'community resolutions' instead. This is the umbrella term for out of court solutions whereby police officers divert what they perceive to be low-level incidents out of the formal criminal justice system. The definition of a 'low-level' incident is decided locally and includes crime as well as ASB. When reporting the number of times the Community Remedy had been used, 15 forces provided numerical usage data. In the case of 10 forces, this broadly related to 'community resolutions' (despite some of these saying yes to the first question about the Community Remedy specifically), with

⁹ The information was refused on the grounds that a public authority is not obliged to provide the information if the authority estimates that the cost of the retrieval of the information requested would be in excess of £450 (equivalent to 18 hours work).

a further 2 providing the numbers of 'disposals'. One force provided a combined total of community resolutions, adult and youth conditional cautions, alternate offence youth conditional cautions and youth restorative disposals, which highlights the varied way this data is collected. 9 forces provided no usage figures. This was generally because the data was not specifically recorded and extraction would exceed the limits of a FOI request. Only 3 forces provided data that specifically referred to Community Remedy usage. The figures quoted ranged from 205 to 16,264. This further reflects the wide variation in all aspects of the implementation of the Community Remedy.

Of the 12 forces that did not respond to the FOI request, two had also failed to publish a copy of the Community Remedy document on either theirs or the PCC's website. Public authorities have a legal duty to respond to FOI requests within 20 working days. When a response is not provided, researchers can lodge an appeal with the Information Commissioner to obtain the information. Based on the data already received, we decided not to pursue the non-responding forces through the Information Commissioner because we concluded that the quality of the data received from the other forces did not warrant the extra time and resources required to make the appeals (Savage and Hyde, 2014).

Through the completed FOI requests, we found two force areas that did not publish their documents did confirm that they were using the Community Remedy, which further reinforces the haphazard nature of the implementation and communication of this policy. Thames Valley refer to a figure of 6836 restorative disposals which reflect their local Victims First commissioning strategy whereas Hertfordshire, who commissioned a Victim Care Centre, refer to 856 community resolutions. Having read the detailed FOI responses alongside assessing the raw data, it appears that many forces do not specifically record Community Remedy usage, and many have conflated the terms Community Remedy and community resolution. It is clear that many regions have referred to a 'community remedy' in a colloquial way, rather than the ASB policy sense (despite the FOI being very explicit about the policy and terminology). No forces answered the final three supplementary questions on the FOI request about the types of Community Remedy action selected, which supports the assumption that this type of data is not collected.

The three forces that provided detailed statistics about their use of the Community Remedy had previously established restorative justice hubs through which to co-ordinate practice. The two highest users, Derbyshire and Essex, clearly articulated the role of the Community Remedy and had trained police officers to use it (Derbyshire

Police and Crime Commissioner, 2018; Essex OPCC Annual report, 2016). Furthermore, Essex implemented the policy alongside a public relations strategy with the specific aim of enhancing awareness of restorative justice (Essex OPCC Annual report, 2016: 9) which may explain their scale of use. The third force, South Yorkshire, has a clearly articulated framework for use but had not yet trained its front line officers to use the Community Remedy. With South Yorkshire, the 2014 Act was introduced at the same time that the force was reducing its neighbourhood policing capacity and this led to less inter-agency co-operation and little discussion about how to implement new powers such as the Community Remedy (Pers Comm, 2017). Take-up in these three regions seems to embrace both the reparative element of the Community Remedy and the critiques of the enforcement focus of ASB which hampered its development during and after the New Labour years (Hodgkinson and Tilley, 2011). In Derbyshire and South Yorkshire, a third-sector stakeholder plays a key role in delivering restorative services, whilst in Essex an inter-agency structure underpins a range of restorative options. These structures establish a clear restorative voice in the Community Remedy policy development, articulation and implementation process.

