



Ministry  
of Justice

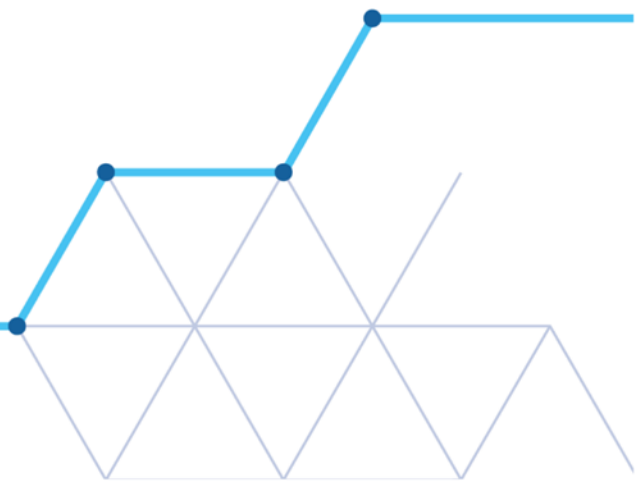
# Adult Out of Court Disposal Pilot Evaluation – Final Report

**Ashley Ames, Elena Di Antonio, Joe Hitchcock,  
Stephen Webster – Ipsos MORI**

**Kevin Wong, Dan Ellingworth, Linda Meadows –  
Hallam Centre for Community Justice, Sheffield Hallam University**

**David McAlonan, Noah Uhrig, Caroline Logue –  
Ministry of Justice**

Ministry of Justice Analytical Series  
2018



*Analytical Services exists to improve policy making, decision taking and practice by the Ministry of Justice. It does this by providing robust, timely and relevant data and advice drawn from research and analysis undertaken by the department's analysts and by the wider research community.*

## **Disclaimer**

The views expressed are those of the authors and are not necessarily shared by the Ministry of Justice (nor do they represent Government policy).

First published 2018



© Crown copyright 2018

This publication is licensed under the terms of the Open Government Licence v3.0 except where otherwise stated. To view this licence, visit [nationalarchives.gov.uk/doc/open-government-licence/version/3](http://nationalarchives.gov.uk/doc/open-government-licence/version/3) or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or email: [psi@nationalarchives.gsi.gov.uk](mailto:psi@nationalarchives.gsi.gov.uk).

Where we have identified any third party copyright information you will need to obtain permission from the copyright holders concerned.

Any enquiries regarding this publication should be sent to us at [mojanalyticservices@justice.gsi.gov.uk](mailto:mojanalyticservices@justice.gsi.gov.uk)

This publication is available for download at <http://www.justice.gov.uk/publications/research-and-analysis/moj>

ISBN 978-1-84099-750-7

## **Acknowledgements**

We would like to thank David McAlonan, Caroline Logue, Noah Uhrig, Tillie Paul and Christina Golton at the Ministry of Justice for their support and guidance throughout the study.

We would also like to acknowledge the contributions of: Rachel Kinsella, Jessica Bamonte, Mike Foden and Chris Damm from Sheffield Hallam University; and the input from Peter Neyroud CBE QPM, Lecturer in Evidence-based Policing, Institute of Criminology, University of Cambridge who has reviewed draft reports and provided comments.

We would like to express our thanks to all the people representing the various parts of the criminal justice system who participated in this research for their time and openness. We are particularly grateful to the individuals in the police pilot and counterfactual areas who patiently collated the data extracts and helped to organise fieldwork.

Finally, we are extremely grateful for the contribution of the victims of crime for giving up their time to take part in the study.

# Contents

## List of tables

## List of figures

<b>1. Summary</b>	<b>1</b>
1.1 Introduction	1
1.2 Methods	1
1.3 Implications	4
<b>2. Introduction</b>	<b>5</b>
2.1 Policy context	5
2.2 Research aims and objectives	7
2.3 Report structure	8
<b>3. Methodology</b>	<b>9</b>
3.1 Process evaluation	9
3.2 Impact evaluation	11
<b>4. Pilot implementation</b>	<b>15</b>
4.1 Ethos and aspirations	15
4.2 Cultural change	15
4.3 Implementation timing	16
4.4 Pilot guidance	17
4.5 Pilot training	17
4.6 Building capability	18
4.7 Stakeholder perceptions	19
4.8 Models of delivery	21
<b>5. Delivering Out of Court Disposals</b>	<b>22</b>
5.1 Volume of OOCs	22
5.2 Likelihood of using Out of Court Disposals	22
5.3 Setting conditions	23
5.4 Repeat Out of Court Disposals	26
<b>6. Partnership working and compliance</b>	<b>29</b>
6.1 Partnership working	29
6.2 Compliance	30

6.3	Breaches	33
<b>7.</b>	<b>Pilot outcomes</b>	<b>35</b>
7.1	Re-offending	35
7.2	Victims and Offenders	37
7.3	Domestic Violence and Hate Crime	39
7.4	Outcome of Existing OOCs	42
<b>8.</b>	<b>Economic evaluation of the pilot</b>	<b>44</b>
8.1	Introduction	44
8.2	Summary of findings	44
8.3	Unquantified impacts	46
8.4	Data limitations	47
8.5	Cost benefit conclusion	48
<b>9.</b>	<b>Conclusions and implications</b>	<b>49</b>
9.1	Wider implications	49
	<b>References</b>	<b>52</b>
	<b>Appendix 1</b>	<b>53</b>
	OOCD monitoring data	53
	<b>Appendix 2</b>	<b>56</b>
	Assessment of Time Trends in the Volume of Issued OOCs	56
	<b>Appendix 3</b>	<b>59</b>
	Qualitative data	59
	<b>Appendix 4</b>	<b>60</b>
	Compliance data analysis	60
	<b>Appendix 5</b>	<b>62</b>
	Multivariate analysis	62
	<b>Appendix 6</b>	<b>68</b>
	<b>Economic technical supplement</b>	<b>68</b>

## List of tables

Table 2.1: Two-tier OOCDFramework: Conditional Cautions (CC) and Community Resolutions (CR)	6
Table 3.1: Quantitative data, periods of assessment and their limitations	11
Table 4.1: Key operational dimensions for the OOCDF pilot areas	21
Table 5.1: Repeat OOCDFs by pilot and counterfactual areas	27
Table 5.2: Offence categories for the first OOCDF in Q1 and repeat OOCDFs	28
Table 6.1: Actions taken following breaches in pilot areas	33
Table 7.1: Number and proportion of offenders in the pilot and two counterfactual areas who re-offended within the first three months of receiving an OOCDF in Q1 of the pilot period	36
Table 8.1: Implementation, Monetised staff hours, 2014/15 prices (rounded)	44
Table 8.2: Status quo, 2014/15 prices (rounded)	45
Table 8.3: Two-tier framework, 2014/15 prices (rounded)	45
Table A1.1: Data extracts provided by the pilot areas	54
Table A1.2: Limitations of the data provided by the counterfactual areas	54
Table A2.1: Results of a regression of the proportion of OOCDFs issued on an indicator of pilot area versus the rest of England and Wales, time and their interaction	57
Table A4.1: Limitations of the compliance data from the pilot areas and implications	60
Table A4.2: Available date data for analysis of compliance	61
Table A5.1: Results of the logistic regression, predicting the likelihood of receiving a Conditional Caution as a function of available offender protected characteristics and controls	64
Table A5.2: Results of the logistic regression, predicting the likelihood of receiving a Conditional Caution as a function of available victim protected characteristics and controls	66
Table A6.1: Estimated number of staff hours (rounded)	68
Table A6.2: 2014/15 Prices	69
Table A6.3: Implementation, monetised staff hours, 2014/15 prices (rounded)	69
Table A6.4: PND outcomes in England and Wales, 2014	72
Table A6.5: Average cost by OOCDF type across all manners of disposal	73
Table A6.6: Crown Prosecution Service cost per defendant, Magistrates' courts	73
Table A6.7: Estimated costs and benefits of the status quo (rounded), 2014/15 prices	74
Table A6.8: Estimated costs and benefits of the OOCDF reform (rounded), 2014/15 prices	76

## List of figures

Figure 5.1: The proportion of CC conditions by categories across the pilot areas over the pilot period (from 3rd November 2014 to 31st October 2015)	25
Figure 6.1: Cumulative compliance rates over 24 weeks from OOCd issue date	32
Figure 7.1: Share of Adult OOCds in Counterfactual Police Areas	42
Figure 7.2: Share of Adult OOCds in Pilot Police Areas	43
Figure A6.1: Diagram of volume flows under the status quo	70
Figure A6.2: Diagram of volume flows under the two-tier framework	75

# 1. Summary

## 1.1 Introduction

Adult out of court disposals (OOCs) are a type of disposal for a criminal act that is issued by the police to an adult offender. OOCs allow the police to deal quickly and proportionately with low-level, often first-time, offending which could be resolved more appropriately without a prosecution in court.

The current adult OOC framework contains seven different types of OOC. These are Simple Cautions, Conditional Cautions, Community Resolutions, Penalty Notices for Disorder (PNDs), Fixed Penalty Notices,<sup>1</sup> Cannabis Warnings and Khat Warnings.

