

Out of Court Resolutions

Introduction

This leaflet is intended to inform legal advisors on various outcome options available for adult suspects, collectively known as Out of Court Resolutions (OOCR).

This leaflet does not consider;

- more formal outcomes such as charge,
- outcomes which would see no further action being taken against a suspect,
- any Diversion or Deferred Prosecution Schemes which some Forces may operate,
- outcomes for children and young people (aged under 18 years).

The material contained in this leaflet is provided for general informational purposes only and should not be construed as legal advice and it does NOT suggest that an OOCR is suitable for any individual case.

What is an Out of Court Resolution & when can they be considered?

OOCR (previously named Out of Court Disposals), are a way of finalising certain criminal investigations without an offender going to court. The most used OOCR for adult suspects include;

- **Community Resolution** - an informal, non-statutory outcome which can be considered for a lower-level crime where the suspect accepts responsibility for their behaviour and, in most cases, where the victim has agreed that they do not want more formal action taken.
- **Simple Caution** - a formal OOCR (without conditions) which can be given to an adult who has fully admitted an offence. The police can make the decision to offer a Simple Caution for most summary only or either way offences with some exceptions. They can be considered where there is sufficient evidence to provide a realistic prospect of conviction but when it is not in the public interest to prosecute. In line with NPCC guidance, some Forces may no longer use Simple Cautions at all or may only use them for very specific offence types.
- **Conditional Caution** - a formal OOCR which can be given to an adult who has fully admitted an offence. The police can make the decision to offer a Conditional Caution for most summary only or either way offences with some exceptions. They can be considered where there is sufficient evidence to provide a realistic prospect of conviction but where the public interest is better served by the offender complying with suitable conditions of an OOCR. Conditions will generally have to be completed within no more than 16 weeks of the caution being administered, though some Forces may set shorter time frames. Where, without reasonable excuse, the offender fails to comply with the conditions, formal prosecution for the original offence may follow.

An OOCR can only be given where certain criteria are met and so will not be available as an outcome in all cases. In considering whether an OOCR is a suitable outcome, the police and/or CPS must, amongst other things, consider; Ministry of Justice Codes of Practice, CPS and/or NPCC Guidance, the Gravity Factor Matrix, the seriousness and circumstances of the offence, the likely sentence if the case proceeded to Court¹, the available evidence and public interest, the impact of the offence on the victim/community and the victims views, the previous offending history of the offender, whether the offence is admitted and/or accepted and the appropriateness of any potential conditions. There are also various other eligibility requirements which must be met before they can be used.

A more detailed explanation of each of these OOCR (and others which may not be routinely used by all Police Forces) can be found on the College of Policing APP website². An OOCR comparison table is also included on the following page.

¹ CPS Guidance is that any cases likely to result in a custodial sentence or a high-level community order should generally be prosecuted.

² <https://www.college.police.uk/app/prosecution-and-case-management/possible-justice-outcomes-following-investigation>

At a Glance - Out of Court Resolutions Comparison Table

	Community Resolution	Simple Caution ³	Conditional Caution
Who makes the decision to offer the OOCR and how?	Police decision. Cases considered in line with local Force and NPCC policy/guidance.	Police or CPS decision. Cases considered in line with Force policy, Ministry of Justice Codes of Practice and CPS guidance.	Police or CPS decision. Cases considered in line with Force policy, Ministry of Justice Codes of Practice and CPS guidance.
For what offences can the OOCR be considered?	Intended mainly for lower-level offending. Cannot be considered for certain excluded offences including intimate partner Domestic Abuse (DA).	Can be considered for most summary only & either way offences with exceptions. Use with indictable only offences needs DPP consent.	Can be considered for most summary only & either way offences with exceptions. Use with indictable only, Hate Crime and some DA offences needs DPP consent.
Would a suspect's previous offending history prevent them from being considered eligible for the OOCR?	Previous 'relevant offending' may impact on whether the outcome can be offered. Supervisors may apply discretion on a case-by-case basis.	Previous cautions and convictions (particularly in last 2 yrs) may impact on whether the OOCR can be considered, however they are not necessarily an automatic bar to using the OOCR in exceptional cases.	Previous cautions and convictions (particularly in last 2 yrs) may impact on whether the OOCR can be considered, however they are not necessarily an automatic bar to using the OOCR in exceptional cases.
Does the suspect have to accept responsibility or admit guilt to be considered eligible for the OOCR?	One of the eligibility requirements for this outcome is that the suspect has accepted responsibility for their offending behaviour.	One of the eligibility requirements for this outcome is that the suspect has made a full (PACE compliant) admission to the offence(s).	One of the eligibility requirements for this outcome is that the suspect has made a full (PACE compliant) admission to the offence(s).
Does the victim of the offence(s) have to agree to the OOCR?	The views and wishes of any victims will be sought and considered, however the decision to offer an OOCR rests with the Police or CPS.	The views and wishes of any victims will be sought and considered, however the decision to offer an OOCR rests with the Police or CPS.	The views and wishes of any victims will be sought and considered, however the decision to offer an OOCR rests with the Police or CPS.
Would the suspect be required to complete any conditions as part of the OOCR?	Yes. The OOCR will be given with one or more conditions which can be; reparative, rehabilitative, restorative or restrictive. Eg; a specific diversionary or educational activity, paying compensation etc	No. Conditions are not included with this OOCR.	Yes. The OOCR will be given with one or more conditions which can be; reparative, rehabilitative, punitive, restorative or restrictive. Eg; a specific diversionary or educational activity, paying compensation or a fine etc
What might happen if the suspect does not comply with any of the OOCR conditions?	All conditions set are voluntary, with no formal sanction for non-compliance. There is no specific power of arrest or detention for failing to complete the OOCR conditions.	N/A. Conditions are not included with this OOCR.	Where any conditions are not complied with the suspect may be prosecuted for the original offence. There is a power of arrest and detention for failing to complete the OOCR conditions.
What is the impact of accepting the OOCR on a suspect's criminal record?⁴	Details held on local police systems. May in certain instances be disclosed in an enhanced Disclosure and Barring Service (DBS) check.	Details held on PNC and local police systems. May be disclosed in future legal proceedings or in a standard or enhanced DBS check.	Details held on PNC and local police systems. May be disclosed in future legal proceedings or, as part of a basic, standard or enhanced DBS check

The NPCC Community Resolution Guidance, NPCC Outcome 22 Guidance, Adult Gravity Matrices, and the NPCC National OOCR Strategy can all be accessed via the NPCC Publications page (under the Criminal Justice Coordination Committee section) using this link: <https://www.npcc.police.uk/publications/All-publications/>

³ In line with NPCC guidance, some Forces may no longer use Simple Cautions at all or may only use them for very specific offence types. Legal Advisors will need to establish which of the matrices applies in their area.

⁴ This is a basic summary. The rules on how OOCR form part of a suspect's criminal record can be complex. Further guidance can be found at <https://www.gov.uk/tell-employer-or-college-about-criminal-record/cautions>.