



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.

Out of Court Resolutions Scrutiny Panel 14th September 2023

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.

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.

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Devon and Cornwall Police can also consider the Pathfinder scheme which is a voluntary intervention Programme which holds offenders to account for their behaviour whilst addressing needs that are directly linked to their offenders. The scheme has two pathways, a deferred caution or a deferred charge.

Deferred Caution: Which involve mandatory conditions and some rehabilitative conditions can also be set and compliance is monitored through a contract. If the conditions are not met, the caution will be reinstated, which will result in a criminal record.

Deferred Charge: This is an alternative to directly charging to Court and involves mandatory conditions being set with rehabilitative conditions if appropriate. If the conditions are not met the offender will be summonsed to appear in Court.

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 and working practices, to recognise and promote good practice, identify any areas for improvement and support the police as an organisation to learn and improve.

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How the LCJB scrutinises the use of OoCRs

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

The panel 'dip-samples' youth and adult 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 60 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. 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 September 2023 and scrutinised 10 cases relating to Stalking or Harassment. These are usually offences where the 'behaviour by a person repeatedly makes you feel scared, distressed, or threatened. There are different types of stalking or harassment, and these are covered under the Protection from Harassment Act 1997.

Harassment may include:

- Harassment at school or in the workplace
- Cyber offences using the internet to harass someone
- Antisocial behaviour
- Sending abusive text messages or unwanted phone calls
- Sending unwanted gifts

Stalking is more aggressive. The stalker may have an obsession with the person they are targeting and may include:

- Regularly following someone
- Repeatedly going uninvited to their home
- Repeatedly checking someone's internet us, email and phone, including identity theft
- Visiting places they know the person often visits
- Interfering with their property
- Watching or spying on someone

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The findings from the panel's meeting

The panel was of the view that **3 cases had been issued consistently with Police and CPS Policy** which included good practice such as:

- Good examples of the effective use of Out of Court Resolution as a means of reparation.
- Understanding and taking the victims view on board during the decision-making rationale.
- Good evidence that the rationale for an OoCR was recorded concisely.

The panel was of the view that **3 cases had been issued consistently with Policy, but with observations** such as:

- In one case the panel felt that whilst the resolution was appropriate, the case could have been sent to CPS to look at whether a charge would be appropriate due to the impact on the victim and the pattern of behaviour of the offender.
- The panel felt the investigation was good and the outcome was appropriate, however as the Gravity Matrix was not completed it failed to be consistent with policy.
- A further case did not have robust rationale recorded around the decision making and did not have a Gravity Matrix completed.

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 perpetrator had committed a series of offences which should have been considered before issuing an Out of Court Resolution. The offence which was finalised as an OoCR was a hate crime with aggravating factors and the panel felt consultation with CPS should have been considered.
- In one case where the outcome was a Community Resolution, the panel felt the requirement to write an apology letter did not appear appropriate as there were aggravating factors as well as violence used on a police officer. The panel also observed that the crime should have been recorded as a hate crime. The panel also argued that due to aggravating factors, this offence should have escalated to a conditional caution which would have imposed conditions.
- In one case the panel felt that the perpetrator's offending pattern was escalating to a much higher degree of risk, with similar offending evident with

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a previous partner. The Gravity Matrix score of 4 would require sufficient justification for an OoCR outcome, however the panel questioned whether there was sufficient rationale to justify a caution and this would suggest it was not consistent with policy.

The panel **failed to reach a decision in relation to 1 case** of harassment with the perpetrator having no previous disposals or offending history, however the offender was not remorseful, and the victim would have supported a prosecution, with a simple caution used as a disposal. Panel members could not reach a decision as to whether the offence should have been considered for charging as the victim would support a prosecution or whether a caution was appropriate due to no previous offending.

Observations from the panel:

- In one case the panel felt the impact to a child had been distressing, as the perpetrator was violent and CAPTOR spray was used, this could have been considered as an aggravating factor.
- In some cases, the panel could not be assured that victims had been provided information around the restorative justice process.
- The panel felt Stalking Protection Orders could have been considered in some cases.
- The panel noted that the Gravity Matrix was not included in some cases. (A gravity matrix is a tool used to help inform the police's decision making).
- The panel noted that in 1 case a police officer was allegedly assaulted and this offence should have been crimed, regardless as to whether the offence was proved.

Using the panel's findings to make a difference

The panel will report their findings directly to the PCC 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.

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