A pilot was launched in 2014 to test the impact of a simplified OOC framework that is easier for the public to understand and for practitioners to implement and which requires offenders to take action to comply with their disposals. The pilot framework was tested in three police force areas for a year.<sup>2</sup> The simplified pilot framework meant that only two OOC types were available in the pilot areas, namely Community Resolutions (CRs) and Conditional Cautions (CCs).<sup>3</sup>

A process and impact evaluation was commissioned by the Ministry of Justice (MoJ) to: understand differences in outcomes between the pilot and counterfactual areas (and the rest of England and Wales where possible); understand the experiences of the pilots from the perspectives of delivery stakeholders and victims of crime; and to identify good practice.

The evaluation was designed to assess whether the objectives of transparency and simplicity the revised framework were met in a way that did not adversely impact the police, Her Majesty's Courts and Tribunal Service (HMCTS), the Crown Prosecution Service (CPS) and the National Offender Management Service (NOMS).

## 1.2 Methods

A *process evaluation* was conducted using a qualitative case study design covering the three pilot police force areas. In-depth interviews captured the perspectives of the different stakeholders involved in the pilot and examples of good practice in implementation and

---

<sup>1</sup> Fixed Penalty Notices are largely used for motoring offences and were exempt from this pilot.

<sup>2</sup> The pilot police force areas are described in Section 2.1.

<sup>3</sup> The characteristics of CRs and CCs are described in Section 2.1.



delivery. A total of 74 people took part, including the police, CPS staff, HMCTS staff, intervention providers plus a small number of victims and victim support agencies.

An *impact evaluation* drew together various data, including numbers of repeat OOCs and OOC compliance in the pilot areas and three counterfactual (comparison) police forces. An initial snapshot of re-offending data after three months was sourced from the Police National Computer (PNC). Data on the number of staff hours associated with implementation and delivery were collected from the pilot areas and one counterfactual area. In addition, Home Office national crime outcomes data were used to examine proportions of crime resolved using OOCs.

Various factors limited the impact analyses. These include missing data, small cell counts when looking at some sub-samples, shorter than traditionally used periods for assessing re-offending and, particularly in the counterfactual areas, data gaps. Some of the results, therefore, need to be treated with caution.

## Key findings

The key findings from the process evaluation may be broken down into interviewee sub-sets as follows:

- **Police** interviewees were positive about the simplified process, which they equated to the reduced number of options available, but also the formalised routes for intervention referral and specified guidance. They were concerned about not having adequate resources to effectively manage the additional work involved in condition setting and monitoring. Some officers and intervention providers thought a longer implementation period would help to bed-in operational and cultural changes adequately.
- Views from the six **victims** interviewed were mixed and related to key aspects of OOCs generally rather than specific elements of the pilot. Victims appreciated the clarity of communication from the police and partner agencies. The importance of being given the option of engagement in the condition-setting process was noted and may be particularly helpful when victims are unfamiliar with OOCs more generally.
- **Partner agencies** interviewed described various pilot outcomes. Some interviewees felt the pilot gave them the chance to make a positive difference to offenders' lives in terms of desistance. Factors were noted which could provide greater scope for success. These included improved clarification of

responsibilities across agencies, improved cross-agency communications (particularly early on in the process) plus improved guidance and training for officers around conditions and referrals.

- More generally, the process evaluation showed that the three pilot police forces adopted distinct operational models. These differed according to whether specialised teams assessed offenders' needs and outcomes, the extent to which central guidance was adapted locally, the timing of training, how disposal conditions were reviewed and monitored and the adequacy of IT monitoring systems.

The key findings from the impact evaluation data were as follows:

- Analyses showed no difference between pilot sites and the rest of England and Wales regarding the likelihood of issuing OOCs. This may be seen as a positive and reassuring finding given the major changes to the disposal options within the pilot sites and move away from the familiar set of options, notably the removal of the Simple Caution option for officers.
- The pilot areas recorded a total of 13,643 adult OOCs between 3 November 2014 and 31 October 2015. Of this total, 59% were Community Resolutions (CRs) and 41% were Conditional Cautions (CCs). Over the same period the counterfactual sites recorded a total of 13,273 OOCs, of which 55% were CRs, PNDs or Cannabis/Khat Warnings and 45% were Simple Cautions or CCs.
- Rehabilitative conditions were the most commonly used conditions in CCs across the pilot areas. They were followed by reparative conditions, then restrictive conditions and finally punitive conditions.<sup>4</sup>
- Police officers gave examples of incidents where setting conditions was difficult due to limited training and/or the nature of the incident. Some conditions were cited that might not seem to be meaningful to the offender or support desistance.
- OOCs for domestic violence (DV) or hate crime flagged offences were less common than for other types of offences in these data. Based on the limited data, fewer DV-flagged offenders re-offended within three months of receiving their first OOC compared to non-DV flagged offenders. A very small number of offenders with hate-crime flagged offences re-offended over the same period.
- Across the pilot areas, the compliance rate was lower for DV-flagged cases resolved using a CC than other CC cases. The pattern was reversed for CRs,

---

<sup>4</sup> The types of CC conditions are described in Section 5.3. They are also explained in [http://www.cps.gov.uk/publications/performance/conditional\\_cautioning/](http://www.cps.gov.uk/publications/performance/conditional_cautioning/).

where the compliance rate of DV flagged cases was higher than for non-DV flagged.

- Among offenders receiving an OOCd during Quarter 1 of the pilot period (i.e. Quarter 1 offenders), there was no difference between pilot and counterfactual areas in proven re-offending within three months. This initial conclusion may not accurately represent the impact on re-offending of the entire cohort of OOCd offenders during the complete pilot period.
- Similarly, among Quarter 1 offenders, monitoring data showed no difference between pilot and counterfactual areas in receipt of a further OOCd over the remaining nine months of the pilot period.

The main finding from the economic evaluation was as follows:

- The total quantifiable cost of implementing the OOCd reform across the three pilot areas was estimated to be around £0.8 million in 2014/15 prices. The quantifiable net cost of operating the two-tier OOCd framework was roughly £1 million (or 70%) higher across the pilot areas than under the status quo.

### **1.3 Implications**

The findings point to a number of elements that would be important to the delivery of a two-tier OOCd framework if it was to be rolled-out more widely:

- A minimum six-month implementation period before going live (or a confirmation from police areas and service providers that they are operationally ready before commencement if less time is considered).
- Continued monitoring of DV and hate crime resolved by an adult OOCd to assess the impact of the two-tier framework on these types of cases.
- For greater transparency and accountability, police forces need to monitor outcomes by victim and offender protected characteristics.
- Access to adequate IT systems to enable fast and effective compliance monitoring.
- Dedicated resources for police and intervention providers to undertake the extra work entailed by the two-tier framework, particularly around additional OOCd compliance monitoring and effective assessment of more complex cases than otherwise.

## 2. Introduction

### 2.1 Policy context

In England and Wales there are currently seven out of court disposals (OOCs) that police officers can administer in response to low-level offences committed by adults who admit responsibility at an early opportunity:<sup>5</sup>

- Simple Cautions;
- Conditional Cautions (CCs);
- Penalty Notices for Disorder (PND);
- Fixed penalty notices (FPNs);
- Cannabis Warnings;
- Khat Warnings; and
- Community Resolutions (CRs).

Given that they are available mostly for motoring offences, FPNs were out of scope of the pilot and evaluation.

According to published figures, there were around 339,000 OOCs (including CRs but excluding FPNs) issued in the year to September 2015, of which the most common type was cautions at 38% of the total.<sup>6</sup> In contrast, there were 1.47 million defendants proceeded against in court over the same period and 1.23 million defendants were convicted.

A revised two-tier OOC framework was developed following extensive consultation with stakeholders and practitioners (MoJ, 2013; 2014).<sup>7</sup> The essential rationale for this reform was that “OOCs must have meaningful and appropriate consequences for the offender; the punishment must fit both the offender and the offence.”<sup>8</sup>

---

<sup>5</sup> Youth offenders are dealt with by way of a separate OOC framework, which was outside the scope of this pilot.

<sup>6</sup> Table Q1.1, “Criminal Justice Statistics Quarterly: September 2015”, MoJ, <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-september-2015>. An unknown proportion of this OOC total relates to juveniles – e.g. CRs can be issued to juveniles, but the age of the recipient is not centrally recorded. The published figures do not distinguish between Simple and Conditional Cautions.

<sup>7</sup> <https://www.gov.uk/government/consultations/consultation-on-out-of-court-disposals>.

<sup>8</sup> Paragraph 11, page 7, “Out of Court Disposals Consultation Response”, MoJ, 3 November 2014, [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370053/out-of-court-disposals-response-to-consultation.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370053/out-of-court-disposals-response-to-consultation.pdf).

The upper tier of the revised two-tier framework is the Conditional Caution (CC). It was recognised that the CC was a disposal that could have significant value by engaging the victim in the process and by requiring the offender to take actions to repair the harm caused by their offence. The stakeholder and practitioner consultation found that one reported barrier to up-take was the continued availability of the Simple Caution, which is a less onerous and more familiar option to police officers, but involves less focus on consequences. It was decided therefore that the upper tier of the proposed OOCDF framework should use the CC and remove entirely the option to use the Simple Caution.

The Community Resolution (CR) also entails offender action and victim engagement in response to low level offending. Consequently, it was proposed that the CR should be used as the lower tier of the new OOCDF framework and the use of the PND, Cannabis Warning and Khat Warning should end.

The principal features of the framework’s two tiers are set out in Table 2.1.

