



Adult Out of Court Resolutions

Procedure Statement

Out of Court Resolutions (OOCR) are a way of concluding criminal investigations without proceeding to a formal court prosecution. They deliver justice with fair and proportionate outcomes taking into consideration the victim's thoughts as well as addressing the offender's behaviour.

Linkages

Procedures

Adult Prosecution Policy

Polygraph Policy

Community-resolution-disposal procedure

Other Documents

Code of Practice for Adult Conditional Cautions

DPP Guidance on Adult Conditional Cautions

Adult Gravity Matrix Two Tier

Community Resolution Disposal (CRD)

CRDs are suitable for less serious offences or anti-social behaviour incidents, where an offender has been identified and the case is dealt with through informal agreement between the parties involved, as opposed to progression through the traditional criminal justice process. They are aimed at first time offenders where genuine remorse has been expressed and where the victim has agreed that they do not want the police to take more formal action. There is no escalation process if the offender does not complete the conditions.

OOCR Procedure

CRDs can be decided locally without the need to refer to the OOCRT. See the Community Resolution Disposal procedure for more information.

Prior to referral – supervisor/OIC

If the crime carries a police charging decision, the original supervisor can decide if an OOCR is appropriate. The OOCRs available from the OOCRT are Conditional Cautions (CC) or Deferred Prosecutions (DP). All other disposals (NFA, Charge (including Postal Requisition/Charge, Community Resolutions) can remain with the original OIC to complete and do not need a referral to the OOCRT.

If the OIC considers the offender suitable for a Conditional Caution or Deferred Prosecution based on the gravity matrix score they should complete an MG5. The supervisor should then review the crime, and if in agreement that an OOCR is appropriate they should complete the Niche template titled '*Sergeant Review and Authorisation for a referral to the OOCR team for an OOCR outcome*'. All sections must be completed.

Considerations for an OOCR

Supervisors should consider/check the following:

- Offender's previous convictions/outcomes;
- Observations regarding the offender's needs;
- Consultation with the Victim and their views sought (NB. OIC can deviate from such views)
- Whether the offender is agreeable to engaging with the OOCR team, support services and whether they are willing for the crime to be dealt with as an OOCR;
- A PACE compliant interview has taken place and the offender makes a clear admission whilst offering no defence OR this is 'no comment' interview but the evidence is overwhelming;
- The evidential test is met and this is in the public interest to continue but be dealt with out of court
- The gravity matrix score (including aggravating and mitigating factors)
- All niche tasks have been completed
- Relevant crimes have been recorded and, where appropriate, finalisation codes applied
- Review of all evidence
- Confirm the disposal decision (deferred charge or conditional caution) – see below for process for deferred prosecution and conditional cautions

Notes

- All safeguarding responsibilities remain with the original OIC, this includes completion of PPNs where required
- VWCM and VNA should be completed by the original OIC
- OOCRT cannot become OIC if there are further suspects with CPS or going through the courts

- Hate crime /domestic abuse cases may not be appropriate for direct referral to OOCRT – see below for further information (Likely to require CPS authority for OOCR in relation to Domestic/Hate incidents)
- The original OIC will be asked to complete the disposal paperwork with the offender once conditions have been decided by the OOCRT. See below for further information regarding Deferred Prosecutions and Conditional Cautions

Once the supervisor has completed the above, the OOCR Niche workflow can be sent to the OOCRT.

After referral – OOCRT only

Once the workflow has been received in the OOCR Niche inbox, the OOCR Sergeant will review the incident and either return to the OIC for rework or accept the case and allocate it to a member of the OOCRT.

Once allocated the OOCRT PC will complete an offender assessment by completing the Niche template titled '*Adult OoCR Offender Needs Assessment*'. They will assess the following criteria;

- Identification of specific offender needs including but not limited to
 - Translation required
 - Armed forces veteran
 - Foreign national offender
 - Housing or accommodation
 - Physical health or disability
 - Mental health, learning disability or special education needs (suspected or diagnosed)
 - Speech or language issues
 - Domestic abuse
 - Finance or benefits
 - Employment
 - Access to training or education (past or present, including exclusion from education or training programmes)
 - Drugs
 - Alcohol
 - Exploitation
 - Isolation
 - Care leaver/previously looked after child
 - Support agencies currently involved
- Victim's views
 - Wider neighbourhood concerns or community tensions
 - Vulnerability
 - Safeguarding measures
 - Support referrals

Once the assessment is complete, the OOCRT PC will either confirm the disposal option, change the disposal to another OOCR disposal (in which case the OOCR Sergeant should ratify the decision) or return the case for further work/charge/NFA.

