



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.

Youth Out of Court Resolutions Scrutiny Panel 6th 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 offences; 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 Youth OoCR's for example, a Community Resolution, Outcome 22 (No Further Action but interventions applied), Youth Simple Caution and Youth 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:

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| 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 6th September 2023 and scrutinised 10 cases relating to Sexual Offences. These are usually offences of non-consensual rape, assault by penetration, sexual assault and causing a person to engage in sexual activity without consent, and crimes against children including child sexual abuse or grooming, and crimes that exploit others for a sexual purpose, whether in person or online and a full list of offences are covered under the [Sexual Offences Act 2003](#).

The findings from the panel's meeting

The panel was of the view that **1 case 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 and intervention included education on 'Sexting'.
- A Public Protection Notice (PPN) was issued to the victim as a means of safeguarding. A PPN is an information sharing document that records safeguarding concerns and are shared with partner agencies.
- The case was promptly investigated and concluded swiftly for the victim.

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The panel was of the view that **5 cases had been issued consistently with Policy, but with observations** such as:

- In one case the Gravity Matrix score was incorrectly graded.
- 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.
- In one case the Outcome 22 should have been Outcome 21 specifically for Youths, therefore it was categorised incorrectly as the Youth Justice Service was not consulted. Outcome 22 & 21 is used where no further action is taken but diversionary action is taken to address offending behaviour.
- A further case did not have robust rationale recorded around the public interest and evidential test.

The panel was of the view that **4 cases were inconsistent with Policy** and their reasons for making this decision were:

- In one case the perpetrator had committed a series of offences and the offender did not admit to the offence of exposure, so a Conditional Caution was not appropriate and outside of Force Policy.
- In one case where the offender received an outcome 22 the panel established they had already received a previous outcome 22 so the case should have gone to panel for a decision.
- In one case of rape the CPS should have been consulted for early advice as this was an Indictable Only offence, meaning the offence is so serious it would go directly to Crown Court in cases of prosecution.
- The decision to issue a Community Resolution should have been made by a Superintendent.

Observations from the panel:

- In some cases, the panel could not be assured that victim had been provided information around the restorative justice process.
- The panel heard how Evidential Review Officers are now receiving improved training around Out of Court Resolutions for both Adults and Youths.
- 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 questioned whether there could be assumptions of an outcome at the start of an enquiry which could potentially have an impact on the standards of investigation.

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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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