Examining Table 1 as a whole dataset demonstrates that PCCs and forces have taken diverse and divergent approaches to the Community Remedy. The findings highlight a

continuum that runs from policy implementation failure in London to the integration of the Community Remedy into regional strategies that reflect local thinking about ASB, out of court disposals and restorative practices. Patchy implementation could be a consequence of a lack of top-down scrutiny which was uncovered by a response to a separate FOI request made to the Home Office in a different research project about the monitoring of public spaces protections orders (see Heap and Dickinson, 2018). The response stated: 'we do not monitor the use of anti-social behaviour powers introduced by the Anti-Social Behaviour, Crime and Policing Act 2014' (Home Office, 2016, pers. comm.), demonstrating that there is no national oversight of *any* of the new powers, including the Community Remedy.

Discussion

The uneven implementation processes that are evidenced above can be explained through an analytical framework which draws upon the, as yet, only partially realised aspirations of democratic localism and the role of PCCs and their regional teams as increasingly powerful policy entrepreneurs. The content analysis provides some indication of how local networks of governance have interpreted the purpose of the Community Remedy. The findings indicate that while some regions have implemented and utilised the Community Remedy, others have either not met their statutory duties

or have chosen not to add the Community Remedy to their local toolbox of community resolutions. Interpretation of the policy has taken place within a context where restorative responses have superseded enforcement-led responses and thus reflect the view of the local networks that have guided policy implementation. Reparative actions are the most commonly listed on the documents and this provides some indication that the Community Remedy has been interpreted through a restorative lens. Extensive use of reparative elements indicates that the Community Remedy has been implemented as an adaptation of previous ASB measures with an enhanced victim-orientation that, on occasion, has been subsumed into wider restorative approaches.

While the police act as gatekeepers to both the formal criminal justice system and the Community Remedy they are also increasingly involved in supporting diversion to other agencies as part of their demand reduction agenda and, in some regions, are proactively responsibilising other statutory and third sector agencies to take a more prominent role in victim-oriented community interventions (see, for example, Beacon, 2019). Yet, although the Community Remedy policy is victim-oriented in appearance it is ultimately system-oriented in delivery (Davies, 2007) and elsewhere in the data there is evidence of limited buy-in at the local level to a victim focus, public

consultation and the principles of democratic localism that local officials and institutions are supposed to exemplify.

The diversity of responses and unevenness in the implementation of the Community Remedy policy was further illustrated by the range of 'community resolutions' that were referred to by ten forces. It was clear in these instances that the Community Remedy had been subsumed into a range of options for community-based resolutions. Similar confusion was found in Shapland et al.'s (2017) review of restorative policing in Humberside, South Yorkshire and West Yorkshire where the introduction of new restorative measures were often interpreted as new tools to resolve 'police' problems through diversion and associated demand reduction upon the Police Service. The Community Remedy presents opportunities for officers to act as community leaders and connectors to other statutory or third-sector services, yet there remains much diversity at the local level in terms of which types of services are available.

The data presented in this article indicates some regions have not engaged with the Community Remedy whilst others have begun to articulate a local policing philosophy, in partnership with the public, which informs its use. The presentation of data by forces as 'community resolutions' offers an important insight into policy translation at

the local level and an understanding of the Community Remedy as one of a plethora of community level out of court options, which seek to decrease demand upon police organisations and offer the potential to mobilise other elements of civil society in policing.

The failure to engage with communities in some regions, coupled with the co-option of the Community Remedy power as a demand reduction tool is not surprising. There is evidence of both tokenistic and disengaged responses to the Community Remedy emerging out of this study, as well as highly engaged and consultative policy development. As Turner (2014: 17) suggests 'there is very little, if any, emphasis placed on the need for PCCs to scrutinise whether police forces are fair and equal in their distribution of coercion and protection, and in the manner in which they wield their considerable power'. Inadequate democratic engagement at the local level is likely to lead to insufficient scrutiny of policy implementation and poor accountability mechanisms. The success of the Community Remedy thus far has been led by local level entrepreneurs operating out of established structures with a clear aim to connect communities, police agencies and third sector partners to solve local problems in a systematic manner. Without meaningful democratic engagement at the local level the Community Remedy is likely to wither and wane as there is a clear challenge to

building a victim-orientation in offender-oriented agencies that are infused with punitive ideologies.