**Table 2.1: Two-tier OOCDF Framework: Conditional Cautions (CC) and Community Resolutions (CR)**

<b>Conditional Caution (CC)</b>	<b>Community Resolution (CR)</b>
<p>Used when the offender admits guilt, when there is a realistic prospect of conviction in court for the offence, and when the public interest can best be served by an offender complying with suitable conditions rather than a prosecution.</p> <p>Conditions can be punitive, reparative, restrictive and/or rehabilitative in nature.</p> <p>Conditions can involve Restorative Justice.</p> <p>An offender must agree to accept the CC and the conditions attached to it.</p> <p>Failure to comply with the agreed conditions can result in prosecution for the original offence.</p> <p>Offenders generally have 16–20 weeks to comply with conditions, depending on the offence type.</p> <p>A CC forms part of an offender’s criminal record.</p>	<p>Used for mainly minor offences that are not generally prosecuted in court.</p> <p>Can involve a bilateral agreement between offender and victim, where there is one.</p> <p>Offender has to admit responsibility for the offence.</p> <p>Offenders agree to undertake actions. These could include repairing the harm caused to the victim or wider community (e.g. formal apology) or attending a rehabilitative course.</p> <p>Actions can involve Restorative Justice.</p> <p>No generally prescribed time limit for complying with CRs.</p> <p>Currently a non-statutory type of OOCDF.</p> <p>A CR does not form part of a criminal record.</p>

In view of the scale of these changes and the low previous uptake of the CC in particular, the Government and police decided in 2014 to pilot elements of the new framework before taking a decision on whether to roll this out across England and Wales.

The pilot involved three police forces ceasing the use of Simple Cautions, Cannabis Warnings, Khat Warnings and PNDs. Instead the police forces concentrated on two disposals: the CC and the CR. The three areas were also granted an exemption from the Director of Public Prosecution's guidance on Conditional Cautions to allow them to use CCs for offences involving domestic violence and hate crime in limited circumstances where previously only Simple Cautions could have been used.

This streamlined adult OOCDFramework was piloted for 12 months from 3rd November 2014 to the 31st October 2015 in three police force areas: A, B and C. Over the same time period, three additional police force areas – D, E and F – acted as counterfactuals, retaining the existing OOCDFramework and thereby operating 'business as usual'.<sup>9</sup> All forces continued to change in response to operational, organisational and wider needs. As far as possible, however, the counterfactual police forces avoided changes made to the existing OOCDFramework within the pilot period.

## **2.2 Research aims and objectives**

The research aims were to: assess whether (a) the pilot achieves the requirements of greater simplicity and transparency, with (b) acceptable wider implications for CJS partners (i.e. police, HMCTS, CPS, NOMS).

The research objectives were to:

- Understand how the process of a simpler adult OOCDFramework worked from an operational (police, CPS, HMCTS, intervention providers) and victims' perspective.
- Understand differences in outcomes at both the initial disposal stage and throughout the pilot period between the pilot and counterfactual areas.
- Identify any changes to police/CPS charging behaviour and examine decisions to administer OOCDFrameworks for certain key offence types.
- Explore any behavioural change in offenders' compliance with OOCDFramework or further re-offending as a result of the simpler OOCDFramework.

---

<sup>9</sup> The counterfactual areas were selected by the MoJ using the Home Office 'Most similar groups' (MSG) matching system. This aligns police forces in terms of demographics (e.g. population density and deprivation) and throughput of disposals. The MSG matches to the pilot areas were then compared against the Home Office Crimes detected in England and Wales 2012/13 data to match as far as practical on their cautioning rates.

- Determine the trajectory of offenders under a simpler framework.
- Provide inputs to estimate the immediate change in costs of a simpler framework.
- Identify good practice, potential improvements and lessons learned.

## 2.3 Report structure

Findings from the process and impact evaluations have been combined in this report. The report chapters and sections address the specific research questions. The report presents quantitative data findings and states whether these findings are statistically significant or not. Where data were available, a comparison has been made between the pilot areas and the counterfactual areas functioning as the ‘*status quo*’.

*Chapter 3: Methodology* summarises the quantitative datasets used in this report, the analysis that has been undertaken and outlines some general limitations of the data and analyses. It also summarises the fieldwork undertaken for the process evaluation and the limitations of these data.

*Chapter 4: Pilot Implementation* explains the diversity of implementation across the pilot areas and illustrates the three models of pilot delivery described by participants using process evaluation data.

*Chapter 5: Delivering OOCs* uses quantitative monitoring data to show how day to day delivery was conducted across the pilot and counterfactual areas, with context provided by process evaluation data.

*Chapter 6: Partnership Working and Compliance* maps out the partnerships during the pilot from the process evaluation data and presents quantitative data findings on compliance and breaches.

*Chapter 7: Pilot Outcomes* presents data on re-offending and the impact of the pilot on offenders with domestic violence and hate crime-flagged offences.

*Chapter 8: Economic evaluation of the pilot* presents the net impact of the two-tier OOC reform in monetary terms. This chapter was provided by the MoJ.

*Chapter 9: Conclusion and Implications* draws together the implications of the process and impact findings for the potential roll-out of the pilot framework.

## 3. Methodology

This chapter summarises the qualitative and quantitative datasets used in this report, the analysis undertaken and sets out some general limitations of the data and analyses.

### 3.1 Process evaluation

Fieldwork was conducted in each of the three OOCB pilot police force areas. A case study design was used, with each police force area being a single 'case'. The case study approach enabled the range of police and stakeholder perspectives to be captured within each pilot area. Seventy-four interviews were conducted across the three OOCB pilot areas with a purposive sample of: police officers; intervention providers; Crown Prosecution Service (CPS) and HM Courts and Tribunal Service (HMCTS) staff; domestic violence intervention services; and victims of crime.

The achieved sample for each participant group was as follows:

- 45 police officers (26 frontline; 9 decision makers; 10 management staff);
- 12 intervention providers (10 rehabilitative providers; 2 reparative);
- 3 Crown Prosecution Service (CPS) staff;
- 3 HM Courts & Tribunal Service staff;
- 6 victims of crime (including 1 domestic violence (DV) case); and
- 5 providers of DV intervention services (3 based in the pilot areas and 2 with a national remit to supplement the low number of DV victims recruited).

A case and theme-based approach to analysis of the interview data was adopted using the Framework method (Ritchie, Ormston, Lewis & McNaughton Nicholls, 2013).

#### Methodological challenges

Qualitative research is designed to be exploratory and provides insight into the perceptions, feelings and behaviours of the audiences which have been purposively sampled. Findings are not statistically representative of the views of all the relevant audiences within or across the pilot areas. Although this report includes some indications of how typical views or experiences were across the sample or within subgroups, indicated through the use of words such as "most", "many" and "few", this should be considered indicative among those interviewed. It does not give a measure of the prevalence of different views among the relevant audience. The perceptions of participants make up a considerable proportion of the



evidence in this study and, although such perceptions may not always be factually accurate, they represent the truth to those who relate them.

It is worth noting that the police leads in each area had a significant role in the selection of officers and victims to be approached for research interview. This meant that people with a particular perspective on pilot delivery may have been referred to the research team. To counter this, interviewers followed standard good data collection practice, mining and probing for both positive and negative accounts of the pilot.

Some officers had limited exposure to OOCs at the first fieldwork visit. To manage this, top up interviews were held three months later in each pilot area. This gave greater certainty that the findings captured different experiences throughout the pilot.

Only six interviews were achieved with victims of crime.<sup>10</sup> This is particularly acute for victims of domestic violence and hate crime where only one interview was achieved. The interviews should therefore be considered as illustrative.

A further point relates to the extent that pilot areas “symbolically represent”<sup>11</sup> wider practices among police forces. Given the diversity of practices that was evident between the three pilot areas, the evaluation findings thus only give an initial indication of the range of challenges and benefits that may be encountered in a wider roll out.

Many of the successes and challenges identified in the subsequent sections are not unique to this evaluation. Similar themes have emerged in the literature covering process evaluations of OOCs (see Blakeborough & Pierpoint, 2007; Neyroud & Slothower, 2015), and other evaluations of pilot programmes in the Criminal Justice System (Turley, Payne & Webster, 2013; McNaughton Nicholls & Webster, 2014).

---

<sup>10</sup> Considerable efforts were put into the recruitment of victims by the police forces and contractor with limited success. This was due in part to victims wanting to put the experience behind them and not to revisit difficult experiences. There are also ethical issues about the number of times that victims should be contacted to take part in research, particularly in cases involving domestic violence.

<sup>11</sup> Selected on the basis of characteristics hypothesised to be most relevant to the research questions (Ritchie, Ormston, Lewis & McNaughton Nicholls, 2013).

## 3.2 Impact evaluation

The impact evaluation outcomes which are reported in this study are:

- Any changes in the likelihood of using an adult OOCd to resolve crime – using recorded offence outcomes data provided by the Home Office.
- Compliance with OOCds – using monitoring data provided by the pilot areas.
- Repeat OOCds within the pilot force areas for Quarter 1 offenders – analysis of whether an OOCd recipient during Quarter 1 of the pilot period re-offends and then receives an OOCd for this subsequent offence up to nine months later. This exercise used monitoring data provided by the pilot and counterfactual areas through a common data collection template devised by the research team following consultation with the MoJ and the areas (further details of data recording and processing are contained in Appendix 1).
- Re-offending after three months for Quarter 1 offenders – using Police National Computer (PNC) data provided by the MoJ matched to offender identification data provided by the pilot and counterfactual areas covering all offences recorded by all police forces.
- Cost-benefit analysis – undertaken by the MoJ using data provided by the pilot areas and counterfactual area F.

