

2022 - 2027



Out of Court Disposals (Resolutions)

National Strategy

v.2.2

PORTFOLIO LEAD

Commander Dr Alison Heydari NPCC OoCD Portfolio Lead

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FOREWORD

In the spring of 2021 the NPCC Out of Court Disposal Portfolio was taken on by new Lead, Commander Dr Alison Heydari of Metropolitan Police Service.

This strategy sets out the Commanders national vision and strategic direction for Out of Court Disposals (OoCD) across England and Wales and the plan to achieve those aims. The aims of this strategy are to achieve equality of service for all and equal opportunities to receive an OoCD no matter your race, background or age. We are striving for victim satisfaction, trust and confidence ensuring the voices of victims are heard in the decision making process and that there are prompt resolutions to the crimes they experience.

As society and the world evolves it is important that policing continues to evolve with it, and not be afraid to employ new and innovative ways to not only engage with the communities we serve, but also in the way that we deal with crime and offenders. The number one guiding principle of policing is to prevent crime and disorder, and out of court disposals is one way that we continuously strive to achieve this.

COMMANDER DR ALISON HEYDARI



As the NPCC Out of Court Disposals (OoCD) Lead I am committed to seeing the new Two-tier Plus framework successfully implemented and to supporting forces to do this. Within my first year as Commander of Front Line Policing within the MPS I took on the role of NPCC (OoCD) lead. During that time we have completed work to better understand the landscape of Out of Court Disposals and what it looks like across England and Wales. It has been important to understand where we are currently and the reasons that have informed and driven the changes to the Adult OoCD framework due to go live in the spring of 2023. Forces have done a considerable amount of work to prepare for this change and as we continue to transition towards the new two-tier plus framework, consisting of the ***Diversionsary Caution, Community Caution, plus Community Resolution***, we are striving to ensure that each force is in a position to transition as seamlessly as possible. This means not only understanding the new framework and ensuring that officers and other practitioners are able to use them effectively, but also that they have the support and infrastructure in place to do so.

The [Police Crime, Sentencing and Courts Act 2022](#) outlines the new OoCD framework. From the moment Part 6 of the Act (Cautions) comes into force the previous disposal options will no longer be available for use.

The new legislation will change the framework from six-tiers to two plus the Community resolution and provide what we hope will be a more consistent approach to Out of Court Disposals ensuring that no matter where you reside across the UK both victims and offenders can expect similar outcomes.

The new cautions are both conditional and will require an admission of guilt from the offender. The Community Resolution will remain as a non-statutory option, as this was something that all forces felt needed to remain. This new framework will be known as the two-tier Plus Framework, so as not to be confused with the NPCC two-tier framework introduced in 2017 on a voluntary basis.

The new framework remains focused on the policing principle of preventing crime and disorder, by reducing reoffending, and changing offender behaviours through early intervention, diversion and rehabilitation schemes that address the root cause of offending.

This holistic approach is shown to have better outcomes for both the victim and the offender. This is especially true when the victim is included in the process from the outset and remains engaged and involved throughout.

For offenders the new framework will provide a holistic approach to dealing with low-level and first time offenders. Providing diversionary interventions that offer opportunities, resources and skills to help change behaviours. Dealing with low level offenders in this way has the potential to divert offenders away from crime.

The offender's needs are also important in this process, and by conducting needs assessments with the offender we are better able to divert them onto interventions and to services that address what are sometimes complex needs. Diversion and intervention is shown to be far more effective when we understand the real needs of the offender and do not simply look at the offence committed.

As well as the offender it is important that victim's needs are addressed. The victim would no longer be a passive participant, but have greater influence in how offenders are dealt with and engage in the process from the start. Victim agency is therefore important as it allows the victims a voice and as such increases engagement and confidence in the police and the Criminal Justice System. We know that where this does not happen, this can lead to victims failing to support criminal cases. The 2021 victims survey found that only 43% of victims would report a crime again, that 50% would attend court again and 66% felt that they had to wait too long for their case to go to court. I believe that through a more consistent approach to the use of OoCD we can improve the victims experience and their trust and confidence in us.

We also have a responsibility to address disproportionality within criminal justice. There is a lack of trust in the police amongst some members of the communities we serve. Ethnic minority communities are disproportionately charged for offences where an OoCD might have sufficed. The distrust in the police leads to a lack of admission of guilt or acceptance of responsibility for the crime, which is needed for some OoCD options to be given. Pilots such as Chance 2 Change and Turning Point, have been seeking to address this by offering Deferred Prosecutions and/or Cautions, without the need for a guilty admission. These pilots appear to be delivering some positive outcomes and as such I will be seeking to better understand how forces across England and Wales are using deferred prosecutions and deferred cautions and identify the good work taking place, which we are then able to share amongst the other forces.

The simplification of the adult framework makes it easier for practitioners to identify a suitable disposal and removes the inefficiency and bureaucracy that exists within the current framework, which has developed in an ad hoc way to meet the changing needs and demands of policing.

For the police, the ability to use their discretion and make quick and effective decisions using the knowledge they have of the victim, offender and community is important. They understand that victims and communities sometimes want a timely resolution to an incident and where appropriate are able to make that decision. Not only does this align with my vision, but also that of the NPCC and the Government [Beating Crime Plan](#) and [Policing Vision 2025](#), all of which focus on early intervention and addressing the root cause of offending in order to reduce recidivism.