Further analysis of the demographics of Community Remedy consultation, implementation and use, as well as impact and effectiveness, is required to elicit a full understanding of how the tool is understood at the community level. Local entrepreneurs engage the public with policy but this street-level engagement requires support structures and resources to deliver upon its discourse and promises. At the same time, this approach simultaneously reduces the scope of state involvement and absolves it of responsibility should the process not work properly (Duggan and Heap, 2014). An absence of initial consultation and partnership engagement is likely to lead to either poor or non-existent implementation, as well as a lack of public accountability. Local discrepancies in use are fine *if* the actions reflect local capabilities (e.g. the availability of restorative or rehabilitative programmes) and there is some provision available. Yet, the Ministry of Justice funds allocated to PCCs for the commissioning of victims services do not include victims of ASB. If this policy is implemented with an absence of engagement and/or provision then the Community Remedy will soon be characterised as providing a postcode lottery, similar to the Community Trigger (Heap, 2016).

As well as the structural, developmental and implementation concerns highlighted here, further investigation is required to understand how ASB victims experience the Community Remedy. The way ASB manifests in communities may not necessarily be suitable to a restorative approach. ASB is often characterised by persistent nuisance behaviour, which can escalate in severity where victims and offenders reside in close proximity. The perpetrator may have been caught committing their first offence, but their individual ASB might be experienced by the victim as part of a campaign of targeted harassment. As such, it is questionable whether the Community Remedy is the best tool to i) initially stop the behaviour in question, and ii) prevent it from reoccurring in the long term. Victims must give their consent to use the Community Remedy; however they may feel that they have no option but to agree. Restorative approaches implicitly require some recognition of harm, and even remorse, yet neighbourhood disputes tend to be underpinned by more retributive feelings. Consequently, the Community Remedy may be unsuitable due to the fear of reprisals. Fear was found to be a major barrier to reporting ASB by Heap (2010), with the prospect of the Community Remedy potentially fuelling additional under-reporting if a victim feels they may be putting themselves at further or increased risk of victimisation (which also affects victims' potential to access the Community Trigger). Reductively,

the policy rhetoric champions that 'what matters is that the punishment will be chosen by the victim' (May, 2012) yet this oversimplifies the proximity and reporting tensions associated with ASB.

Conclusion

It is certainly too early to make sense of the role of the Community Remedy within the ever-evolving complex of community and criminal justice interventions, but it is possible to offer some initial commentary on its first phase of usage. As expected, the implementation and use of the Community Remedy is varied and linked to the role of key influencers in local networks of governance who direct policy and practice. Thus, any commentary on 'postcode lotteries' or the strengthening of democratic localism depends largely upon individual ideological perspectives and the extent of political engagement in each local context. The Community Remedy should thus be understood as a component of an ever-morphing structure of regulatory governance that manifests itself through local structures of power and philosophies of social, community and criminal justice. As the Community Remedy has been police-led its policy development needs to be understood using a framework that extends beyond the traditional ASB industry and recognises that this might not be joining up with other sanctions already being undertaken by registered providers of social housing relating

to the perpetrator's tenancy. It is therefore useful to view the development of the Community Remedy alongside the concomitant evolution of restorative policing and the proliferation of out of court disposals available to police organisations.

Future research should focus more closely upon the roles of Community Remedy stakeholders. The findings of this study highlight significant variations in usage and patterns of engagement and further analysis is needed of the actions, behaviours and activities of the local networks of governance where important decisions are made. The paper thus illustrates the growth in importance of processes of devolution that seek to both enhance democratic engagement at the local level and responsibilise a range of agencies in the policing of ASB and other forms of low level disorder. It is this potential to strengthen democratic localism and mobilise civic enterprises through a mixture of formal and informal modes of policing that will lead to the successful implementation and use of the Community Remedy.

References

Association of Police and Crime Commissioners (2019) *APCC Portfolios: CJS and Victims*. <http://www.apccs.police.uk/our-work/apcc-portfolios/> [Accessed January, 2019].