### Quantitative data

Table 3.1 summarises the quantitative data used, which police force areas they covered, the analysis period and the limitations of the data. Further details are provided in the chapters and sections which follow.

**Table 3.1: Quantitative data, periods of assessment and their limitations**

Data	Areas	Analysis	Analysis period	Limitations
Police National Computer (PNC)	A B C D F	Comparing the number and proportion of Q1 offenders who re-offended in the pilot with two counterfactual areas	Three months re-offending follow-up period + three months recording lag for offenders who received an OOCd in the first quarter (Q1) of the pilot period (3 <sup>rd</sup> November 2014 to 31st January 2015)	PNC data for counterfactual Area E were not available as date of birth of offenders was not provided to enable the PNC data to be matched to the right offender

<b>Data</b>	<b>Areas</b>	<b>Analysis</b>	<b>Analysis period</b>	<b>Limitations</b>
<b>Repeat OOCs</b>	All areas	Comparing the number and proportion of Q1 offenders who received a repeat OOC in the pilot and the counterfactual areas	Up to nine months after the first OOC was given to an offender in Q1 of the pilot period.	
<b>Compliance</b>	Pilot areas (A,B,C)	Assessing OOC compliance and the number of conditions attached to OOCs which were completed	Compliance was assessed on records provided for OOCs given between 3rd November 2014 and 31st October 2015	No compliance data were available from the counterfactual areas because compliance data do not appear to be routinely collected under the current OOC framework.
<b>Home Office Offence Outcomes</b>	Pilot (A,B,C), counterfactual areas (D,E F) and the rest of England and Wales	Comparing the number and proportion of adult OOCs, No Further Actions (NFAs) and charge/summons in the pilot with the three counterfactual areas	April 2014–October 2015	The more recent data are provisional and subject to revision.  It should be emphasised that each outcome assigned in a given month does not necessarily relate to a single offender and that the underlying offence may have been committed in an earlier month.
<b>Cost estimates</b>	Pilot areas (A, B, C) and counterfactual area F	Estimating the cost of implementation and operation of a two-tier OOC framework based on data from management information and interviews with relevant personnel	Operational snapshots taken during final quarter of pilot period	Small sample size of observed activities, especially of current range of OOCs that were sourced from one counterfactual area.

Where appropriate, the quantitative findings were assessed with statistical significance tests. A 95 percent level of confidence was used to determine whether the findings were statistically significant. Multivariate analyses were undertaken to assess the effect of victim and offender protected characteristics on which type of OOC was given. The relevant chapter/sections contain more detail on the specific quantitative analyses provided.

## Methodological challenges

The impact evaluation was affected by a number of methodological challenges. This means that some quantitative findings should be treated with caution for the following reasons:

- The analysis assessed the combined impact of all the interventions used in the conditional cautions. It did not assess the effectiveness of individual conditions and interventions. It is possible that the effectiveness of individual interventions are offset by the ineffectiveness of other interventions when considered at a global level.
- The analysis of proven re-offending among a cohort of Quarter 1 (Q1) offenders<sup>12</sup> was conducted based on a three-month follow-up period and three-month recording lag.<sup>13</sup> This timeframe was determined by the overall length of the pilot and the intention for initial findings to inform roll-out decisions. Although this timeframe is shorter than the MoJ might typically use, this analysis provides an initial snapshot of how the pilot might affect re-offending.
- The proven re-offending and repeat OOCOD analyses are based on a cohort of Q1 offenders,<sup>14</sup> relatively few of whom committed domestic violence and hate crime-flagged offences. Analyses of small samples, or overly rare events, can sometimes lack sufficient statistical power to test hypotheses. Analyses on samples of 50 cases or fewer, or where cell sizes in tables had fewer than ten cases, were not conducted and are not included in this report.
- The police force areas manually populated the data collection template drawing on records from different police systems including free text case management records. This was time consuming and the data were dependent on how comprehensively and accurately it had been recorded by officers and support staff. These data therefore required extensive cleaning and any data gaps were resolved where possible.<sup>15</sup>
- The use of the counterfactual areas to represent a '*status quo*' comparison for the pilot areas was limited by the data that they were able to provide and the extent to which they were the best match possible to the pilot areas.
- Only one of the counterfactual police forces provided data for use in the economic evaluation. This limitation has made the conclusions of the economic

---

<sup>12</sup> 1,769 offenders in pilot areas and 1,563 offenders in counter-factual areas

<sup>13</sup> This is the time taken for an offence to reach disposal in or out of court and for that disposal to be recorded onto the PNC database.

<sup>14</sup> The analysis was based on those offenders who received an OOCOD in the first quarter of the pilot period to meet the reporting timeframe for the evaluation.

<sup>15</sup> Further details about the data processing and recording are contained in Appendix 1.

evaluation less robust than would otherwise have been the case had all three counterfactual police forces been able to participate in this aspect of the data collection exercise.

## 4. Pilot implementation

Process evaluation data are used to answer how the pilot was implemented, and to examine the perceptions of the stakeholders involved as to the practical issues of implementation and its success.

Six key features of the implementation process emerged from the interviews with police officers and their CPS, HMCTS and intervention provider partners. These six features are described in turn below before broader stakeholder perceptions are covered. The chapter concludes by presenting the diverse models of delivery adopted by the pilot areas.

### 4.1 Ethos and aspirations

There was broad support for the OOCB pilot from officers across the three pilot police force areas. Officers saw that OOCBs could

*“...deal with low level offences instead of pushing through to court and criminalising people, the added bonus of diverting them from the criminal justice system, or the opportunity to do so”. (Custody Sergeant)*

In addition, some interviewees felt that the pilot consolidated the broader aim of placing the victim’s needs at the heart of criminal justice decision making. Finally the police felt that while OOCBs are designed to take caseload pressure off the CPS and HMCTS, the pilot additionally simplified the existing process. CPS and HMCTS staff supported this view when they described perceiving some increased process and economic efficiency. That the pilot was perceived to have been designed to increase efficiency, presented a tension for some police officers interviewed. Some officers understood the need for the CJS to operate efficiently in a climate of government spending restraint. Others raised concerns that increasing efficiency for their CJS partners could mean a greater workload for the police.

### 4.2 Cultural change

A recurrent theme expressed by police officers, from the most senior through to police constables, was that the OOCB piloted two-tier framework represented a considerable cultural change around the *values* and *role* of the police. Here the two-tier framework was felt by officers to be less about deterrence measures and enforcement, but instead to focus more on the potential for the police to support desistance and reduced re-offending. However, it was felt by some police officers that making this cultural change required the police force to

effectively promote the benefits to frontline officers. This would then enable those officers to feel confident in making this shift in policing role when managing both offenders and victims. Some intervention providers commented that the contrasting police and provider cultures could be a barrier to effective partnership if not effectively addressed. For example, one provider in a pilot area talked about how their relationship with the police had struggled from the outset due to the perceived attitude of the police at early training sessions. Here the provider felt that some of the police officers did not convey the impression of wanting to be on the training course or of necessarily supporting the intervention that was being provided as a disposal condition. As such, this provider felt that the different way in which they and the police might see factors supporting desistance can make the relationship challenging.

*“[The culture of policing is] interview, charge. Interview, caution. Interview, bail: the old traditional outcomes. It is a challenge to encourage police officers to suddenly start thinking differently, about what appropriate conditions and interventions might be attached to a caution”.* (Senior Police Officer)

### 4.3 Implementation timing

Some police officers interviewed across the pilot areas tended to describe implementation of the pilot as rushed. In particular, officers said that this affected the extent to which all frontline officers were able to receive adequate training in the new way of working and the development of effective guidance documents for officers to consult when delivering the pilot disposal.

*“[It was a challenge to] train hundreds of officers on a new system in a matter of days”.* (Senior Police Officer)

*“The first three months of the pilot were chaos”.* (Custody Sergeant)

It also had a bearing on partner agencies’ engagement in the pilot. For example, some police officers said that there was not adequate time to establish the necessary service level agreements/contracts to support intervention referrals *before* the pilot became operational. Time to implement was also needed to develop, communicate, embed and reinforce the necessary cultural change within the police forces described in the preceding section. Police officers from OOC pilot areas where implementation was described as hasty talked about needing at least a six-month bed-in period. This time was felt to be essential to set up appropriate processes that would support officers to effectively deliver disposals and work with partners.

## 4.4 Pilot guidance

Prior to the OOCd pilot being launched, the police, CPS and Ministry of Justice developed central guidance. Police officers interviewed across the pilot areas said this central guidance was further refined at the local level for two reasons. First, local level refinement occurred to *engage frontline officers*. The revision was developed and presented in a way that was meant to enthuse and empower local officers to implement new ways of working. The second reason for local guidance was to *provide working knowledge that met local operational needs*. For example, one partnership sergeant in a pilot area prepared local guidance that contained information on how to fill the forms in correctly and provided example disposal cases, thereby steering officers in the right direction to make defensible decisions. However, there were some challenges associated with the development of local guidance, in particular, the frequent number of local updates to central OOCd guidance documents. This meant that there was some inconsistent understanding of the latest guidance/advice in some areas. In some cases this was due to frontline officers not being aware that the guidance had been updated.