Between now and the 2023 go live date we will continue to work with forces to ensure that they are ready for the change. Ensure that there is no loss in service and that practitioners are fully equipped with the knowledge and skills needed to carry out their jobs effectively. It is my intention to achieve the objectives of the strategy by employing principles of Procedural Justice, so that stakeholders experience fair treatment in the employment of OoCD.

OUT OF COURT DISPOSALS STRATEGIC AIMS

The ambition is to make better and more effective use of OoCD and diversionary interventions to reduce reoffending through education and support. Whilst listening to and supporting victims and reducing the disproportionality in OoCD.

The following strategic principles have been created in line with the charging strategy and are the aims which will inform the further development of this strategy, and will be achieved through adherence to the delivery plan:

- Views of the Victim First – Victims are at the heart of decision making, are listened to and understood, are informed of action taken and their views are recorded.
- Disproportionality in service and offender types is reduced to zero, providing a fair and consistent service to victims and offenders across England and Wales.
- A simplified process for practitioners, partners and the public.
- Timely decision making and case progression through the Criminal Justice System.
- Develop a Professional and Joint approach between Criminal Justice Departments and other agencies.
- Fair and Proportionate approach to the Criminality, involving independent and public scrutiny.
- Reduce further offending through innovation and use of technology.
- Maintain the trust and confidence of the public in the Criminal Justice System.

KEY STAKEHOLDERS AND GOVERNANCE

KEY STAKEHOLDERS

Government Departments including Ministry of Justice (MoJ) and Home Office (HO)	College of Policing (CoP)
Attorney General's Office (AGO)	Independent Advisory Groups
Crown Prosecution Service (CPS)	Victim representative Groups
Her Majesty's Inspectorate of Constabulary Fire and Rescue Service (HMICFRS)	Victims Commissioner
Digital Case File – Police Digital Services	National Police Chiefs Council – Criminal Justice Coordination Committee Portfolios
Her Majesty's Crown Prosecution Service Inspectorate (HMCPSI)	Third Sector Providers
Police and Crime Commissioners (PCC)/ Association of Police and Crime Commissioners (APCC)	National Criminal Justice Board (NCJB) and Youth Justice Board (YJB)
Police forces	Her Majesty's Court & Tribunal Service (HMCTS)

GOVERNANCE

Governance for the OoCD portfolio will be provided through:

- Heads of Criminal Justice.
- National Police Chiefs Council Criminal Justice Coordination Committee.
- Out of Court Disposals Strategic working group and Project Reference group.
- Association of Police and Crime Commissioners (APCC).
- Local Criminal Justice Boards.

OUT of COURT DISPOSALS

INTRODUCTION

This strategy provides the national vision and strategic direction for decision making for the police across England and Wales.

There have and continue to be many changes across both the Criminal Justice System and policing. The way in which we respond to and tackle criminality is changing and it is hoped that these changes are for the betterment of the communities we serve, the victims we encounter and the offenders.

What will be in place from 2023 is a simplified Adult OoCD framework that is more in line with the Youth framework, which will remain the same. The intention has always been to restructure the framework so that it is easy for all to understand and for practitioners to implement, whilst allowing for greater transparency.

The OoCD framework will look as follows from the go live date, providing a level of simplicity that does not currently exist;

<u>Adult Framework</u>	<u>Youth Framework</u>
No Further Action (NFA)	
Community Resolution	Community Resolution
Community Caution	Youth Caution
Diversionsary Caution	Youth Conditional Caution
Prosecution	

The emphasis of OoCD is the rehabilitation of first time and low level offenders, thereby reducing reoffending. This is in line with the Governments Beating Crime Plan of 2021, but also draws on the evidence base that changing offender behaviour through an OoCD can have a far greater impact on reoffending and the victims, than short term sentences issued at court.

We continue to work with partner agencies to ensure that our strategies align and we maintain effective working relationships, in order to provide a better service, build trust and protect the vulnerable.

CONTEXT - OUT OF COURT DISPOSALS

The Adult OoCD framework has been a work in progress since 2014, when the police and the government agreed that the framework needed reform. Part of that reform was to reduce the number of disposals from six to two.

<u>Six-Tier Framework</u>	<u>Two-Tier Plus Framework</u>
Adult Conditional Caution	Diversionsary Caution
Simple Caution	Community Caution
Community Resolution	(plus) Community Resolution
Khat warning	
Cannabis Warning	
Penalty notice for Disorder (PND)	

Forces across England and Wales are at various stages of the transition from the six-tier framework to the NPCC two-tiers, which began in 2017.

Given the forthcoming changes, it is important that work is completed to ensure that all forces fully understand the new framework, which whilst similar to the NPCC two-tier framework, it does have some notable differences. There is also a need to try and understand the impact the new framework may have on policing and the day to day operations of frontline officers and staff. This is being accomplished through identifying the lessons that have been learnt from those early adopter NPCC two-tier forces and sharing those lessons amongst the other forces.

The new Act is a big step forward in providing a consistent approach to dealing with low-level offending outside the formal criminal justice system. Helping to reduce the current level of disparity in service across the country for both the victim and offender and takes a more holistic and public health approach to dealing with offenders.