Bazemore, G. (2000) Community justice and a vision of collective efficacy: The case of restorative conferencing in J. Horney (ed.) *Policies, Processes and Decisions of the Criminal Justice System*. Washington, DC: National Institute of Justice.

Beacon (2019) *Hertfordshire Victim Care Centre*. <http://www.hertfordshirebeacon.org/>
[Accessed January, 2019].

Bows, H. (2017) Researching Sexual Violence Against Older People: Reflecting on the Use of Freedom of Information Requests in a Feminist Study. *Feminist Review* 115(1): 30-45.

Braithwaite, J. (1989) *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

Cabinet Office (2015) Police and Crime Commissioners and Civil Society. London: Cabinet Office.
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416621/PCCs_and_Civil_Society_24_March_2015.pdf [Accessed June, 2017].

Clamp, K. and Paterson, C. (2016) *Restorative Policing*. London: Routledge.

Cooper, C., Brown, G., Powell, H. and Sapsed, H. (2009) *Exploration of Local Variations in the Use of Anti-Social Behaviour Tools and Powers*. Home Office Research Report 21. London: Home Office.

Derbyshire Police and Crime Commissioner (2018) *Core: Supporting Victims of Crime in Derbyshire to Cope and Recover*. <http://www.core-derbyshire.com/> [Accessed February, 2018].

Crawford, A. and Clear, T. (2001) Community Justice: Transforming Communities through Restorative Justice? in G. Bazemore, and M. Schiff, (eds) *Restorative Community Justice: Repairing Harm and Transforming Communities*. Cincinnati: Anderson Publications.

Davies, P. (2007) Criminal (in)Justice for Victims? in Davies, P., Francis, P. and Greer, C. (eds) *Victims, Crime and Society*. London: Sage.

Duggan, M. and Heap, V. (2014) *Administrating Victimization: The Politics of Anti-Social Behaviour and Hate Crime Policy*. Basingstoke: Palgrave.

Essex Police, Fire and Crime Commissioner (2017) *Police, Fire and Crime Commissioners Annual Report 2016/17*. <http://www.essex.pfcc.police.uk/reporting/annual-report/>
[Accessed February, 2018].

Featherstone, D., Ince, A., Mackinnon, D., Strauss, K. and Cumbers, A. (2012) Boundary Crossings: Progressive localism and the construction of political alternatives. *Transactions of the Institute of British Geographers*. London: British Geographical Society.

Heap, V. (2010) *Understanding Public Perceptions of Anti-Social Behaviour: Problems and Policy Responses*. PhD, University of Huddersfield, UK.

Heap, V. (2016) Putting Victims First? A critique of Coalition anti-social behaviour policy. *Critical Social Policy*. 36(2): 265-288.

Heap, V. and Dickinson, J. (2018) Public Spaces Protection Orders: A Critical Policy Analysis. *Safer Communities* 17(3): 182-192.

Hodgkinson, S. and Tilley, N. (2011) Tackling anti-social behaviour: Lessons from New Labour for the Coalition Government. *Criminology and Criminal Justice*. 11(4): 283-305.

Home Office (2012a) *Putting Victims First - More Effective Responses to Antisocial Behaviour*. London: Home Office.

Home Office (2012b) Community Remedy Impact Assessment
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/170652/ia-community-remedy.pdf [Accessed June, 2017].

Home Office (2013) *Community Remedy Consultation Response*. London: Home Office.

Home Office (2014) *Anti-Social Behaviour, Crime and Police Act 2014: Reform of Anti-Social Behaviour Powers Statutory Guidance for Frontline Professionals*. London: Home Office.

Home Office (2016) Direct Communications Unit, Home Office. Letter to the author, 29 December. Personal Communication.

Home Office (2017) *Anti-Social Behaviour, Crime and Policing Act 2014: Anti-social behaviour powers statutory guidance for frontline professionals*. London: Home Office.

McCold, P. and Wachtel, T. (1996) In Pursuit of Paradigm: A Theory of Restorative Justice. International Institute for Restorative Practices. Available at www.restorativepractices.org

Marshall, T. (1999) *Restorative Justice: An Overview*. London: Home Office.

