



Scrutiny findings

In certain circumstances the police can make a decision to resolve a matter without going to court. This tends to be for less harmful offences. They may include issuing of a caution, a letter of apology, or agreement for restorative justice. Nationally these types of resolutions are known as out of court resolutions (OoCR's). One of this panel's roles is to provide assurance to the Police and Crime Commissioner and Chief Constable that these matters are dealt with legally and appropriately.

Adult Out of Court Resolutions Scrutiny Panel 10th January 2024

Theme: Sexual Offences

What are Out of Court Resolutions?

Previously called Out of Court Disposals these are now referred to as an Out of Court Resolution (OoCR). OoCR is a way of dealing with a crime without it having to go to court and these are often used in cases where an offence is considered to be less harmful. These crimes can still be very upsetting for victims, but they are crimes that are considered less harmful when compared to others. For an OoCR to be considered, an offender has to admit to what they have done (i.e. they admit they are guilty). The victim of the crime should also always be asked for their views about an OoCR, but they do not have to take part in the process if they don't want to.

OoCRs will not normally be used for offences of violence which have led to serious injuries or sexual offence; and current persistent offenders (those that have been convicted or cautioned 3 or more times in the last 12 months).

There are different types of OoCR's for example Community Resolution, Simple Caution and Conditional Caution. There may also be an option to consider a 'Deferred Caution' or a 'Deferred Charge'. Deferred Caution and Deferred Charge are decisions taken by the Police, when an eligibility criteria is met, to suspend the caution or charge, pending successful completion of interventions and activity that an offender must complete over a four-month period.

The conditions of the contract can include reparative, restorative, restrictive and rehabilitative conditions designed to access swift justice for victims for example speedy access to compensation whilst tackling the underlying reasons for offending . Noncompliance means the caution stands or the offender is sent to court.

Restorative Justice can also be considered which is an informal process which can be used with an out of court disposal and brings the offender and victim together in order that victims can move on from the harm they have felt, and the offender can understand the harm that they have caused.

Why the Local Criminal Justice Board (LCJB) oversees the scrutiny of OoCR's

It is important that the Police and Crime Commissioner (PCC) and the Chief Constable of the police help the public and other stakeholders to understand:

- What the police do and the difference they make
- The totality of policing (i.e. the parts of policing that the public may not usually see or come into contact with)
- How the police work with others
- The demands on the police
- How their police force is performing
- How public money is spent

Public Confidence is also about trust and having a police service that is open and transparent where policing at every level can be examined and scrutinised to help improve reassurance and the service to communities.

By giving the public this information openly as part of good governance, they can form their own informed views about whether or not they have confidence in their police force.

The LCJB work with partner agencies on behalf of the residents of Devon, Cornwall, and the Isles of Scilly in helping to deliver a police force and criminal justice system that works well and meets the needs of its communities. To do this the LCJB scrutinises' certain issues and activities including the use of OoCR's. The scrutiny of OoCR's is about reviewing cases working practices, to recognise and promote good practice, identify any areas for improvement and support the police as an organisation to learn and improve.

How the LCJB scrutinises the use of OoCRs

The LCJB has a dedicated OoCR scrutiny panel to review Adult cases which is made up of specialists from a range of organisations including the Police, the Crown Prosecution Service (CPS), and the Magistracy. Subject Matter Experts (SME)'s will also be invited where it is felt this would add value and provide useful context to the discussions.

The panel 'dip-samples' cases which have been selected at random and have been resolved by Devon and Cornwall Police through the use of a OoCR. The panel does not audit the police's use of OoCRs but dip-samples 30-40 randomly selected cases over a 12-month period which provides an exploratory 'snapshot' of how the police are doing. The panel reviews the decision making for each individual case and will talk about the OoCR that was given and where appropriate the engagement with the relevant SME. The panel consider the written information available for each case and, using the expertise of members who are from agencies other than the police, explore in their view whether or not the OoCR that was issued at the time was the right decision. Based on the information that the panel members have available to them; they will then place each case into one of four categories:

1.	Consistent with Police Policy (and the Crown Prosecution Service Code for Crown Prosecutors)
2.	Consistent with Police Policy (but with observations added from the panel)
3.	Inconsistent with Police Policy
4.	Panel fails to reach a conclusion

The panel met on 14th December 2023 and scrutinised 10 cases relating to violent offences. A violent crime is those were the perpetrator intended to physically harm another regardless as to whether or not it resulted in a physical injury. This can include a range of offences from minor crimes such as common assault, to more serious offences such as actual bodily harm and grievous bodily harm. The majority of crime types reviewed by the panel were common assault crimes which is consistent with the use of OoCR for low level offences.