THE CURRENT LANDSCAPE – WHERE WE ARE

Since 2017 forces have been moving away from the six-tier framework towards a two-tier framework consisting of the Adult Conditional Caution and the Community Resolution.

This was agreed by the NPCC in 2017 and was implemented as a result of the Government OoCD review and later reinforced by the 2020 White Paper: *A Smarter Approach to Sentencing*. The review identified the need to simplify the difficult to understand and traverse catalogue of disposal options.

Since this time, most forces across England and Wales have been working towards transitioning from six to two tiers. But there is no doubt that some forces have made that transition to a two tier framework quicker than others.

In making the transition we have kept an eye on the landscape as it shifts and changes. In the current landscape we note that 56% of forces have now transitioned to two tiers, which will make their move to the new framework easier when the legislation changes.

Forces are also continuing to be creative in the way that low-level crimes are dealt with and a number of pilots are taking place across the country to test the effectiveness of OoCD in reducing reoffending.

Evidence Base and Pilots

The use of pilots to gather evidence allows us to better understand the effectiveness of OoCD in the reduction of reoffending. As well as how effective they are when used with diversionary interventions.

Examining the complex needs of female offenders is one area where pilots are taking place across the country. Such pilots are diverting women into female specific schemes, whilst being mindful that they may also be victims of domestic abuse, have mental health issues or be primary carers of children. In addition to this there are a number of other pilots taking place such as;

- Checkpoint in Durham Constabulary,
- Turning Point in the MPS
- CARA (Conditional Cautioning and Relationship Abuse) in ten forces.
- Tri-force Hate Crime pilot in Avon and Somerset, Hampshire and the West Midlands
- The testing of the use of interventions in assault emergency worker cases, where there is no injury or minor injury in Avon and Somerset.

Pilots and academic evaluations are encouraged, as they allow policing to be innovative and address problems, as well as test our assumptions around what does and does not work in tackling and preventing crime.

Innovation and Technology

In addition to testing the effectiveness of interventions, pilots are taking place within the digital space. Examinations into how best we can utilise technology and innovative methods to support practitioners, victims and offenders, is important in helping to achieve our strategic aims.

One such pilot is the NPCC OoCD Op Fulcrum pilot, which is currently running in Kent. The pilot is testing a digital application that can support and connect the offender and diversionary intervention service providers. This allows the offender to have greater control over managing their appointments as well as staying in touch with the scheme once the mandatory sessions have been completed. Both the offender and scheme can communicate directly via the app, and there is the facility to monitor compliance via the offender check in feature.

Other IT providers are also working on applications in this space, some of whom are looking to develop applications, which enable the PCC to manage offender engagement with interventions. This would remove the need for police officers or police staff to manage this.

We see the benefit in the use of technology within criminal justice and are looking at various solutions. The aim of digital applications being developed and tested is to allow for a more efficient way of not only issuing OoCD, but ensuring offender engagement and management. By using technology it is possible to reduce the number of admin hours required by frontline officers, freeing them up to deal with the more serious offences. It also has the potential to help us achieve a more collaborative approach to working with partners.

WHERE WE ARE HEADING

The new framework to be introduced by the Police, Crime Sentencing and Courts Act will consist of two caution types.

- Diversionary Caution
- Community Caution

Diversionary Caution

The Diversionary caution is very much like the existing Conditional Caution, and will form the 'upper-tier' of the statutory disposal options. It applies to adults (18 years and over) and must have one or more condition attached. Conditions should aim to be rehabilitative or reparative. There is also a punitive condition option, which is a financial penalty. Conditions can now also include restrictions, unpaid work and attendance conditions where their objective is to facilitate rehabilitation or reparation. There is a requirement for the offender to admit the offence and accept the caution.

Breaching a Diversionary caution may result in prosecution for the original offence and a power of arrest may be used for failure to comply.

The diversionary caution will form part of a criminal record, and will be regarded as spent after 3 months or sooner if the conditions are met prior to the three month period. It could also appear on a standard or enhanced DBS check. Where the recipient is applying for a sensitive job or activity that requires a standard or enhanced check, it would continue to be disclosed for 6 years as in the current caution regime.

Community Caution

The Community Caution is the 'lower-tier' statutory disposal available for lower level offences, and applies to adults (18 years and over) and must have one or more condition attached to them, which should aim to be rehabilitative, reparative or punitive (financial penalty). There is a requirement for the offender to admit the offence and accept the caution.

The Community Caution can be issued for any offence other than Indictable only offences, or specified summary or

either-way offences prescribed in regulations. It is spent immediately, but may form part of a criminal record and can appear on a standard or enhanced check, when the person is applying for a sensitive job or activity to which the caution would be considered relevant. The community caution will continue to be disclosed for 6 years after being issued. Breach of a Community Caution may result in financial penalty for non-compliance but the offender cannot be prosecuted for the original offence.

Community Resolution

The Community Resolution (CR) will remain as an addition to the new framework. This was something that forces across England and Wales felt they did not want to lose within the new framework. It remains a non-statutory voluntary option for low level offending or to resolve non-crime issues where the offender agrees. Only an acceptance of responsibility is required for the issuing of a CR. Acceptance of responsibility is not defined in policy as the CR has no legal basis. Conditions can include: apology, reparative actions, compensation and diversion.