*“Most people ignore the dry statutory stuff... [local document was subsequently written about] how you apply it from the point of view of ‘what would I need to know if I was doing this?’” (Inspector/decision maker)*

*“It’ll be reams and reams of paper. One, I don’t have the time. Two, I don’t really have the patience to try and go through all that legal spiel”. (Custody Sergeant)*

## 4.5 Pilot training

The nature of pilot training that officers received also varied within and between the areas. Modes of training encompassed: e-learning; face-to-face traditional delivery; and learning on the job via colleagues’ guidance. Qualitative evidence from police officers suggested that training delivered using a combination of modes was most effective. There were concerns expressed about the adequacy of training content in some force areas. Officers were particularly concerned about the impact that inconsistent advice from hastily developed guidance could have on consistent and defensible pilot delivery. In addition, police officers felt that effective learning on the job depended on the officer giving the instruction also having an accurate understanding of the pilot delivery model. Finally, some partner stakeholders also described not feeling effectively trained in the OOCd pilot processes.



There were different approaches within and between pilot areas regarding when officers received training. In some cases training was received a matter of days before the pilot began. In other cases there were officers that did not receive any training until after the pilot started. One pilot area adopted a phased training process. Here the dose of training was related to officer rank and degree of frontline exposure to the pilot. Analysis of officers' accounts in this area suggests that this had a positive impact on cultural change and frontline staff.

*"You have to do it a number of times before fully understanding how the new system works. You learn from your mistakes; thankfully it's a pilot so we can afford to make some mistakes."*(Custody Sergeant)

*"There was some training for Sergeants to go on and for them to disseminate the information and training down to their teams – but this is hazardous because some Sergeants will tell teams, some won't. Some will be really good at it [instruction delivery]... but others won't..."* (Decision Maker)

*"I don't know if that [not feeling confident] was because I didn't do the e-learning or because I didn't read the emails thoroughly enough".* (Custody Sergeant)

*"[when the pilot started] we had a light briefing or meeting, but no training..."*  
(CPS, DV lead)

*"In October I pulled together the bones of what it ought to look like...but we were always playing catch up then in terms of training and awareness [raising]... ideally we would've started three months before... organisationally we had, but we wasted the time with not getting to grips with what we needed to get to grips with."* (CPS, Head of Prosecutions)

## **4.6 Building capability**

As described above, the amount of time the police force areas used to set up the pilot had a bearing on the extent to which partnerships were in place when the trial went live. Consequently some police force stakeholders were still negotiating contracts and referral routes with disposal intervention providers well into the pilot delivery phase. The limited time used to source and develop intervention provider relationships also meant that some police force areas did not have the capability to be as inclusive as they would have liked. For instance, one area was not able to match some offenders to the appropriate disposal

intervention because there was neither the provision available nor, in some cases, the financial resource for the treatment providers to deliver the service.

*“We are dealing with a significant number of foreign nationals who don’t speak English. Other agencies don’t have a budget to pay for interpreting [services]”.*  
(Frontline Officer)

## 4.7 Stakeholder perceptions

The process evaluation interviews with stakeholder audiences found a range of views around the implementation of the pilot and perceived outcomes. These covered various stages of the process and are summarised below.

Positive pilot outcomes cited by the **police** typically focussed on a simplified process. Formalised routes for intervention referral and guidance for the setting of conditions underpinned this outcome. Negative outcomes cited by police encompassed not having adequate resources to effectively manage the additional work, such as additional monitoring of compliance associated with giving effect to the pilot OOC system.

The six **victims** interviewed about outcomes expressed mixed views. These views tended to be related to key aspects of OOCs generally, rather than specific elements of the pilot. Victims talked about outcomes in the context of: how police presented the pilot to them; the extent they were involved in discussions about the disposal; and communication from the police and partner agencies. Various factors underpinned the extent to which these victims were satisfied with the final case outcome including whether they felt the police suitably structured their expectations in the process, the extent to which they were personally harmed, their views on justice, and their relationship to the offender. They appreciated clarity of communication from the police and partner agencies. The importance of being given the option of engagement in the condition-setting process was noted and may be particularly helpful when victims are unfamiliar with OOCs more generally.

*“I wasn’t given a choice about the disposal, more thoughts on the process rather than dictating the outcome. I couldn’t imagine more involvement and I didn’t want it”.* (Victim of crime, assault)

*“It’s [OOCs] taken out of the victims hands completely. I was never asked for my opinion at all, at this stage I am really disappointed at how I have been treated...”* (Victim of crime, assault)

*“Justice did its job; it was a fair response...”* (Victim of crime, corporate)

**Partner agencies** interviewed described positive and negative pilot outcomes. Some intervention providers felt the pilot gave them the chance to make a positive difference to offenders’ lives. Negative partner outcomes identified included some intervention providers being sceptical that the pilot could influence longer-term change, particularly with domestic violence offenders. This scepticism appears to be the result of referrals for domestic violence interventions when they perceived mental health professionals may be better placed to provide assistance. Some intervention providers felt an intervention may have a limited potential to influence positive change when clients are not necessarily motivated to attend, but mandated to attend, even though offenders had to agree to the conditions of the disposal. The desistance literature also supports this view. Resource constraints were identified as a barrier to success by some.

*“I know since I have been working on this I have changed people’s lives...”*  
(Intervention provider)

*“The [pilot] service isn’t funded...it’s done on a voluntary basis on top of existing work so relies on staff goodwill...”* (Intervention provider)

Police officers tended to perceive the key outcomes for **offenders** related to the OOCB pilot as giving them a second chance and the conditions set supporting desistance from crime.

## 4.8 Models of delivery

The three police force areas adopted three distinct pilot operational models as shown in the table below. All operational dimensions differed across the pilot areas except that all had some interventions in place at 'go live'.

**Table 4.1: Key operational dimensions for the OOCB pilot areas**

<b>Delivery dimensions</b>	<b>Area A</b>	<b>Area B</b>	<b>Area C</b>
<b>Dedicated teams for OOCB types</b>	No	No	Yes
<b>Central guidance adapted locally</b>	Yes/No (some districts)	Yes	Yes
<b>Training delivery</b>	Pre- and post-pilot live	Pre- and post-pilot live	Pre-pilot all
<b>Offender needs assessment and setting conditions (CC)</b>	Evidential Review Officer/FIU Officer/supervising sergeant	Response Officer/Back office	Response Officer/FIU Officer/supervising sergeant
<b>Condition review</b>	Some reviewed by Area before administration	All reviewed by Area before administration	All reviewed by Area before administration
<b>Monitoring compliance</b>	Officer	Back office	Officer
<b>Interventions in place at 'go live'</b>	Some	Some	Some
<b>Model changed Q1 to Q2</b>	No	Yes	Yes

Relevant changes to operational delivery over the course of the pilot included resourcing and administration in Quarter 2 and changes to the Niche disposal recording/monitoring system.<sup>16</sup>

The diverse approach to pilot implementation, alongside the different models of delivery, helps explain some of the quantitative data findings presented in the remainder of this report.

<sup>16</sup> Niche is a widely used police records management software system designed to increase effectiveness in policing activities.

## 5. Delivering Out of Court Disposals

### 5.1 Volume of OOCs

The pilot areas recorded a total of 13,643 adult OOCs between 3 November 2014 and 31 October 2015. Of this total, 59% were CRs and 41% were CCs. Over the same period the counterfactual sites recorded a total of 13,273 OOCs, of which 55% were CRs, PNDs or Cannabis/Khat Warnings and 45% were Simple Cautions or CCs.<sup>17</sup>

Non-property crime offence categories (e.g. public order and drugs offences) were significantly more likely to receive a CC than property crime. DV-flagged cases represented 10% of all OOC cases in the pilot areas and 12% in the counterfactual sites.<sup>18</sup> Hate Crime-flagged cases represented 1% of all OOCs in the pilot areas and 1% in the counterfactual sites. DV-flagged offenders in the pilot areas were significantly more likely to receive a CC (than a CR) than non-DV flagged offenders.

### 5.2 Likelihood of using Out of Court Disposals

This section uses Home Office offence outcomes data to compare the likelihoods of adult OOCs being used in pilot areas and nationally over the same period. The two-tier framework was not in itself intended to change the likelihood of an adult OOC being used to resolve a recorded offence. However, it is important to establish whether the intended improved simplicity of the framework resulted in a higher likelihood of OOC usage or whether the removal of the status quo (notably the Simple Caution) produced a lower likelihood.

#### Offence outcomes data

The Home Office provided recorded offence outcomes data to the research team for analytical purposes to inform this evaluation. Although the Home Office publishes these data on a quarterly basis, the research team obtained monthly data from across the pilot period which enabled the analysis to have greater granularity than if only published data were used. Since the dataset in question has only been provided for analytical purposes and not

---

<sup>17</sup> This grouping of OOCs in the counterfactual areas is based on the assumption that in the pilot areas: CCs have replaced the issuing of Simple Cautions; and CRs have replaced the issuing of PNDs and Cannabis/Khat warnings.

