

**WEST YORKSHIRE POLICE REPORT TO THE PCC**

**November 2016**

**Pre-charge bail update**

The Current Position

West Yorkshire Police continue to actively monitor the use of Pre-Charge Bail. The number of individuals currently on bail has reduced in the last 18 months from 3734 to 3127, a reduction of 16%. We have seen a slight increase of 3 % over the last 6 months from 3037 to 3127 bails. Appendix A shows a detailed breakdown of the current bail position in November 2016. The 468 cases that are shown overdue are made up of a combination of those people who are currently wanted having failed to answer bail, wanted for other offences and not been found, and admin errors. The increase in the numbers of individuals on bail can be explained to some extent by the increase across the Force in wanted individuals. Districts are working hard to address this issue (number of ‘BOLOs’).

Appendix B shows the number of people who have been on Bail for over 180 days. This corresponds to the College of Policing study eluded to below which shows the biggest challenge for reducing bail times are in cases linked to Sexual Offences and violent crime. Generally in these cases the delays are linked to timescales required for forensic and technical work to be carried out.

National Changes

Police pre-charge bail provision – Policing & Crime Bill 2016

The Home Office proposals were introduced following a public consultation on pre-charge bail. That concluded in February 2015 and the proposals were included in the Police and Crime Bill 2016.

The objective of the legislation was to increase accountability and transparency associated with pre-charge bail and also to limit the application of pre-charge bail to only exceptional cases.

The new Act relies on a presumption that detained persons should be charged or released other than on bail, bail should only be imposed when it is necessary and proportionate, and any extensions by the Police or Courts must meet specific tests.

The second reading at the House of Lords took place on 18th July 2016 with the Committee stage starting on the 14th September 2016. In late September the College of Policing (CoP), NPCC, Superintendents Association and Police Federation all raised concerns with the Home secretary about the proposed changes.

Research published by the CoP found that the vast majority of people arrested and granted bail were dealt with in less than three months and only 9% bailed over three months. The study concluded that reducing the number of cases where pre-charge bail could be used and limiting initial bail periods to 28 days for suspects could create difficulties for police investigating cases involving violent crime and sexual offences.

There was a full briefing for the Police and HMCTS on the 16th November when the anticipated final version of the Bill was made available by the Home Office. The final version has not yet received Royal Assent but this is expected in January 2017 with Implementation still on course for the 3rd April 2017.

The key changes to the Bail Act and the Police and Criminal Evidence Act are expected to be:

* The removal of the assumption that a person will be released on bail and instead, this will only occur if conditional bail is required to protect victims or witnesses (this requires a legislative change which prevents us from adopting the practice at this time). This will result in a significantly reduced number of people on bail whilst the number of live investigations will remain the same.
* Breach of pre-charge bail to become a separate offence for Terrorism cases only (It was hoped this would apply to all cases).
* The definition of new evidence to be amended to specifically include material that was seized at the time of arrest but not in a useable format during the period in custody. An example is data downloaded from a laptop or mobile phone. This would allow a suspect to be re-arrested on further evidence.

**The authorisation of Bail timelines are currently set at:**

* All persons released on pre charge bail for 28 days will require Inspector’s authority. This will mean that **all persons** prior to release will require discussion with the Inspector on duty. The period of 28 days will be considered the normal maximum bail period and will begin the day after arrest.
* One extension to bail will be allowed from 28 days to 3 months inclusive with the authority of a Superintendent subject to four tests.
* One extension of bail will be allowed from 3 months to 6 months by an officer of the rank of ACC after consultation with the CPS in complex cases only.
* Bail extensions from 6 to 9 months will be heard by the Magistrates court (ex-parte) subject to 3 tests.
* Further extensions at 3 to 6 month intervals will be subject to a full hearing at 12 months if required.

Bail for DPP charging authority or CPS advice will only require the authority of the Custody Sergeant and will not require any further authorities subject to further work being required by CPS. In those cases bail will require the above authorities for such time as the file is resubmitted to CPS.

As an interim measure, the College of Policing introduced 8 National Bail Standards as guiding principles to forces. West Yorkshire Police already adhere to 7 of those standards. We do not currently comply with the recommendation that an officer of incremental rank authorises bail in line with the length of the bail granted. Instead, West Yorkshire Police’s Bail Policy requires officers of incremental rank to authorise repeat bails up to the rank of Chief Inspector so the focus is on the number of bails and re-bails rather than the length of the bail period.

Moving forward

The following guidelines have now been given to Districts to ensure the bail situation is managed appropriately:

Prior to seeking authorisation for a Suspect Arrest, several factors must be considered by Inspectors:

* Have reasonable enquiries been made to ascertain the whereabouts of the suspect including physical address checks?
* Is it necessary and proportionate to circulate the suspect as suspect arrest?
* Does the proposed circulation meet one of the criteria of the PACE Code G Necessity Test?  - is an alternative method / Voluntary Attendance more reasonable and proportionate?
* Has a reasonable evidential threshold been achieved to allow the suspect to be dealt with when located to prevent the suspect from having to be bailed if they are arrested?
* Is the suspect already wanted / on bail - can outstanding matters be tied up and dealt with when the suspect returns on bail?

Further requests for Suspect Arrest should not be approved unless the above steps have been considered (and recorded where appropriate). If a suspect circulated is arrested, custody staff will cancel the circulation via Niche as part of the booking in process.

Bailing detainees. Force Policy is in place – The Use and Management of Pre Charge Bail. The key points of the policy are:

* To maximise detention time – make efforts to complete enquiries whilst the detainee is in custody – this is subject to the need to justify that continued detention is necessary.
* Bail should only be used where it is necessary and proportionate (a presumption against releasing detainees on bail rather than as a cultural default position).
* Bail should be for an appropriate duration in line with the needs of the investigation to avoid the need for repeated re-bails.

Further work is taking place with District custody leads to ensure Districts and Departments are aware of the proposed changes in April 2017. This includes a full training roll out.

T/ACC Williams currently chairs a Bail Management Group (last meeting 28/11/16 and the next meeting date 04/1/17) to ensure District Superintendents are ensuring Force Policy and current guidance is being adhered to and that they (Districts) are actively managing bail numbers down where appropriate.

Investigations and timescales for submission and receipt of forensic exhibits (including High Tech) are being reviewed and whilst all these actions are ongoing, some will come to fruition ahead of others.

* West Yorkshire Police are working in partnership with other North East regional forces and the College of Policing to interpret the new bill and deliver training prior to the legislation coming into being
* The investigations review headed by Supt. Kate Jowett and Chief Insp. Phil Bates will look at all aspects of police investigations encompassing Bail, Custody, Prisoner Handling, Training, CPS Charging Advice, Wanted persons, Workforce Mix and Culture. The review will look to develop solutions that ‘Build Capacity, Develop Structures and Enhance Investigations’
* New integrated processes have been put in place to reduce the delay in sending items for forensic examination from District Stores to Scientific Support
* Student Officers are receiving training on the correct processes required for submission of forensic requests and the associated paperwork
* A new process has been introduced to provide a structured timed approach to the request for medical information from the relevant Hospital Department.  Meetings have been held with the various hospital managers in order to highlight issues and concerns and clearer processes have been put in place for all staff involved
* The Digital Forensic Unit are drafting a new service level agreement which will ensure technical submissions are priorities and dealt with within agreed timescales. Due to the implementation of significant business change resilience and new IOS 17025 (International Standard) accreditation for testing and calibration laboratories, service delivery is still being affected. Outsourcing of work and new working practices have mitigated some of the challenges and has ensured that turnaround times have reduced to between 2-3 months in most cases