Deferred prosecution Schemes

Deferred Prosecution Schemes (DPS) are a non-statutory disposal, that is growing in popularity across England and Wales. There are currently approximately 16 forces with a DPS in place, and others watching keenly how they develop, with a view to potentially implement similar schemes. The DPS covers both deferred cautions and deferred prosecutions, which put a prosecution or caution on hold for those accused of a lower level offence. The accused agrees to comply with one or more conditions and if successful no further action will be taken against them. Non-compliance with the conditions results in a caution or prosecution depending on the deferred scheme.

Whilst deferred prosecution schemes have been used for a number of years, the Lammy review in 2017, made recommendations for the wider use of DPS, without the need for an admission of guilt. It was felt that this was one way to help tackle the ethnic disparity within OoCD, and this is something we are keen to continue to explore and grow the evidence base. By growing the evidence base in this area, we will be in a position to better understand and address the disparity, and see the real impact of its use.



YOUTH OoCD

The Youth framework remains unchanged, but it continues to be a priority to ensure that children and young people are treated as children and diverted away from the Criminal Justice System. This work needs to continue in partnership with partners such as the Youth Justice Board (YJB).

It is important to understand that some of the children the police come into contact with have very complex needs and are both victims and offenders. By engaging with and supporting the child early, we have a better chance of diverting them away from criminality and getting them the support they need, within the home and school.

The appropriate use of OoCD and a joined up approach between Youth Justice Services (YJS), schools and social services etc. is one way we can do this.

The NPCC Children and Young People Portfolio, has responsibility for Youth OoCD and will work alongside the NPCC OoCD portfolio to ensure that the two are aligned. This is important as we look at how we can best support young offenders, who fall within the 18 to 24 age bracket, who whilst technically are adults, developmentally, may not yet have developed the level of maturity required to be dealt with as an adult.

OUT of COURT DISPOSALS - STRATEGIC VISION

THE VISION

The strategic vision for the NPCC OoCD portfolio is to drive down reoffending rates across England and Wales through the use of OoCD with conditions and diversionary interventions, which change the offending behaviour. We will have a system that is fair to all, keeping both the victim and the offender at the heart of what we do. The hope is that this will be achieved through;

- Timely referrals and decision making from police for OoCD.
- Victim agency – Victims no longer being passive, but have greater influence in how offenders are dealt with and have better engagement in the process from the start.
- A more streamlined and consistent approach to the use of OoCD options nationally, reducing the postcode lottery.
- A system that deals with the root cause of the offending and not just the offence.
- Is people focussed, so that both the victim and offender are at the heart of the decision making, ensuring that all feel that their experience of Procedural Justice has been enhanced and their specific needs are considered.
- Allow officers discretion within the national standards.
- Careful attention is given to diversity and disproportionality factors at an early stage in the decision making process, resulting in reduced disproportionality.
- A more cohesive and joined up working relationship between the police, IOM, probation, YJB and the court system as well as social services and the NHS.
- Scrutiny panels and management boards ensure the quality of OoCD and develop and deliver improvement plans where required.
- Increased transparency and trust.
- Ensuring that the principles of procedural Justice are employed in everything we do.
- Systems that ensure the quality and completeness of data recorded.

Delivering the Vision

It is important that forces not only understand the vision that they are being asked to implement, but also why it will work and produce better outcomes. These include building trust and confidence, which will help with victim engagement. By streamlining the adult framework it is possible to reduce the postcode lottery across forces etc.

We will achieve this by;

- Helping forces to implement the strategy, by addressing any barriers forces have so that they are ready for the 2023 go live date.
- Listening to forces and leading on key issues for police around out of court disposals including funding and resourcing.
- Being flexible in developing an evidence base through the evaluation of what works with Out of Court Disposals to understand our needs and contribute to our approach to driving reform.
- Working collaboratively to ensure a smooth transition for the Police Service as changes occur to the

OoCD adult framework.

- Listening to what forces believe their training needs are and working with the College of Policing to provide guidance and learning standards to allow police to feel confident in their use of OoCD.
- Working collaboratively with the Police and Crime Commissioners in their work to ensure that Community Remedy Documents are up to date and easily accessible by forces.
- Continuing to work with the Crown Prosecution Service, Home Office, Ministry of Justice and other key stakeholders as we work towards the 2023 go live date and beyond, ensuring that we are ready, and the implementation is seamless.