<sup>18</sup> As indicated in 2.1, guidance from the Director of Public Prosecutions on Conditional Cautions allowed the pilot areas to use Conditional Cautions for offences involving domestic violence. The counterfactual areas were not permitted to use CCs for domestic violence, but they were able to continue using Simple Cautions.

released publicly, only the results of the statistical analysis (rather than the detailed data) are reported here.

The outcomes data show a decline over the pilot period in the proportion of recorded offences resolved via adult OOCs, both across the pilot areas and across the rest of England and Wales. Given the focus of this evaluation, the findings from the pilot sites cannot be used to provide any steer on the reasons for national trends.

A linear regression model was used to assess the relative likelihood of OOC usage – see Appendix 2 for more detail about the analysis. In summary:

- The proportion of offences resolved via adult OOCs in the pilot areas did not differ significantly from the rest of England and Wales.
- The proportion of offences resolved via adult OOCs declined in pilot areas to the same extent as in the rest of England and Wales.

The findings from this analysis indicate that the pilot areas were no different to the rest of the England and Wales in terms of their likely use of adult OOCs during the pilot period. Participation in the pilot does not appear to have led to any significant change in the relative likelihood to use OOCs, based on the available data. As noted previously, this may be seen as reassuring given the significant changes that the pilot forces have had to implement and the removal of the familiar range of OOC options from officers.

### **5.3 Setting conditions**

This section first presents OOC monitoring data from the pilot police force areas on the type of conditions set and whether there were any changes over time. It then presents findings from the qualitative process evaluation data to describe 'difficult' incidents for decision-making and the factors associated with them. There is a focus within this section on CCs as CRs are currently a non-statutory disposal type with no power of enforcement and were not tracked in a consistent manner across the pilot areas.

## Conditions data

The full OOCd monitoring data<sup>19</sup> for the pilot police force areas over the pilot period 3rd November 2014 to 31st October 2015<sup>20</sup> provided the basis for the results in this section. CCs have stated types of conditions associated with them. Within this report, “conditions” refer to both the formal conditions of CCs and the offender actions associated with CRs. As OOCds can have more than one condition, the total number of conditions will be higher than the total number of OOCds.

## Conditions used

In the process interviews, police officers described four categories of conditions.<sup>21</sup>

- *Reparative*: these disposals had conditions that involved making amends to the victim. For example, paying compensation for repairs/damage, making a repair to any property damaged (i.e. fixing a garden fence) and/or writing a letter of apology to the victim.<sup>22</sup> The average compensation imposed was £173 and the mean paid was £154, according to the available data.
- *Rehabilitative* conditions were set when the officer felt it necessary to tackle the root causes of offending behaviour and so strengthen protective factors supporting desistance from crime. These encompassed conditions such as referrals to anger management courses and drug and alcohol awareness courses.
- *Punitive* conditions involved financial penalties. Across the pilot areas, the average financial penalty imposed for CCs was £64 and the mean penalty paid was £58, according to the available data (fines were not imposed for CRs).
- *Restrictive* conditions included such requirements as ‘not to re-offend’ and/or a curfew or a ban from a location such as the city centre or a shop.

The distribution of CC conditions only across the pilot areas between the 3rd November 2014 and 31st October 2015 (the pilot period) was as follows:

- 44% (3,872 of 8,771) of all CC conditions were rehabilitative;
- 31% (2,682 of 8,771) were reparative;

---

<sup>19</sup> See Appendix 1 for further details about full and de-duplicated datasets and the rationale for this.

<sup>20</sup> The counterfactual areas did not provide conditions data. A much smaller number of OOCds which included conditions were given in the counterfactual areas. For example, in Area E only 39 Conditional Cautions were issued between 3rd November 2014 and 31st October 2015.

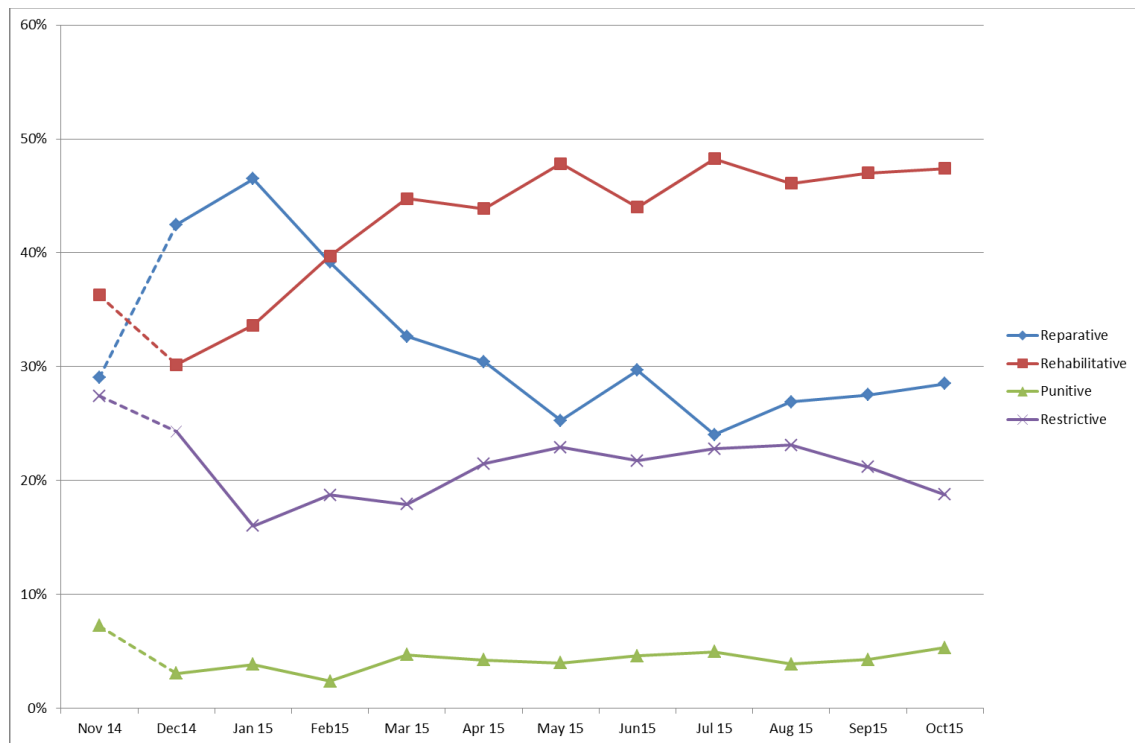
<sup>21</sup> These align with four of the five the categories set out by the Crown Prosecution Service. Available from: [http://www.cps.gov.uk/publications/performance/conditions\\_cautioning/](http://www.cps.gov.uk/publications/performance/conditions_cautioning/). The fifth category is Foreign Offender conditions.

<sup>22</sup> Restorative Justice is included under this category.

- 21% (1,843 of 8,771) were restrictive; and
- 4% (374 of 8,771) were punitive.

Figure 5.1 shows the proportion of CC conditions issued in the pilot areas by categories<sup>23</sup> over each month of the pilot period.

**Figure 5.1: The proportion of CC conditions by categories across the pilot areas over the pilot period (from 3rd November 2014 to 31st October 2015)**



N.B. A small number of OOCs were issued in November 2014 therefore the proportion of conditions may be disproportionately represented as a result of the small numbers. The line between November and December 2014 has been 'dotted' to indicate this.

Figure 5.1 shows that there was a low start in the use of rehabilitative CC conditions between November 2014 and January 2015. This could be the result of difficulties (identified from the process evaluation interviews) that some of the areas experienced in setting up rehabilitative interventions with suitable treatment service providers, reflecting the perceived need for additional set-up time and closer communication from the outset.

The distribution of CR conditions/actions only across the pilot areas between the 3rd November 2014 and 31st October 2015 (the pilot period) was as follows:

<sup>23</sup> These follow the categories set out by the Crown Prosecution Service. Available from: [http://www.cps.gov.uk/publications/performance/conditions\\_cautioning/](http://www.cps.gov.uk/publications/performance/conditions_cautioning/).



- 10% (1,093 of 10,701) of all CR conditions were rehabilitative;
- 48% (5,185 of 10,701) were reparative;
- 41% (4,377 of 10,701) were restrictive; and
- Less than 0.5% (46 of 10,701) were punitive.

As a proportion of all conditions issued across all OOCs in the two-tier framework, reparative conditions were the most commonly used category, followed by restrictive conditions, then rehabilitative conditions and finally punitive conditions.

The process evaluation interviews with police officers suggested that reparative conditions such as verbal apologies and written apologies can be easy and quick to administer. In addition, they were noted as potentially providing increased victim satisfaction if handled appropriately (e.g. letters of apology need to be meaningful to the victim as well as having the appropriate tone). These factors together may explain the frequency of their use.

In the process evaluation interviews, officers discussed examples of difficult incidents and conditions, alongside examples of effective conditions and more straightforward incidents. In terms of challenging incidents, one officer said that if someone has committed one alcohol-related offence it did not necessarily mean they have an alcohol problem and will benefit from an alcohol intervention referral as part of an OOC. Here they felt it would be more appropriate to issue a Penalty Notice for Disorder but this option was not available under the pilot framework.

Difficult or problematic conditions were described where they did not seem meaningful to the offender or have any relationship to factors that support desistance from crime. Some officers who had received limited training talked about not feeling confident when developing and setting helpful conditions.

