



### Use of Bail

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## 1. Background

In April 2017, the law changed concerning the use of bail by police. Until that time, when people were arrested and subsequently released with the investigation continuing, this release was ‘on bail’, whether with or without bail conditions. Following the law change, the presumption was that people released from custody when the investigation was continuing would be released ‘under investigation’, and that people would only be released ‘on bail’ when associated bail conditions were necessary and proportionate.

This has resulted in a significant drop nationally in the use of ‘bail’, albeit it is important to note that bail pre- and post- April 2017 are different and therefore this is not comparing like-with-like. In any case, the low use of bail nationally since April 2017 means that the use of bail conditions, (which amongst other things can be used to safeguard) is also low and this has raised concerns nationally.

A recent BBC news article brought specific interest in this, with the title ‘thousands of violent crime suspects released without conditions’ and at the end of April, all forces had a national HMICFRS recommendation to work with the national NPCC lead in reviewing the use of bail, assessing the impact on vulnerable people.

## 2. Guidance and Oversight

Following the law change last year, briefings have been provided for Custody, APT, SIU and CID teams saying that in most high harm offences (hate crime, domestic abuse, child abuse, and rape and serious sexual offences), staff should be able to evidence that it is necessary and proportionate to arrest and consider using bail with conditions.

All such crimes, as well as other crimes involving vulnerable adults and violence with injury are reviewed each morning in daily management meetings, to allow scrutiny both in terms of investigative action but also safeguarding.

Detailed performance information involving teams which investigate crimes with the most vulnerability, including bail rates over the last year, is provided to public protection performance meetings so there is scrutiny on how bail is used to safeguard. In addition, wider performance data showing current use of bail for each team is available on the force’s performance portal and

accessible to the whole force, allowing for a crime-by-crime breakdown.

### **3. Current Performance**

As a result of the above scrutiny and use of information, Surrey Police can demonstrate a high use of bail. National data is limited, but research has identified the following information.

Following the changes to the law, a six-month review was carried out in Surrey which showed that around 7% of people arrested since April 2017 were bailed under the new legislation. A three-month review of 29 forces showed 27 forces to be lower than this, with 10 forces having a bail rate of under 2% and six having under 1%.

The use of bail has increased further within Surrey, with a rate now of 13.2% for all crime from July 2017 to March 2018 (so it has almost doubled since the first few months after the law change). This contrasts with another Force area for which the bail rate over the same period was 1.1%. Of note, our performance data shows that the force uses bail in a considered way, focused on where it is needed; for example, the bail rate for serious sexual offences and domestic-related violence with injury is therefore significantly higher during the same period, at 24.2%, almost double the overall bail rate.

It is important to stress that of those cases which do not result in bail, some will result in a charge, some will result in no further action, and only some others will result in release under investigation.

### **4. Further Work**

Surrey has made good use of bail to safeguard. However, the Force is not complacent, and is proactively reviewing a number of crimes where suspects were released from custody without bail, to dip-check whether bail would have been appropriate; this will show if there is a currently-unidentified gap in the use of bail and what further action may be necessary. Furthermore, there is consultation with other Forces on the benefits of having a regular dip-checking panel. Training on vulnerability is starting this month which will include the use of bail conditions to protect vulnerable people.

There is significant variation between Forces on the use of bail, and the NPCC national policing lead for bail has arranged a meeting for all Forces in June to review this.

### **5. Conclusion**

On a national level there have clearly been unintended consequences caused by the changes to legislation on bail in April 2017. However, with a clear focus on safeguarding, with positive and supportive messaging and with scrutiny of performance, Surrey has responded to ensure it is targeting bail and using this important power to protect the vulnerable. National work is being progressed to bring about consistency, and Surrey is proactively reviewing whether any more can be done, with a commitment to using all the powers available to protect and support those who need it the most.