Deferred Prosecution (DP – outcome 22) – OIC/Supervisor/OOCRT

Deferred Prosecution Schemes (DP) are a non-statutory disposal whereby the police have the option to put on hold a prosecution or caution until a diversionary activity is undertaken within a specified period of time. DP is an umbrella term used to encompass both deferred prosecutions and deferred cautions and is used interchangeably and is available for both adults and youth offenders.

Where a DP is offered, the decision to prosecute is put on hold whilst the offender completes the agreed diversionary conditions. Should the offender fail to comply then the prosecution is upheld. However successful completion of the conditions will result in no further action being taken. The same applies with a deferred caution, however in this instance non-compliance will result in the caution being issued. An admission of guilt will need to have been made at the time of deferring the caution or prior to the caution being issued in order for a caution to be given.

Where consideration is being given to the use of a deferred caution it is important that officers are aware and make clear to the offender that they will be given another set of conditions with that caution if they fail to comply with the diversionary activity. It is therefore advised that a deferred caution is not given where it is felt the offender is unlikely to comply with the conditions set, as it may indicate an unwillingness to comply with the additional conditions of the conditional caution.

NYP refer diversionary activity to a number of partners who are commissioned via the OPFCC. Once referred, offenders will be contacted the next working day via their preferred method to arrange an initial assessment appointment to meet a keyworker. This appointment will usually be within 7 days of the referral. The first appointment involves meeting with a keyworker, where an initial assessment of need will take place, at an agreed location. The agreement to the referral involves an undertaking to meaningful engagement with the keyworker. A contract with the keyworker will be developed which will involve three mandatory conditions:

1. An agreement not to reoffend within the period of the contract
2. An agreement to participate in Restorative Practice if appropriate – subject to the victim's agreement
3. An agreement to engage with the keyworker and undertake interventions as directed based upon the outcome of the 'needs' assessment
 - a. The contract will last for a maximum of 4 MONTHS, the exact length of contract will be decided by the keyworker and will be determined by the level of support required. The contract requires engagement with the keyworker throughout. Offenders will also be expected to continue to engage with other services if this is required.

- b. If the offender should breach the terms of the contract, then NYP have the right to invoke criminal proceedings at any stage during the contract period. This means that offenders may face charges for the original offence
- c. If offenders re-offend between the time of being referred and before they meet the keyworker, or if they commit a further offence at any point during the contract period then it may be deemed that they have failed the deferred prosecution scheme and the case will be referred back to the Criminal Justice System for consideration of a more formal outcome.

Notes

- As with all other disposals options, the victims should also be consulted with and their views taken into consideration
- The evidential test will need to have been met for all DPs.

Eligibility Criteria

- Women & Men 18 +
- Offence committed in North Yorkshire
- Suspect resides in North Yorkshire
- The offence is no more than 3 months old from when it was reported
- Offence would otherwise result in a caution or charge
- Suitable for a disposal in the Magistrates Court
- Admittance of guilt or provided “no comment” interview but there is sufficient evidence to charge
- Full understanding of the conditions of the scheme and a willingness to engage with the requirements of the scheme
- Must be authorised by a Sergeant or above

Previous offending

- First time offenders should be considered in every case
- Those that have previous formal criminal justice disposals should be considered where appropriate
 - No more than one referral to the scheme should be made in a 12 month period

Included offences

Any summary or either way offence

Excluded offences

- Any indictable only offence
- The subject is on court bail
- The subject is detained under the MHA
- PNC shows that the subject has a current suspended sentence or conditional discharge
- The subject is going to be released No Further Action for all presenting offences (the subject

- may still be referred by the OIC to the provider on a voluntary basis)
- Domestic and Sexual related offences
- Any Driving Offence
- The subject is unwilling to participate in the scheme
- The subject is on a current prison licence
- The subject is currently under statutory supervision such as probation or is a Registered Sex Offender

