

Police and Crime Bill - Bail Act Changes

The changes are a complete shift to the normal assumptions that we put around bail and the impact upon all PPU teams is likely to be significant. I'll summarise the changes –

New Bail Legislation (changes take place on April 3rd)

- The presumption is that all PICs will be released without bail even when there are outstanding enquiries to be carried out (i.e. bailing someone to come back to a police station while we carry out enquiries must end)
- If there is threat/harm/risk to the victim, potential victims, witnesses or others (i.e. the general public) and is bail with conditions is considered proportionate and necessary to negate these risks bail for 28 days can be granted by an **Inspector**.
- If after 28 an enquiries are still on-going, a **Superintendent** may authorise that the bail is extended for a further 2 months
- After this period has expired and a further extension to bail is required, Officers will have to make an application to a **Magistrates Court** to have any further bail extensions authorised.
- Where investigations are 'complex' after the initial 3 month bail (Insp and Supt authorities) an ACC can authorise a further extension to bail for up to a total of 6 months

Other things to be considered

- It is extremely unlikely that any person will ever be granted unconditional bail (although this option still exists in the legislation – it is hard to envisage how this could ever be justifiable without conditions)
- Once the bail has expired there is no ability to go back retrospectively and authorise it – therefore applications to Supt and Mags courts need to be made in advance
- 'Complex' cases will be **RARE** and our normal daily business is unlikely to be deemed as 'complex' as it is BAU to investigate complex rapes, DA, CSE and Child abuse – even those with long and protracted enquiries such as out of force enquiries, hi tech enquiries and even international enquiries (this is the same message to BAU homicides so we aren't singled out here). A matter can only be considered complex if CPS agree – and only matters referred to their complex casework unit are likely to be considered.
- The Supt extension and Mags court will have to be satisfied that the investigation is being carried out expeditiously – therefore on-going enquiries need to be documented to satisfy the Supt and the Court – an officer being on annual leave for 2 weeks of the initial 28 days may not satisfy the expeditious test?
- The views of the suspect or their rep (i.e. Legal) must be considered by the authoriser – so if an extension is being applied for with a Supt officers must have contacted the suspect to ask their views before the Supt can authorise it
- Extensions do not need to be done in person by the Supt

- Mags courts extensions are likely to be completed on paper without a court appearance until a suspect has been on bail for 12 months then it is likely that a Mags Court will request a hearing – the Police will represent themselves without CPS
- Sensitive information cannot be withheld from the Mags Court, but can be withheld from the suspects – in order to do this CPS have agreed that they will assist officers in applications where there is sensitive material that is relevant to the bail
- The papers to request a Mags Court hearing are not yet available and are being written at this moment in time – these will be national forms.
- PACE Inspectors are likely to be the initial authorising Inspectors – there was an initial suggestion that Insp and Supts should be independent, however this is not written into the legislation - WMP state that in our case it is likely that PPU supts will authorise PPU PIC bail extensions
- It is likely that we will release people without charge far more than we currently do as the use of our 'standard' bail conditions in all cases may not be justifiable anymore. Therefore there is further consideration as to whether an arrest is justifiable. CJ anticipate that there will be a 52% reduction in bail as a result of this legislation change. This needs to be carefully messaged to our victim groups.
- Contact with victim if bail is refused needs to be immediate as if refused the bail ends there and then.
- There is a danger this will put pressure onto the threshold with CPS as WMP are likely to want to get cases charged ahead of bail dates as this is 'potentially' more straightforward than Mags applications – one to watch really