## **5.4 Repeat Out of Court Disposals**

Monitoring data provided by the pilot and counterfactual areas was used to address how frequently and in what circumstances repeat OOCs were given for the same or similar offences under the pilot compared to the status quo. Additionally, these data shed light on the circumstances under which offenders accrue multiple OOCs (particularly in short periods) for a range of offences.

## Repeat OOCB data and limitations of the analysis

This analysis was conducted on the cohort of offenders who received an OOCB during Quarter 1 (Q1) of the pilot year, i.e. between 3 November 2014 and 31 January 2015.<sup>24</sup>

The analysis assessed the extent to which members of this cohort received any subsequent OOCBs over the remainder of the pilot period.

## Repeat OOCBs in the pilot and counterfactual areas

Table 5.1 presents the number and proportion of Q1 offenders in the pilot and counterfactual areas who received further OOCBs over the pilot period. There was no statistically significant difference between the pilot and counterfactual areas in the proportion in receipt of a further OOCB.<sup>25</sup> This suggests that the pilot framework was no better or worse at reducing the incidence of repeat OOCBs.

**Table 5.1: Repeat OOCBs by pilot and counterfactual areas**

Area	Number of OOCB offenders in Q1	No and % of OOCB offenders in Q1 with a repeat OOCB after the first OOCB disposal
Pilot areas	1,829	100 (6%)
Counterfactual areas	2,912	137 (5%)

## Repeat OOCBs and offence categories

The analysis further identified the offence committed by the Q1 cohort and the extent to which this mirrored their original offence during the pilot period. The results in Table 5.2 show that:

- In both pilot and counterfactual areas, Q1 offenders who received OOCBs for shoplifting were more likely to receive a repeat OOCB for shoplifting than another offence.
- In both pilot and counterfactual areas, Q1 offenders who received OOCBs for criminal damage were more likely than another offence category to receive a repeat OOCB for a different offence. This may suggest that offenders who commit criminal damage offences are more likely to offend across a wider range of offences.

<sup>24</sup> The repeat OOCB data are drawn from monitoring data provided by the areas to the MoJ. The MoJ has anonymised the records and linked them via a unique identifier to individual offenders. These repeat OOCB data therefore contain duplicate OOCB records where more than one offence and/or victim has been recorded for one OOCB. The way in which these data have been cleaned and de-duplicated is detailed in Appendix 1.

<sup>25</sup> Tests with a 5% level of uncertainty are taken to be statistically significant.

**Table 5.2: Offence categories for the first OOC in Q1 and repeat OOCs**

Offence category	Pilot areas			Counterfactual areas		
	Number of OOCs given in Q1 for the offence category	Repeat OOCs in the rest of the pilot period		Number of OOCs given in Q1 for the offence category	Repeat OOCs in the rest of the pilot period	
		For the same offence	For a different offence		For the same offence	For a different offence
Criminal damage	120	4 (3%)	10 (8%)	154	0 (0%)	11 (7%)
Possession of cannabis	265	4 (2%)	6 (2%)	483	18 (4%)	10 (2%)
Shoplifting	450	25 (6%)	13 (3%)	721	37 (5%)	13 (2%)
Violence with injury	132	2 (2%)	3 (2%)	394	7 (2%)	8 (2%)
Violence without injury	241	6 (2%)	7 (3%)	296	4 (1%)	11 (4%)
Public order offences	88	0 (0%)	2 (2%)	263	0 (0%)	9 (3%)
Other Theft	107	2 (2%)	4 (4%)	116	1 (1%)	5 (4%)
Possession of other drugs	53	0 (0%)	1 (2%)	147	0 (0%)	2 (1%)

## 6. Partnership working and compliance

### 6.1 Partnership working

As under the status quo, delivery of the OOCB pilot involved the police working in partnership with colleagues from the CPS. This was to appraise some individual cases and make a decision on OOCB or formal charge, and the necessary actions following OOCB breach. Intervention provider partners received referrals and delivered disposal conditions that aimed to tackle the causes of offending.

Scrutiny panels existed before the pilot but their use within pilot areas to review the use of OOCBs was noted by some police and partner interviewees to have taken on greater prominence. This was highlighted by some as having supported partnership working between the police and other stakeholders. Panels in the test areas had membership from across the criminal justice sector including the Office of the Police and Crime Commissioner, police officers, magistrates, CPS staff, intervention providers and groups working with victims of crime. Scrutiny panels tended to meet at least every quarter and examined a sample of cases where an OOCB had been issued.

The intention of the panels was to check that correct decisions had been taken. They also set out to provide transparency and accountability about police decisions that in turn sought to increase public understanding, confidence and trust in how the police used OOCBs. The minutes of panel meetings were published online. Although scrutiny panels existed before the OOCB pilot, some CPS respondents felt that the pilot had a role in increasing the frequency of panel meetings in one area, from quarterly to monthly meetings.<sup>26</sup> This in turn was felt to consolidate and integrate the partnership which enhanced some partners' confidence in the pilot process.

Some of the CPS and intervention providers interviewed also talked about how the police who attended the scrutiny panel approached it with a willingness to learn. This meant that in the rare cases when the inappropriate allocation of a disposal and condition was discussed, there was openness to understanding where improvements could be made.

---

<sup>26</sup> In Area A, they were established after the pilot commenced.

## Referrals to the Crown Prosecution Service and the Courts

Quantitative data on CPS referrals and court prosecutions were not available. However, CPS and court staff interviewees felt that there was no change in the volumes and types of cases being referred to the CPS and the courts in the pilot areas, though this should not be regarded as any form of evidence of changes in volumes. Note that the economic evaluation in Chapter 8 has used more conservative assumptions in this regard.

## 6.2 Compliance

Monitoring data from the pilot police forces were used to assess the level of compliance by OOC type and how this may have changed with the pilot. This section further addresses whether offenders who accepted an OOC were more or less likely to comply with any requirements under the pilot compared to the status quo.

### Compliance data and analysis

To answer these questions about compliance, an analysis of the time to compliance was conducted. This analysis uses the de-duplicated monitoring dataset<sup>27</sup> for OOCs issued between 3rd November 2014 and 31st October 2015 where the offence occurred within the pilot period. Offenders can be given up to 16 to 20 weeks (and sometimes longer) to complete conditions set with their OOC. The counterfactual areas did not provide compliance data,<sup>28</sup> so it was not possible to compare compliance between the pilot areas and the counterfactual areas. The second question could not therefore be answered. For a large number of OOCs issued, the pilot sites did not provide an indicator of compliance nor compliance date because these data required extensive manual extraction. The analysis is based only on cases for which we have complete compliance data – roughly 45% of all OOCs issued in the pilot sites. For this reason, these results should be interpreted with caution. Please see Appendix 4 for a description of data and details of the specific analysis undertaken.

OOC compliance is assumed to occur where the area has recorded overall compliance with the OOC<sup>29</sup> or recorded each of the conditions as being completed. Area B assumed CR compliance upon issuance of the disposal and updated such records in the instance of an identifiable breach of conditions set. The reliability of this approach is unclear. Therefore,

---

<sup>27</sup> Full details of the de-duplication process and the rationale for it is contained in Appendix 1.

<sup>28</sup> Counterfactual areas rarely issued CCs and were not resourced to manually extract data on compliance.

<sup>29</sup> Area C, alone, included an additional column in the data collection template where they recorded OOC compliance.

for comparison, the analysis presented calculates CR compliance rates both with these cases dropped and included, setting the compliance date as the date of issuance when they are included.

The monitoring data do not contain date information relating to compliance after 31st October 2015 (the end of the pilot period). This means that compliance or breach could occur after the pilot period ends for OOCs issued close to the end of the pilot period. Life-table analysis takes account of “censoring” when calculating compliance rates. Censoring means that individuals were lost to follow-up or are not followed for long enough. Approximately 36% of CRs and 58% of CCs in the pilot areas were censored, i.e. no date was recorded for OOCs recipients known to be compliant or compliance was recorded as having occurred after the end of the pilot period.

Approximately 55% of CC recipients (where there are full compliance data) comply with conditions set, while between 48% and 68% of CR recipients (where there are full compliance data) comply with actions set. The CPS published CC compliance rate for 2012/13 in England and Wales of 84%, though this figure does not seem to account for censoring.<sup>30</sup> Given the amount and nature of missing data and censored cases in the pilot data, a comparable figure cannot be calculated using the pilot data and therefore no meaningful comparison can be made.

---

<sup>30</sup> Page 9, “Conditional Cautioning Data”, Crown Prosecution Service, Q4 2012/13 ([http://www.cps.gov.uk/publications/performance/conditional\\_cautioning/conditional\\_cautioning\\_data\\_Q4\\_12\\_13.pdf](http://www.cps.gov.uk/publications/performance/conditional_cautioning/conditional_cautioning_data_Q4_12_13.pdf)). The compliance rate is based on data over a rolling 12 months. This rate reflects all conditional cautions which were issued in the year to March 2013, which is the last full year when the CPS was responsible for authorising the use of Conditional Cautions.