Administration

- DP and outcome 22 are not the same thing. DP is a recognised disposal option available, whilst outcome 22 is how the DP will be recorded in accordance with National Crime Recording Standards
- An outcome 22 code does not automatically imply that a DP has been used as a disposal option, but all DP cases should be recorded as outcome 22
- The OOCRT PC will complete the referral form (which includes consent to share data, and confirmation of acceptance of the DP) and may request the original OIC to ensure it is signed by the offender
- The referral should be sent to the appropriate agency

Conditional cautions – OIC/supervisor/OOCRT

Conditional Cautioning is a disposal intended to divert from court those lower-level cases that it would normally be in the public interest to prosecute, but where an Officer feels that a more effective outcome could be achieved for the victim, offender or both by the imposition of conditions as part of a caution.

North Yorkshire Criminal Justice Area is approved by the Director of Public Prosecutions to utilise Conditional Cautions in appropriate cases.

North Yorkshire Police (NYP) will implement the Conditional Cautioning scheme in accordance with the 'Directors Guidance' and the Ministry of Justice Code of Practice for Adult Conditional Cautions.

Indictable only offences must be referred to the CPS for authority; Summary and Either Way offences are a decision for the Police.

Process

Adult Conditional Cautions are a statutory disposal introduced by the Criminal Justice Act 2003 and allow offenders to be cautioned with conditions attached. If they fail to comply with the conditions they may be prosecuted for the original offence. The conditions may be reparative, rehabilitative, or a punitive financial penalty, aimed at repairing the harm to the victim or wider community, or changing the offender's behaviour.

Conditional Cautions provide an opportunity:

- to offer a proportionate response to low level offending;

- for suspects to make swift reparation to victims and communities;
- for suspects to be diverted at an early opportunity into rehabilitative services thereby reducing the likelihood of re-offending; and
- to punish the suspect by means of a financial penalty.

Although there are clear similarities between a Community Resolution Disposal (CRD), deferred prosecution (DP) and a Conditional Caution (CC), the CRD and DP should not be the default disposal routinely and especially where the offender has previously received informal disposals. Conversely, it may be more suitable to deal with the matter informally rather than unnecessarily criminalise the suspect, especially where they have no previous disposals.

The existence of previous convictions is not necessarily a bar to receiving a Conditional Caution. The Adult Gravity Matrix dictates the final case disposal and permits consideration of a Conditional Caution, even in cases where previous convictions exist, especially where those convictions are over five years old or are for dissimilar offences. However, if a suspect has failed to complete a previous Conditional Caution, or has recently been convicted of a similar offence, a Conditional Caution would not be considered appropriate unless exceptionally it is believed that the conditions might be effective in breaking the pattern of offending.

Conditional Cautions are available for all Summary (non-motoring) offences and common Either Way offences, including theft, fraud, criminal damage and simple possession of drugs. Offences for which a Conditional Caution can be given are set out in the CPS DPP's guidance.

Although failing to comply with the conditions attached to a caution is not an offence, a power of arrest for failing to comply is provided by Section 24A, Criminal Justice Act, 2003.

A Conditional Caution is not a conviction, but it is a statutory disposal and may be cited in any subsequent court proceedings. It is also covered by the provisions of the Rehabilitation of Offenders Act and remains 'live' for five years.

Adult Condition Caution: Operational considerations

These should be taken into account when police officers are deciding whether to administer an Adult Conditional Caution.

Actual offence – conditional cautions may only be offered for an offence set out in Conditional Cautioning: Adults – DPP Guidance | The Crown Prosecution Service and are not generally suitable where, if prosecuted, the suspect would be likely to receive a substantial community order or imprisonment.

Evidential standard – there must be sufficient evidence for a realistic prospect of conviction, where it is ascertained that the public interest is best served by a suspect complying with suitable conditions rather than being prosecuted.

Admission of guilt – the suspect must not have denied the offence.

Suspect consent – the suspect must be likely to accept the caution and explicitly consent to the conditions.

Suspect history – the suspect must be 18 years or over and be willing to comply with the conditions. Any previous offending should be assessed and a conditional caution dispensed only if considered appropriate to modify offending behaviour or make reparation for harm caused.

Victim check – the victim should be consulted and their views sought. They do not, however, have the right to insist that the matter is disposed of in a particular way. If appropriate, a victim can be awarded compensation or reparation.