VISION FRAMEWORK

Reduce Reoffending	Address Offender needs/ route cause of offending	Trust and confidence
<ul style="list-style-type: none"> • Offenders given conditions which require attendance on educational or rehabilitative courses where necessary. • Offenders provided with or signposted to support for mental health, drugs or alcohol dependency. • Reduce the number of times the offender comes to the notice of police. 	<ul style="list-style-type: none"> • Practitioners conduct needs assessments with offenders to identify any underlying needs. • Work with social and public services, YJB, as well as the NHS. • Support offenders in addressing any barriers to accessing services and support. 	<ul style="list-style-type: none"> • Greater transparency in how we work. • Publishing anonymised scrutiny panel results. • Providing information on force websites about their OoCD. • Scrutiny panels and management boards ensure the quality of OoCD.
Victim Engagement	Eliminate disparity	Increase consistency
<ul style="list-style-type: none"> • Speak to victims and understand what they want. • Improve the quality of our interactions with victims. • Make sure victims feel safe and heard. • Understand the victims wishes not to go to court or to prosecute the offender. • Signpost victims to support if necessary. 	<ul style="list-style-type: none"> • Understand how deferred prosecution schemes are being used across England and Wales. • Greater academic evaluations to understand the benefits and the impact on reducing disparity. • Begin to understand the causes of distrust in the police and wider criminal justice system. • Reduce our own racial bias in our actions that may add to the disparity in OoCD and CJ. 	<ul style="list-style-type: none"> • Consistent OoCD framework across England and Wales. • Greater use of Community remedy documents • Consistent collection and recording of data. • National guidance that allows officers to use their discretion, whilst removing areas of ambiguity. • Sharing of good practice and what works amongst forces. • Peer reviews

SUCCESS FACTORS

How will we know if we have been successful in our aims?

- Successful implementation of the new adult framework.
- Consistent use of needs assessments across England and Wales to ensure the offender needs are met.
- Victims are consulted and their views are obtained and taken into account, before the disposal decision is made and those views are recorded.
- Victims are given the opportunity to review the community remedy document and give their views on any of the listed actions they wish be attached as a condition of a caution.
- Victims are provided with regular meaningful updates.
- Reduced reoffending that forces are able to evidence, through their data.
- A national increase in the use of diversionary and support interventions to help offenders as well as victims.
- Forces and PCCs regularly evaluate the effectiveness of the diversionary and support interventions to ensure they are effective.
- Decreased disproportionality in the use of OoCD, which can be evidenced through force data as well as OoCD inspections in this area.
- Increased public trust and confidence in the Criminal Justice System.
- Increased consistent national use of outcome 22.
- Growing evidence base at both a force and academic level, to assess the effectiveness of OoCD at reducing reoffending.
- Increased sharing of good practice by forces with each other, including peer reviews.

The success factors will be monitored by the NPCC OoCD portfolio through the Out of Court Disposals Working Group, in conjunction with Criminal Justice Partners and the Ministry of Justice, as well as interdependent portfolios. As these changes embed it is expected this will be reflected in the number/type of out of court disposals being delivered, victim satisfaction rates, public perception and a long term ongoing effect on reoffending rates.



Evidence base

Community Remedy

Consistency

Victim Engagement

Intervention

Equality

Trust

Procedural Justice

Support

Scrutiny

Confidence

Pilots

Innovation

Technology

Diversion

APPENDIX A - ADULT OUT OF COURT DISPOSAL FRAMEWORK

Disposal	Community Resolution	Community Caution
Type	Non-statutory Police disposal	Statutory – established in legislation
Decision Maker	PC/PCSO/PSI <ul style="list-style-type: none"> Sergeant (or Police Staff equivalent) guidance should be sought (for repeat offenders) Inspector (domestic abuse – non intimate partner, hate crime, assault with injury, assault emergency worker, knife crime, sexual offence). 	Sergeant (or Police Staff equivalent) before the caution is offered to the offender. (Hate crime and indictable offences must be referred to CPS).
Offence type	<ul style="list-style-type: none"> Lower level crime or incident Summary only offences Some either way offences which would be tried in the Magistrates Court This should not be used for intimate partner domestic abuse. 	All offences other than an excluded offence – Indictable Only, Either way or Summary only offence as prescribed in regulations Can never be used for Domestic Abuse offences.
Evidential Standard	Reasonable suspicion, may deal with non-criminal matters	Sufficient evidence to charge
Admission of guilt	Acceptance of responsibility	Yes
Offender consent required?	Yes	Yes
Victim consultation required for outcome?	Yes but may proceed without, with supervisors agreement	Yes <ul style="list-style-type: none"> Make reasonable effort to obtain views of victim No further requirement on victim once community caution issued – they would not have to give evidence as case cannot be prosecuted.
Views heard/listened to/ recorded	Yes	Yes
Operational consideration	<ul style="list-style-type: none"> No relevant offending history No CR for same or similar offence within 12 months unless exceptional circumstances Not for intimate partner domestic abuse 	TBC in Secondary Legislation
Conditions/options	<ul style="list-style-type: none"> Apology Make right Compensation Diversion – education/rehabilitation Fine (although not currently available, would require legislation) 	<ul style="list-style-type: none"> Rehabilitative Reparative Financial penalty
Restorative Justice Available?	Yes	Yes
Forms part of a criminal record?	No but may be disclosed as part of enhanced CRB check	<ul style="list-style-type: none"> Spent immediately (same as simple caution) Community cautions would never appear in the basic criminal record check as they are spent immediately and only unspent matters appear on such checks. Community caution may appear on an enhanced check where the person is looking to do a sensitive job or activity. <p><i>Provisions are the same as the simple caution</i></p>
Where recorded	<ul style="list-style-type: none"> Local systems / PND Will move to LEDS Intel in 2018/2019 	PNC
Relevant guidance	<ul style="list-style-type: none"> Authorised Professional Practice National guidance on domestic abuse Gravity matrices Local force policies 	<ul style="list-style-type: none"> Legislation Code of Practice
Governance	<ul style="list-style-type: none"> Supervisor checks Scrutiny panel with independent members 	<ul style="list-style-type: none"> Supervisor checks Scrutiny panel with independent members
Repeat use	Previous offences in the last 12 months may make a CR inappropriate. Supervisory guidance from a Sergeant should be sought, or consultation /referral to YJS in the case of children and young people.	The repeat use for the same offender should be taken on a case-by-case basis, considering a number of factors, rather than a specific time period. Rationale must be recorded to avoid misuse.
Enforcement if breached	None	<ul style="list-style-type: none"> No power of arrest Cannot be prosecuted Rescind original condition & attach a financial penalty If unpaid, can be raised as a fine to a Court