May, T. (2012) Speech to the Conservative Party Conference. Birmingham, 9 October, available at: <http://www.politics.co.uk/comment-analysis/2012/10/09/theresa-may-speech-in-full> [Accessed October, 2016].

Ministry of Justice (2013a) *Victims' Services Commissioning Framework*. London: Ministry of Justice.

Ministry of Justice (2013b) New victims' funding for restorative justice: Press Release. Available at: <https://www.gov.uk/government/news/new-victims-funding-for-restorative-justice> [Accessed June, 2017].

Ministry of Justice (2014) *Restorative Justice Action Plan for the Criminal Justice System for the Period to March 2018*. London: Ministry of Justice.

Moore, D. B. and Forsythe, L. (1995) A New Approach to Juvenile Justice: An Evaluation of Family Group Conferencing in Wagga Wagga. *Report to the Criminology Research Council*. Wagga Wagga: Australia.

Office for National Statistics (2017b) Internet Users in the UK : 2017. <https://www.ons.gov.uk/businessindustryandtrade/itandinternetindustry/bulletins/internetusers/2017> [Accessed September, 2017].

Office for National Statistics (2018a) Crime in England and Wales: year ending Mar 2017. <https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/bulletins/crimeinenglandandwales/yearendingmarch2018> [Accessed September, 2018].

Office for National Statistics (2018b) Crime in England & Wales, year ending March 2018 - Other related tables.

<https://www.ons.gov.uk/peoplepopulationandcommunity/crimeandjustice/datasets/crimeinenglandandwalesotherrelatedtables> [Accessed September, 2018]

Paterson, C. and Clamp, K. (2012) Exploring Recent Developments in Restorative Policing in England and Wales. *Criminology and Criminal Justice*. 12(5): 593-611.

POLICE.UK (2017) Force Websites. <https://www.police.uk/contact/force-websites/> [Accessed June, 2017].

Reiner, R. (2013) Who Governs? Democracy, Plutocracy, Science, and Prophecy in Policing. *Criminology and Criminal Justice* 13(2): 161-180.

Roy, A. (2010) Informality and the politics of planning in J. Hillier and P. Healey (eds.) *The Ashgate Research Companion to Planning Theory: Conceptual Challenges to Spatial Planning Theory*. Farnham: Ashgate.

Sampson, R. Raudenbush, S. and Earls, F. (1997) Neighbourhoods and Violent Crime: A Multilevel Study of Collective Efficacy. *Science*. 277(5328): 918-924.

Savage, A. and Hyde, R. (2014) Using Freedom of Information Requests to Facilitate Research. *International Journal of Social Research Methodologies* 17(3): 303-317.

Shapland, J., Atkinson, A. and Atkinson, H. (2008) *Restorative Justice: Does Restorative Justice Affect Reconviction? The Fourth Report from the Evaluation of Three Schemes*. London: Ministry of Justice.

Shapland, J., Crawford, A., Gray, E. and Burn, D. (2017) *Developing Restorative Policing in Humberside, South Yorkshire and West Yorkshire*. Sheffield: Centre for Criminological Research.

Sherman, L. W. and Strang, H. (2012) Restorative Justice as Evidence-Based Sentencing in Petersilia, J. and Reitz, K. R. (eds) *The Oxford Handbook of Sentencing and Corrections*. Oxford: Oxford University Press: 215-243.

Turner, L. (2014) PCCs, Neo-Liberal Hegemony and Democratic Policing. *Safer Communities* 13(1): 13-21.

Walklate, S. (2011) Reframing criminal victimization: Finding a Place for Vulnerability and Resilience. *Theoretical Criminology*. 15(2): 175-192.

Funding

This work was supported by the Helena Kennedy Centre for International Justice, Sheffield Hallam University.

Acknowledgements

We would like to thank Faye Zanker, who participated in this project as a Research Intern at the Helena Kennedy Centre for International Justice and Adam Mama-Rudd for his assistance in collecting the FOI data. We would also like to thank James Banks, David Best, Jake Phillips and the anonymous reviewers for their helpful comments on earlier versions of this article.

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Word Count

8102

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