Implications – if the conditions are not complied with or the suspect withdraws from the caution, they may be prosecuted for the original offence. A Conditional Caution forms part of a criminal record and may, in some circumstances, be disclosed in future proceedings or to an employer when applying to work with children and vulnerable adults. This is as part of a DBS check.

In cases where these criteria are satisfied, a Conditional Caution may be considered **as an** alternative to prosecution subject to the additional considerations.

Additional considerations

In addition to considering the public interest test in deciding whether to give a conditional caution the decision maker will take into account:

- the seriousness of the offence;
- the circumstances of the case;
- any views expressed by the victim;
- any wider neighbourhood or community considerations or concerns;
- the background, circumstances and previous offending history of the suspect;
- the willingness of the suspect to comply with possible conditions;
- the likely effect of the conditional caution;
- the likely outcome if the case proceeded to court;
- other relevant guidance issued by a relevant prosecutor; and
- for foreign offender conditions whether the relevant foreign offender can be removed from the UK.

A Conditional Caution can be given for one or more offences. An Adult Conditional Caution can be given only to those aged 18 or over at that time. Offenders under the age of 18 (10-17years) may receive a Youth Conditional Caution. Where a suspect has committed the offence(s) when they were Under 18, they cannot be issued with a Youth Conditional Caution once they attain the age of 18 years.

Where a number of offences are related and an out of court resolutions are considered suitable for all of them, it may be deemed suitable to group the offences and deal with them using one conditional caution. Before making this decision, the decision maker should consider whether the number of offences increase the gravity of the offending behaviour to a level where the public interest requires prosecution. Breach of any of the conditions makes the offender liable to prosecution for all the original offences.

Foreign Offender Conditions

Foreign offender conditions may be given to bring about the departure of a 'relevant foreign offender' from the United Kingdom. Relevant refers to someone that is without permission to enter

or stay in the UK. The condition will have the object of effecting departure from and preventing return to the UK. The conditions may require the offender to:

- regularly report to an immigration office, reporting centre, police centre or other similar place
- obtain or assist authorities in obtaining a valid national travel document, or
- comply with any lawful instruction given by the Secretary of State or an immigration officer.

The Police must consult with the UK Border Agency (UKBA) before deciding whether to give a foreign offender condition. In particular the Police should obtain confirmation about the offender's immigration status and the likelihood of removal from the United Kingdom within a reasonable period, also whether any dependants are required to be removed under the relevant immigration rules.

Foreign offender conditions can be offered in cases where the likely sentence would be a period of imprisonment, not exceeding 2 years.

Foreign offender conditions can be given on their own or in addition to one or more conditions that are rehabilitative, reparative or punitive.

A relevant foreign offender who has accepted a conditional caution with foreign offender conditions may still apply to remain in the UK on asylum or human rights grounds. Where this occurs, the foreign offender may choose to withdraw from the conditional caution. The Police should consider whether to treat the application to remain in the UK as non-compliance and whether the offender should be prosecuted with the original offence.

Foreign offender conditions **cannot** be given where there are reasonable grounds for believing that the offence is connected to human trafficking, where the offender is either a victim or perpetrator or; the offender has made an asylum or human rights claim to remain in the UK and that claim is outstanding. This does not, however, prevent foreign offender conditions from being offered where the asylum or human rights claim has been refused (and any appeal against that refusal has been finally determined.)

Polygraph Policy

North Yorkshire Police utilise Polygraph to support the risk assessment of convicted Sex Offenders and those under investigation for Indecent Image offences (pre-charge), to enable effective and informed risk management and safeguarding of potential victims.

The policy aims to provide clear direction and guidelines around the use of Polygraph for the Examiner, Offender Managers, Investigators and Supervisors involved in the management of post-conviction Sex Offenders and Pre-charge suspects.

Further information is available in the North Yorkshire Police Polygraph Policy

Conditions – OOCRT only

Once the case has been allocated to an OOCRT PC and the offender assessment has been completed, the OOCRT PC will decide which conditions are required.

