



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 to restorative justice. Nationally these types of resolutions are known as out of court disposals. One of this panel's roles is to provide an assurance to the Police and Crime Commissioner and Chief Constable that these matters are dealt with legally and appropriately.

Out of Court Disposals Scrutiny Panel – 27th January 2022

What are Out of Court Disposals?

An Out of Court Disposal (OoCD) is a way of dealing with a crime without it having to go to court. OoCD's are often used in cases where an offence (the crime) 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 OoCD 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 OoCD, but they don't have to take part in the process if they don't want to.

OoCDs should 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 OoCD for example Community Resolution, Simple Caution and Conditional Caution. In real terms an example of an OoCD might be an offender having to send a written apology to the person they've harmed.

Why the Local Criminal Justice Board (LCJB) oversees the scrutiny of OoCD'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 OoCD's. The scrutiny of OoCD'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.

How the LCJB scrutinises the use of OoCDs

The LCJB has a scrutiny panel which is made up of specialists from a range of organisations including the courts, youth offending teams, the police, and the crown prosecution service. The panel 'dip-samples' youth and adult cases that have been resolved by Devon and Cornwall Police through the use of OoCDs. The panel scrutinises cases which are selected at random.

The panel does not audit the police's use of OoCDs 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 OoCD 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 OoCD 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. | Appropriate and consistent with policies and the Crown Prosecution Service Code for Crown Prosecutors |
| 2. | Appropriate (but with observations added from the panel) |
| 3. | Inappropriate and/or inconsistent with policies |
| 4. | Panel fails to reach a conclusion |

The findings from the panel's meeting

The panel met on 27th January 2022, the panel included representatives from the Judiciary, the Crown Prosecution Service, and representatives from the OPCC and Devon and Cornwall police, including the Stalking or Harassment Lead. The panel scrutinised 16 cases relating to harassment or stalking crimes, these are usually offences whereby the behaviour of the perpetrator is repeated and unwanted by the victim and which causes the victim alarm or distress.

The panel identified good practice such as;

- Good multi-agency approaches including engagement with schools and the Youth Offending Service.
- The timeliness of the investigation from report to disposal was good.
- Dealing effectively with complex issues experienced by young offenders and victims. (multiple perpetrators)
- Good examples of the effective use of Out of Court Disposals as a means of reparation.

The panel was assured that in 7 cases Devon and Cornwall Police had issued each disposal legally and in accordance with relevant policies, in 4 of those cases the panel made some observations which included issues such as insufficient decision-making rationale recorded within the case file information available to the panel and disposals that could have been escalated to a deferred caution or referred to the Crown Prosecution for review.

The panel was of the view that 9 cases had been issued inappropriately or inconsistently with policies and their reasons for making this decision were:

- In one case the seriousness of the offence which involved an assault should have been escalated to the CPS for consideration of a charging decision.
- In two cases the panel felt there was a breach in policy.
- In some cases of Harassment or Stalking the panel felt disposals with conditions could have been better applied so interventions could be put in place.
- The risk posed by the perpetrator was not sufficiently addressed and a disposal of a Community Resolution may not deter further offences in future.

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).

It was noted by the panel that a supervisory review should be ongoing during the investigation and all outcomes considered.

The panel questioned whether there is confusion around the use of Community Resolution and Restorative Justice outcomes.

The panel questioned the offence classification in some of the cases reviewed.

Freedom of Information Classification – Open

Using the panel's findings to make a difference

The panel will report their findings directly to the PCC 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.