Disposal	Diversionsary Caution	Charge/Summons	
Type	Statutory – established in legislation	Statutory – established in legislation	
Decision Maker	Sergeant (or Police staff supervisor equivalent) before the caution is offered to the offender. (Hate crime must be referred to CPS) Inspector - intimate partner DA	Sergeant	CPS
Offence type	Any offence – In the case of Indictable only offences only in exceptional circumstances AND with the consent of the DPP. Low level standard risk intimate partner DA cases – must comply with CPS pre-conditions.	<ul style="list-style-type: none"> All summary only offences irrespective of plea except where DPP consent required or involves a death, terrorist activity, official secrets or is hate crime/ domestic abuse. Any retail theft or attempted irrespective of plea where suitable for sentence in Magistrates Court. Any either way offence where guilty plea anticipated except violent disorder, affray, GBH, ABH or a sexual offence committed by or upon a person under 18 	<ul style="list-style-type: none"> Any summary offence requiring DPP's consent or involves a death, terrorist activity, official secrets or is hate crime/ medium and high risk domestic abuse. Any either way offence where a not guilty plea is anticipated or not suitable for trial in Magistrates Court. Any either way offence involving affray, violent disorder, GBH, wounding, ABH, sexual offences. Any indictable only offence.
Evidential Standard	Sufficient evidence to charge	Realistic prospect of conviction	Realistic prospect of conviction
Admission of guilt	Yes	As detailed above	No
Offender consent required?	Yes	No	
Victim consultation required for outcome?	Yes <ul style="list-style-type: none"> Make reasonable effort to obtain views of victim Victim may be called to give evidence (if breach and prosecution occur) 	No	
Views heard/listened to/recorded	Yes	Yes	
Operational consideration	TBC in Secondary Legislation	Gravity Matrix and consult with CPS for a charging decision where necessary.	
Conditions/options	<ul style="list-style-type: none"> Rehabilitative Reparative Financial penalty Foreign national offender conditions 		
Restorative Justice Available?	Yes	Yes	
Forms part of a criminal record?	<ul style="list-style-type: none"> Spent after 3 months (same as conditional caution, or sooner if condition/s are completed earlier). Diversionsary caution could show on a basic check for 3 months when unspent. Diversionsary cautions would only be disclosed whilst unspent or for up to 6 years in standard or enhanced checks where the person is looking to do a sensitive job or activity. <p><i>Provisions are the same as the conditional caution</i></p>	Yes	
Where recorded	PNC	<ul style="list-style-type: none"> PNC Will move to LEDS n 2025 	
Relevant guidance	<ul style="list-style-type: none"> Legislation Code of Practice 	<ul style="list-style-type: none"> Police and Criminal Evidence Act Director of Public Prosecutions Guidance Gravity matrices Local force policies Legislation Authorised Professional Practice 	
Governance	<ul style="list-style-type: none"> Supervisor checks Scrutiny panel with independent members 		
Repeat use	The repeat use for the same offender should be taken on a case-by-case basis, considering a number of factors, rather than a specific time period. Rationale must be recorded to avoid misuse.		
Enforcement if breached	<ul style="list-style-type: none"> Power of arrest Could be prosecuted 	<ul style="list-style-type: none"> Power of arrest Could be prosecuted 	

APPENDIX B - FREQUENTLY ASKED QUESTIONS

HOW WILL I KNOW WHETHER TO GIVE AN OUT OF COURT DISPOSAL, AND WHICH ONE?

NPCC and College of Policing are working to create a set of learning standards that Learning and Development teams within each force will use to develop curriculum packages for all officers, regardless of what stage you are at in your policing career. Guidance documents have been updated to ensure they reflect current legislation and reform. Guidance documents should also be used alongside the most recent Gravity Matrix documents. Both the adult and youth documents are being updated to reflect legislation changes. However, out of court disposals do escalate and some are therefore not always available for use with some offences.

The **Community Resolution** is at the lower end of the scale, it will be most suitable for lower level crime where the offender admits responsibility for the offence, or where the victim does not want more formal action taken. Offences such as low-level criminal damage, low-value theft, minor assaults (without injury) and anti-social behaviour. Non-intimate domestic abuse can be resolved with a community resolution, but this should be used with caution and with inspector authority.

A **Community Caution** is next, it is a conditional caution that requires an admission of guilt and acceptance of the caution. It is suitable for offences other than excluded offences. Conditions should be rehabilitative, and/or reparative, but there will be instances where that is not appropriate and a simple financial penalty will suffice. The Community caution is **not to** be used for any domestic abuse offences.