The full range of approved offences may be considered, and the OOCRT PC may authorise conditions they deem appropriate, provided those conditions are:

- proportionate to the offence
- appropriate
- clear
- achievable
- verifiable

Types of Conditions

The conditions that can be attached to a conditional caution must have one or more of the following objectives:

- Rehabilitation – conditions which help to modify the behaviour of the offender, serve to reduce the likelihood of re-offending or help to reintegrate the offender into society;
- Reparation – conditions which serve to repair the damage done either directly or indirectly by the offender;
- Punishment – financial penalty conditions which punish the offender for their unlawful conduct.

Guidance on the Selection of Appropriate Conditions

Refer to the DPP guidance on Adult Conditional Cautions for information on conditions and financial penalties.

Time limits for completing conditions

In deciding on the time period within which conditions must be completed, a decision maker must take into account any time limits affecting the commencement of proceedings for the original offence and must ensure that the option of prosecuting the original offence in the event of non-compliance remains available.

- All rehabilitative, reparative and punitive conditions must be capable of being completed within 16 weeks where it is a summary only offence.
- Exceptionally a period of longer than 16 weeks may be suitable for an offence triable either way or an indictable only offence depending on the facts of the particular case but must not exceed 20 weeks. Such longer period must still be appropriate, proportionate and achievable.

Administration of a Conditional Caution

The authorised person* should carry out the following actions during the administration of a Conditional Caution:

- **explain the process to the suspect**, including the right to legal advice, the requirements of the conditions and verification of compliance, and the consequences of not complying with the conditions
- **explain the implications of receiving a Conditional Caution**, including the significance of the admission of guilt and criminal record implications
- **confirm that the suspect admits the offence** and is willing to comply with the conditions – the suspect should sign the MG14 indicating admission and compliance

with the conditions. They will also need to sign the consent form provided by the OOCRT in order for their details to be passed to the relevant agency

- **ensure the Conditional Caution is recorded appropriately.** Where the offence relates to a notifiable crime, a crime report must be completed. The recording of the offence and the subsequent detection must be carried out in accordance with the NCRS and the HOCR for crime.

*Conditional Cautions should be administered by an officer of Inspector rank in uniform. If an Inspector is not available, the duty Inspector will authorise a Sergeant to administer the caution.

The Conditional Caution may be administered in a police station or any other suitable location consistent with achieving the appropriate impact on the suspect. It will not generally be appropriate to administer a Conditional Caution in public (e.g. in the street) or in the suspect's home. The decision should normally be sought while the suspect remains in custody (if subject to arrest procedures) or at the Voluntary Attendance facility. However, it may be necessary to grant police bail to the offender or Release Under Investigation (RUI/ VAUI) for the decision-making process to take place.

The suspect should have access to full information about the implications of accepting a Conditional Caution so they can make an informed decision on accepting the disposal and formally admitting guilt. Such information will include the following: -

- the matter will be recorded on PNC;
- that it can be cited in criminal proceedings;
- in some cases, can be made available to employers;
- if the offence is listed under the Sex Offenders Act 1997, that a caution or conditional caution will also require them to register with the police for inclusion in the sex offenders register;
- if they do not make an admission, they cannot be cautioned or conditional cautioned;
- a decision on the appropriate disposal will be taken in accordance with the Directors Guidance on Charging in partnership with the CPS where required; and
- implications of Criminal Record Bureau (CRB) disclosure checks.

Biometrics

In cases where suspects have not been arrested but are interviewed as a Voluntary Attendee (VA) then consideration must be given to the taking of biometrics (fingerprints /DNA) if a Conditional Caution is to be delivered.

This will require an Inspectors authority in accordance with Section 61 (6) of PACE.

An Inspector can only authorise the taking of biometric samples where the:

- offence in question is a recordable offence, **and**
- the person has been convicted, or has received a conditional or simple caution, **and**
- an Inspector is satisfied that taking the fingerprints and DNA sample is necessary to assist in the prevention or detection of crime. There must be some basis to support this view (i.e. suspect may be involved in other similar outstanding offence but insufficient evidence to arrest/interview, or there are reasonable grounds to believe that future offending may occur).

Where deemed appropriate it will be the investigating officer's responsibility to obtain an Inspector's authority to take the samples in these circumstances. The authority may initially be verbally given but subsequently should be confirmed in writing and recorded on the VA record.

Consideration should be given to the suspect, offence, likelihood of reoffending, any intelligence or other relevant circumstances in deciding whether to take these samples.