The panel met on the 10th January 2024 and scrutinised 10 cases relating to Sexual Offences. There are a range of crimes that are considered as sexual offences, including non-consensual crimes such as rape or sexual assault, child sexual abuse or grooming, and crimes that exploit others for a sexual purpose.

Out of Court Resolutions can be used for sexual offences with appropriate authorisation from a senior officer, this does not minimise the seriousness of the offence and should be considered taking into account previous offending behaviour, where genuine remorse has been expressed and taking the victims wishes into account.

The findings from the panel's meeting

The panel was of the view that **6 cases had been issued consistently with Policy, but with a number of observations** such as:

- In one case perpetrator was given a Community Resolution. The panel felt that what were described as mitigating factors were not mitigating factors.
- The decision that a case was thought 'not to be in the public interest' to prosecute was subjective.

- The panel felt that whilst the outcome was of an OoCR was consistent and proportionate to the offence, further interventions could have been explored and considered to ensure behaviour did not escalate.
- A further case did not have robust rationale recorded around the decision to conclude the case with a Community Resolution. Due to the offence classification the outcome would normally require approval by a senior officer, however the panel felt there was initial confusion around the criming of the offence.
- In some cases, the panel felt there were important missed opportunities to use the 'Deferred Charge' or Deferred Caution schemes which would have provided the perpetrators with meaningful interventions and hold them to account for their behaviour working closely with key workers from a dedicated team.

The panel was of the view that **3 cases were inconsistent with Policy** and their reasons for making this decision were:

- In one case the panel felt that the perpetrators behaviour was humiliating and degrading towards the victim and whilst the victim was reluctant to go to court, there was strong CCTV evidence and missed opportunities to progress with an evidence-led prosecution.
- In one case the panel felt the pattern of behaviour was concerning with multiple previous incidents and victims and a charging decision should have been considered.
- In one case the panel felt the process had not been followed for a Out of Court Resolution as the perpetrator had not signed the Community Resolution and the senior officer's authorisation not recorded with appropriate rationale.

The panel **failed to reach a decision** in **1 case** and their reasons were:

- The case involved a perpetrator who had no previous disposals or offending history. Some panel members felt that the case should have gone to court whilst others with voting rights felt that an OoCR was suitable. There was however agreement that there were important missed opportunities and a more robust investigation was required .

Observations from the panel:

- The panel valued the attendance and engagement from the force Rape and Serious Sexual Offences (RaSSO) portfolio lead and welcomed updates in relation to the National Operating Model (NOM) for the investigation of rape and serious sexual offences which ensures that investigations are victim-centred, suspect-focused and context-led. ¹Devon and Cornwall Police are training officers in line with this approach

¹ [National operating model for the investigation of rape and serious sexual offences | College of Policing](#)

- The panel noted the police now have dedicated specialist RaSSO Evidence Review Officers (EROs) and that file standards training is being delivered to officers and staff.
- The panel felt that greater consideration could be given for referring cases to 'Pathfinder', for a deferred charge or a deferred caution to be considered to provide greater accountability, education and support.
- The panel were not assured that Restorative Justice (RJ) had always been discussed or considered.
- Whilst the panel noted that the Gravity Score was not included in a couple of cases, they recognised this as a significant improvement from previous panels and reflected the positive work that has been undertaken to raise awareness of this requirement. (A gravity matrix is a tool used to help inform the police's decision making).

Using the panel's findings to make a difference

The panel will report their findings directly to the Police & Crime Commissioner as Chair of the Local Criminal Justice Board and the Chief Constable.

Devon and Cornwall Police may choose to raise the panel's findings with individual police officers and may also cascade learning from the panel throughout the entire organisation.

Find out more about our scrutiny at www.devonandcornwall-pcc.gov.uk/about-us/scrutiny.

If you need this information in a different language or format please contact the Local Criminal Justice Board by email lcjb@devonandcornwall.pnn.police.uk or telephone 01392 225555.