A **Diversionsary caution** is the upper-tier conditional caution. Conditions again should be rehabilitative and/or reparative, and the offender must have admitted the offence. They must be willing to comply with the conditions and this should only be dispensed if it is considered appropriate to modify offending behaviours or make reparation for harm caused. Rehabilitative conditions can include attendance at a treatment course or referral to engage with an organisation. Reparative conditions can include apologising to the victim, paying compensation and repairing any damage caused. The conditions must always be appropriate, proportionate and achievable. The diversionsary caution can be used for standard risk domestic abuse cases, in line with the CPS pre-conditions.

DO I HAVE TO CONSULT THE VICTIM?

Yes, The requirement to obtain victim views complies with sections 6.6 – 6.8 of the [Victims Code of Practice \(2020\)](#) which states 'Where the police or the Crown Prosecution Service are considering an out of court disposal you have the **right** to be asked for your views and to have these views taken into account when a decision is made'. Police and prosecution authorities **must** ensure these views are recorded in any record of decision making.

The victim should be consulted on how the offender is dealt with, and what conditions they could be given using the options detailed in the Community Remedy document. However, the victim's view is not definitive, there will be cases where the victim wants a community resolution or caution given, however, this will not be suitable either due to the nature of the offence, or the offender's history. In these cases, we should listen to the victim's views, explain why we are not able to do this and what we intend to do.

WHAT CONDITIONS DO I SET?

Each case will be different, and conditions could range from an apology at the time for a community resolution to a rehabilitative course on more than one occasion for a caution. Your PCC should have a Community Remedy document which details options which can be delivered – these could include apology, compensation, repairing damage, making amends, referral to a rehabilitative course (e.g. alcohol, drugs, victims), engagement with an

offender manager or navigator, restriction of movement, referral to another agency (e.g. housing, mental health, GP, Citizens Advice, drug/alcohol agencies etc.). Each force has different opportunities available.

WHAT ABOUT RESTORATIVE JUSTICE?

Restorative Justice brings those harmed by a crime or conflict and those responsible for causing the harm into communication, enabling everyone affected by the incident the chance to play a part in repairing the harm and to find a positive way forward. It is voluntary for both the victim and offender and the offender must have admitted responsibility for the harm caused. Restorative Justice can be used alone or alongside any available disposal option or offence where appropriate. However, it should **not** be used for domestic abuse.

HOW LONG DOES THE OFFENDER GET TO COMPLY WITH THE CONDITIONS?

Diversionary cautions are usually a maximum of 16 weeks although in exceptional circumstances this can be up to 20 weeks. Community resolutions do not have a specific time limit on them but it is generally expected these should be resolved at the time or fairly soon afterwards.

WHO AUTHORISES THE OUT OF COURT DISPOSAL? Generally, a PC, PSI or PCSO can decide on a Community Resolution unless it is a repeat offender then supervisory guidance should be sought from a **Sergeant or Police Staff equivalent**. **Inspector's** authority is required for domestic (should not be intimate partner), hate crime, assault with injury, assault on a public service employee/police, knife crime or sexual offences.

Diversionary cautions are generally decided on by a Sergeant unless the offence is likely to be dealt with in the Crown Court, attract a high-level community order or a sentence of imprisonment in which case the decision to give a diversionary caution may only be taken in exceptional circumstances by an inspector.

Indictable only offences must be referred to CPS. Domestic abuse diversionary cautions can be issued, but in line with CPS pre-conditions. Hate crime community and diversionary cautions must be referred to CPS to make the decision.

WHO PAYS FOR COURSES?

There are a number of models which forces use and these are guided by local force guidance. But courses are usually paid for either through funding from the police, PCC or by the offender themselves. There are also those which are already available and funded in the community e.g. NHS, charity.

WHO MAKES THE REFERRALS TO THE PROVIDERS, AND WHO MONITORS WHETHER THE CONDITIONS ARE COMPLIED WITH?

This will be force specific, there are three common models, each of which have pros and cons which should be considered:

Central Team – a central hub review all cases, set all conditions, make the necessary referrals to providers and other agencies then monitor compliance with the conditions.

OIC and back office function – the OIC identifies the conditions then a back office team make the necessary referrals and monitor compliance.

OIC – the OIC identifies the conditions, makes the necessary referrals and monitors compliance.

In any of these models consideration should be given to forces agreeing with providers as part of a service level agreement that the provider must notify the police when the condition is complied with.

HOW DO I KNOW WHICH REHABILITATIVE COURSES OR CONDITIONS WORK?

Whilst there are a growing number of OoCD pilots, the amount of academic evaluations on effectiveness of diversions for out of court disposals remains limited at present. Therefore whilst there is a lot of anecdotal evidence

which leads us to continue to believe in the positive benefits of OoCD, it is important that forces and others begin to highlight the research they are doing in this space.

In addition to this, forces need to ensure that they are scrutinising their practices as well as the rehabilitative/diversionary intervention courses that offenders are being diverted to. This will require further data collection and recording on conditions set and reoffending rates.

HOW DO I KNOW IF SOMEONE HAS HAD A COMMUNITY RESOLUTION BEFORE?