Where a decision is taken not to take biometric samples then this should be documented on the VA records and in addition an entry placed on the Occurrence Enquiry Log (OEL).

Anyone **arrested** for a recordable offence should routinely have their biometrics taken in custody.

Compliance / Non-compliance with a Conditional Caution

If the conditions of the caution are complied with then no further action is required.

If the conditions are not complied with, or the offender withdraws from the conditional caution the case will be reviewed, and the offender may be prosecuted for the original offence.

A power of arrest for failing to comply with the conditions of a Conditional Caution is provided by Section 24A, Criminal Justice Act, 2003. The purpose of the power of arrest is to enable police officers to effectively investigate the circumstances of any failure to comply and can be exercised when necessary.

If a suspect, subject to conditions under a Conditional Caution, fails to comply with any of the conditions imposed, the OOCRT PC will consider whether criminal proceedings are to be instigated against the person for the original offence.

When a notification of failure to comply is received, the OOCRT PC will assess the nature of the failure to comply and commission enquiries into the failure as deemed appropriate. Each breach will be treated on its own merits and once enquiries into the breach have been completed, the OOCRT PC will give consideration to the following:

- Was there a reasonable excuse for failing to comply with the conditions?
- Is the extent of any part compliance sufficient to regard the Conditional Caution as complete?

In considering a breach case, the OOCRT PC will have the following options:

- cancel the Conditional Caution and task the original OIC to prosecute the original offence
- extend the completion date to allow the condition to be fulfilled
- revise the conditions. (A new MG14 should be completed and the suspect asked to sign to agree the new conditions. Failure to sign may result in prosecution for the original offence)
- take no further action, if the Officer believes part completion is sufficient to regard the caution as complete.

Where it is decided to prosecute the original offence, the original OIC will ensure that an appropriate GAP/NGAP file is submitted to the Prosecution Team in the normal manner.

The decision maker must be satisfied that:

- there is sufficient evidence to charge
- the suspect has admitted the offence
- the Gravity Matrix supports use of a Conditional Caution, taking into account:
 - the views of the victim
 - the public interest
 - the seriousness of the offence
 - conditions should be created that are proportionate, appropriate, clear, practicable, achievable and verifiable.

Role of the Administrator

The role of the Conditional Cautioning Administrator is performed by the OOCRT.

The role is pivotal in coordinating the scheme by:

- keeping accurate records and tracking the progress of Conditional Cautions
- updating PNC
- notifying and coordinating conditions with other agencies i.e. HMCTS Central Finance Unit
- directing or undertaking further investigative work in breach cases
- quality control for the scheme
- acting as a point of knowledge for enquiries, internal and external
- advising the Crime Recording and Occurrence Management Unit (CROMU) when there has been a breach of a conditional caution to ensure the investigation is reopened
- advising OICs and supervisors about the suitability of Conditional Cautions
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Role of the Crown Prosecutor

Authorisation from a Crown Prosecutor should be sought before offering a Conditional Caution for an indictable only offence. The police are permitted to make the decision to offer a Conditional Caution for any offence triable summarily or either way. In cases of breach or non-compliance with those conditions decided by CPS, the case must be referred back to the CPS for a decision on whether to prosecute the original offence. Wherever possible, the case should be referred to the lawyer who made the original cautioning decision.

Crown Prosecutors will make Conditional Cautioning decisions in accordance with the Code for Crown Prosecutors, applying both the evidential and public interest tests, as laid out in the five key requirements.

Role of Her Majesty's Courts and Tribunal Service (HMCTS)

HMCTS Central Finance Unit will undertake the end-to-end process of receiving and paying out monies in compensation cases.

Notification to HMCTS of a compensation condition will be undertaken by the Conditional Cautioning Administrator.

Role of PNC

Accurate recording of Conditional Cautions on PNC is an essential part of the process. The PNC Department have separate national guidance on data input for Conditional Caution cases.

Information that a Conditional Caution has been administered will be captured direct by PNC using existing arrest search processes. Subsequent notification to PNC that the different stages, including finalisation, of a Conditional Caution have been reached will be undertaken by the Conditional

Cautioning Administrators, using either the NICHE case finalisation process or a separate E mail to PNC Records.

Domestic Abuse and Hate Crimes

Domestic abuse can involve repeated offending and escalating behaviour which, without appropriate intervention, may put victims at increased risk. It is rare that an Out of Court Resolution would be appropriate for a domestic abuse case. Simple cautions may be used in **exceptional circumstances**, where a full rationale from an **Inspector** is recorded.

From 1 August 2024, all police forces who can comply with the pre-conditions set out in the Code of Practice will be able to authorise conditional cautions where the case meets the following criteria:

- The case involves lower-level offending (less serious offences where the circumstances of the offending mean the suspect would not receive a custodial sentence or high-level Community Order), and
- the victim is of standard risk, and
- the case complies with the pre-conditions set out in the draft Code of Practice for Out of Court Resolutions (there are no elements of controlling and coercive behaviour, and where there is no pattern of repetitive behaviour – see Code of Practice for full list of pre-conditions)

North Yorkshire Police does not currently comply with the pre-conditions, therefore conditional cautions for domestic abuse cases must continue to be issued after consultation with CPS until further notice.

Forces can continue to refer exceptional cases through to the CPS on a case by cases basis where they fall outside of the existing pre-conditions. The specific chapter of legal guidance on Domestic Abuse may be helpful when considering whether this is an exceptional case.

Outcome 22 is an out of court resolution that can be applied to a crime, where diversionary, educational or intervention activity has taken place to address the offending behaviour. You are **not** able to apply outcome 22 in cases of Domestic abuse. Please continue to refer perpetrators of domestic abuse to support services where it is evident that this would be beneficial as a support and/or preventative measure, these referrals can make a difference however they are **voluntary**.

Use the appropriate outcome, outcome 22 cannot be used in cases of domestic abuse.

- Firstly, consider whether an evidence led prosecution (ELP) can be pursued.
- Where this is not the case and a victim does not support a prosecution, Outcome 16 should be applied.
- Where a victim does support a prosecution but there is insufficient evidence to progress, Outcome 15 should be applied.

The full suite of outcomes can be found here [Crime Recording Rules for Frontline Officers and Staff](#) page 14.

It is unlikely that hate crime offences would be appropriate for conditional cautions. This is because of the serious nature of these offences and the targeting of an individual because of their personal characteristics, or perceived personal characteristics. The devastating impact of hate crimes on, not only the individual, but also on communities and wider society demands a robust response and the opportunity to apply for a sentence uplift to send the clear message that those who target people because of their race, religion, sexual orientation, transgender identity or disability should expect to receive a higher sentence. However there may be rare occasions, for example a young person of good character, which may merit the consideration of a conditional caution. The specific chapters of legal guidance on Racist and Religious Hate Crime, Homophobic, Biphobic and Transphobic Hate Crime, and Disability Hate Crime and other Crimes against Disabled People may be helpful when considering whether this is an exceptional case.

In such cases prosecutors should ensure that they have fully considered the risk assessment provided by the police, the history of the relationship and the circumstances of the offence before seeking approval from their Deputy Chief Crown Prosecutor for a DA case or or HQ Hate Crime team for Hate Crime.

General Information

Restorative Justice in North Yorkshire

Restorative Justice is provided by the Police, Fire and Crime Commissioner in partnership with a commissioned service who provide the service across the whole of the North Yorkshire area including the City of York.

Restorative Justice (RJ) brings those harmed by crime or conflict and those responsible for the harm into communication, enabling everyone affected by a particular incident to play a part in repairing the harm and finding a positive way forward. It is voluntary for both the victim and suspect/offender and the latter must have accepted responsibility for the harm caused. It can be used alongside any outcome, either as a condition for an out of court disposal or separately.

Victims

The views of the victim should always be considered when reaching any disposal decision on an individual. However, it must always be made clear to the victim that, although their views are important, the final decision on disposal for an individual rest with the police and CPS (where relevant).

All decisions must be notified to victims in accordance with the requirements of the victim code, within 24 hours of the decision / disposal for enhanced service, and 5 working days for standard service.

Process

Fingerprints, Photographs and DNA should always be taken where appropriate and in compliance with legislation.

Scrutiny

An independent out-of-court-disposals scrutiny panel was established in 2013 and reviews a random selection of statutory/non- statutory disposals that are dealt outside of the judicial system. The purpose of the group is to ensure that victims and suspects are dealt with proportionately and that appropriate outcomes are provided.