Community resolutions are not shown on PNC, unless it stemmed from an arrest. They are recorded on local forces systems meaning checks through PND (Police National Database) should provide information on whether an offender has received a Community Resolution in a different force.

WHAT DO I DO ABOUT DOMESTIC ABUSE AND HATE CRIME OFFENCES?

Community resolutions for domestic abuse should only be considered where there is no intimate partner relationship and there is no history of such. The incident is isolated and there is no previous concern; the offences do not include violence, stalking, harassment, coercive control or sexual offences. The risk assessment is standard; the offence is considered low level in nature i.e. minor damage or theft; the offender has admitted the offence and shown remorse. An Inspectors authority is required. Community resolutions for hate crime should only be considered for low level offences and where the victim has been consulted; an Inspectors authority is required.

Diversionary cautions for domestic abuse can be used, but should follow the pre-conditions as set out by the DPP. These pre-conditions will be reviewed yearly, so please ensure that you are referring to the most up to date version.

Community cautions should not be used for domestic abuse.

Where consideration is being given to using a diversionary or community caution for a hate crime the case should be referred to the CPS.

HOW DO I DEAL WITH FOREIGN NATIONAL OFFENDERS (FNO'S)?

FNO's can be dealt with through diversionary cautions using conditions which requires the individual to leave the country, cooperate with the authorities and not return to the UK for a period of time.

WHO REVIEWS WHETHER AN OUT OF COURT DISPOSAL DECISION IS APPROPRIATE?

Scrutiny panels should be in place within each force consisting of police, CPS, Magistrates, Office of Police and Crime Commissioner, Young Offenders Team, Probation, independent advisory group and any person relevant for the panel (i.e. hate crime lead for force); a representative for the victim's voice should also attend. The panel will review the use of out of court disposals on a series of cases quarterly, to consider whether they were appropriate or not. Where the use was not appropriate, the panel cannot overturn the decision but learning may be delivered back to the officer or their supervisor may be advised to consider removal of the disposal itself if deemed to be unlawful and/or unsafe. Forces are to post their (anonymised) results online for members of the public to view. Please refer to national guidance on this. Any learning and good practice should be shared wider than just the officer and their supervisor.

Scrutiny panels should also be reviewing cases in relation to disproportionality in the use of OoCD, and identifying ways to address this. The reviews should look at OoCD as a whole as well as in relation to each individual OoCD option.

WHAT DO I DO IF THE PROSECUTION TIME LIMIT FOR A SUMMARY OFFENCE IS LESS THAN 4 MONTHS AWAY AND I WANT TO GIVE A DIVERSIONARY CAUTION?

Diversionary caution time periods are generally a maximum of 16 weeks, although can be extended to 20 weeks in exceptional circumstances, however they do not have to be 16 weeks so any time period can be adapted to a suitable length which allows the option of prosecution if the offender breaches (time should also be allowed if CPS advice is required to prosecute on a breach).

WHAT DO I DO IF THE OFFENDER DOESN'T COMPLY WITH THE CONDITIONS ATTACHED TO A COMMUNITY RESOLUTION OR DIVERSIONARY OR COMMUNITY CAUTION?

Community Resolution – no action can be taken, a community resolution is a non-statutory disposal and the conditions given are an agreement with no legal basis. To have given a community resolution in the first place, the public interest factors to give a formal criminal justice outcome, or to charge the offender to appear in court were not met, and will likely never be met, even where the agreement is broken. There is no statutory footing to prosecute an offender for non-compliance with conditions.

Diversionary caution – if the offender fails to comply with the conditions given, the diversionary caution is breached. The officer should consider whether there is a reasonable excuse for this and then whether the offender should be prosecuted. If the decision is taken to prosecute, Directors Guidance from the CPS on charging offences should be considered in determining whether CPS advice is required to take the matter to court. If this is required (e.g. for an either way offence), a case file should be completed and submitted, if it is not (e.g. a summary only offence) police can take the decision to raise a postal requisition.

Community caution— if the offender fails to comply with the conditions given, the community caution is breached. However, in this instance if the offender has no reasonable excuse for the failure, then the officer should consider whether to give a financial penalty or further condition. The offender can not be prosecuted for the original offence.

WHEN ARE COMMUNITY RESOLUTIONS AND DIVERSIONARY CAUTIONS DISCLOSABLE?

Community Resolutions are non-statutory disposals and for the purposes of disclosure constitute non conviction data which is not generally disclosed. However, Enhanced DBS certificates can contain information (including intelligence and non conviction data) taken from police records that a chief officer of a police force considers relevant to the application and ought to be disclosed and therefore information relating to a community resolution could be disclosed in some circumstances.

Diversionary cautions will be considered “spent” after 3 months from the date of issue and will be disclosed on a Basic, Standard or Enhanced DBS certificate during the 3 month rehabilitation period as an unspent conviction. A Diversionary Caution will also be disclosed on Standard or Enhanced DBS certificates for 6 years after the date of issue when the individual was aged 18 or over at the time of the caution unless the offence will never be filtered from a DBS check – these offences include serious offences which are sexual or violent or are relevant in the context of safeguarding.

Guidance on disclosure can be found at: [DBS filtering guide - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/dbf-filtering-guide).

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