**Figure 6.1: Cumulative compliance rates over 24 weeks from OOC issue date**

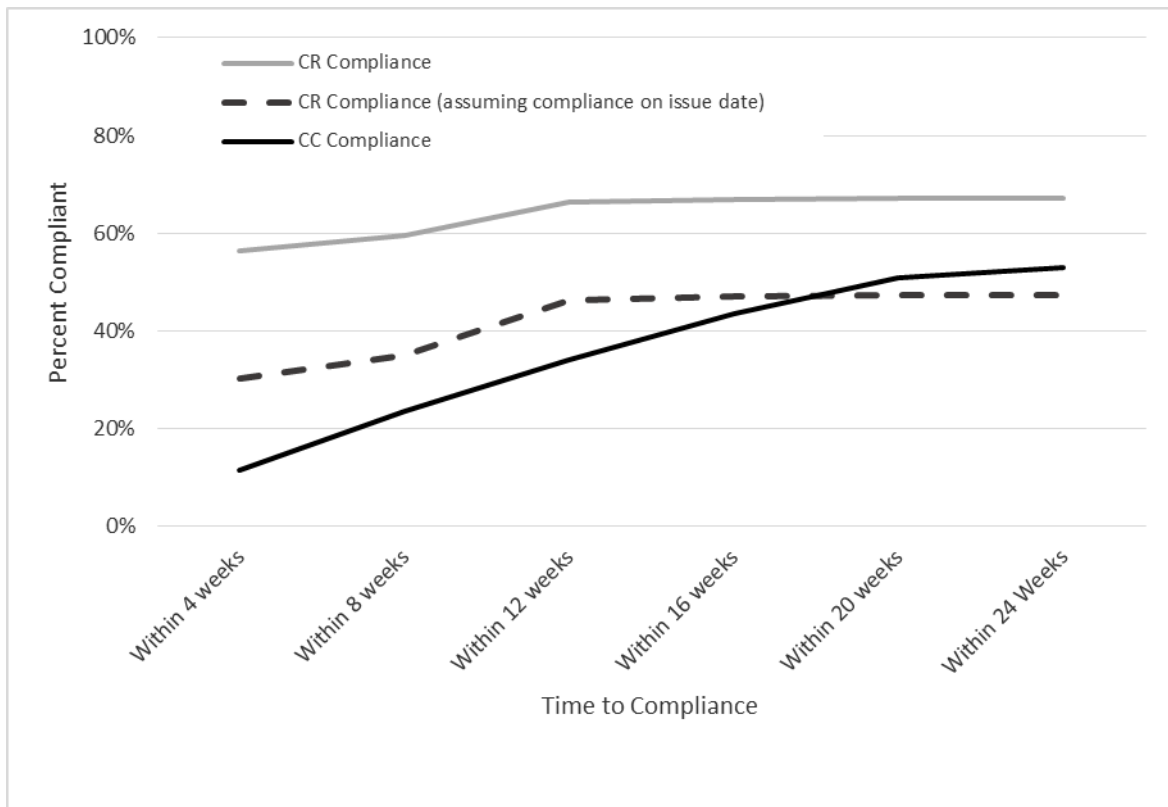


Figure 6.1 presents ‘time to compliance’ of conditions or actions set for all OOCs issued in the pilot period where date data were available. Cumulative rates are shown. Clearly, OOCs given in the later months of the pilot period have less time for compliance, particularly if a longer compliance period is set.

The figure shows that:

- Compliance with CCs was generally slower than CRs. Approximately 12% of CC recipients comply within four weeks whereas between 30% and 56% of CR recipients comply within four weeks, depending on whether compliance on issuance is assumed.
- Compliance levels off after a period of time for both CCs and CRs. That is, controlling for censoring, the majority of offenders in receipt of CCs comply by about 24 weeks whereas the majority of offenders receiving CRs comply by about 12 weeks.

### 6.3 Breaches

Comparable data on breaches of OOCs were not provided by the counterfactual areas, so it was not possible to assess whether, among offenders who do not comply, there was any difference in the consequences that they experience under the two-tier framework compared to the status quo. Instead, this section presents findings on the number of breaches and actions taken for breaches of OOCs issued across the pilot areas during the pilot period (3rd November 2014 to 31st October 2015). These data are drawn from the de-duplicated dataset.<sup>31</sup> It should be noted that OOC non-compliance did not automatically lead to a breach being recorded. OOCs given in the later months of the pilot period have less time for a breach to be recorded. Levels of breaches are therefore likely to be under-estimated for these later OOCs.

Across the pilot areas over the whole of the pilot period, 507 OOCs were recorded as having been breached, which represented 4% of all OOCs (507 of 13,415). The breach rate was higher for CCs, where 8% of all CCs (427 of 5,431 cases) were breached, than for CRs, where 1% was breached (80 of 7,984 cases).<sup>32</sup>

Table 6.1 presents recorded the 'actions' taken as a result of breach with respect to CCs. The data relating to actions on breaches are not fully comprehensive – cases were assumed to have breached if a date of breach was provided or if an action on breach was recorded.

**Table 6.1: Actions taken following breaches in pilot areas**

<b>Total number of breached disposals</b>	507
<b>No recorded information on action following breach</b>	221 (44%)
<b>Recorded information on action following breach</b>	286 (56%)
<i>Of which:</i>	
<i>Charge and Court summons</i>	206 (72% of total breaches)
<i>NFA</i>	69 (24%)
<i>Pending (Breached, but awaiting action)</i>	11 (4%)

For non-compliant CCs, the consequential actions taken were typically charges and court summons.

<sup>31</sup> Full details of the de-duplication process and the rationale for it is contained in Appendix 1.

<sup>32</sup> These figures reflect the data provided by the pilot areas, where OOCs were recorded as having been breached. Not all OOCs where non-compliance was evident resulted in breaches being recorded in the data.



According to the CPS<sup>33</sup> in 2012/13, charges were the most common outcome in the event of CC non-compliance (at 68% of breaches). No Further Action was the second most common outcome of CC breaches (18%) and condition variation was the least common outcome (13%).<sup>34</sup>

CRs are currently non-statutory disposals, so there is no formal mechanism for enforcing CRs but there may be circumstances where the offender is charged for the original offence.

---

<sup>33</sup> [https://www.cps.gov.uk/publications/performance/conditional\\_cautioning/index.html](https://www.cps.gov.uk/publications/performance/conditional_cautioning/index.html). The CPS was last responsible for authorising the use of CCs in 2012/13.

<sup>34</sup> Percentages of these outcomes do not sum to 100% due to rounding error.

## 7. Pilot outcomes

This chapter presents the results from a quantitative assessment of the impact of the pilot using Police National Computer (PNC) data and monitoring data provided by the pilot and counterfactual areas.

### 7.1 Re-offending

This section addresses whether offenders who accept an OOCd are more or less likely to re-offend under the pilot than under the status quo. It also assesses whether re-offending is more likely for those who comply or those who do not comply with conditions or actions set in the OOCd.

Re-offending analyses typically undertaken by the MoJ involve a twelve-month re-offending follow-up period after the first proven offence and a six-month recording lag.<sup>35</sup> Due to the reporting time frame for this evaluation, it was not possible to adhere to this practice. Instead, the re-offending analysis in this evaluation is based on a three month re-offending follow-up period after the first OOCd was given followed by a three month lag for any offending to be proven and recorded. The results should therefore be interpreted as indicative only, given that they relate to an initial snapshot.

#### Re-offending data and analysis

The analysis is based on PNC data for Q1 recipients of one or more OOCds, i.e. between 3rd November 2014 and 31st January 2015.<sup>36</sup> The PNC data include court convictions and certain OOCd types for recordable offences. The pilot and counterfactual areas provided identification data for the OOCd offenders directly to the MoJ, where analysts used these to match to the PNC data. Where an unambiguous match<sup>37</sup> was identified, the MoJ provided anonymised PNC data to the research team.

The analysis used PNC data for five of the six areas. Area E did not provide full offender identification data, which meant that the MoJ was unable to link these data with PNC records.<sup>38</sup>

---

<sup>35</sup> This is the time taken for an offence to reach disposal in or out of court and for that disposal to be recorded onto the PNC database.

<sup>36</sup> Area A commenced issuing pilot OOCds from 24<sup>th</sup> November 2014.

<sup>37</sup> Based on first name, middle name, last name, date of birth, gender and PNC ID where provided. There were several matching algorithms based on these identification variables that were used to determine a match.

<sup>38</sup> Area E provided the age of the offenders, rather than the date of birth, which meant that accurate matching for PNC data was not possible.

In keeping with the practice adopted by the MoJ when undertaking re-offending analysis, court convictions and OOCd disposals for recordable offences were included in the analysis. To avoid over-counting re-offending for the pilot areas, the research team removed a small number of PNC records for offences which initially resulted in an OOCd but which were subsequently breached and resulted in the offender being charged and summonsed to court.<sup>39</sup> This ensured that any subsequent PNC records related to new offences.

It was not possible to determine the match rate of data to the PNC given that an offender may never have committed a recordable offence and therefore would not appear on the PNC no matter how accurate the match.

The results of this re-offending analysis should be treated with caution. First, it is not possible to make direct comparisons with findings from other MoJ re-offending studies because of both the re-offending follow-up period and recording lag are shorter than typical MoJ re-offending analyses. Second, the offender cohort from the pilot areas was drawn from Q1, during the early implementation phase of the pilot, and may not reflect the practice across the whole pilot period.

### Re-offending in the pilot and counterfactual areas

Table 7.1 presents the three-month re-offending of offenders who received their first OOCd in Q1 for the three pilot areas and two of the counterfactual areas. This shows that there was no statistically significant difference between pilot and counterfactual areas in the proportion of Q1 offenders who re-offended over the three-month follow-up period (5% or 94 of 1,769 in the pilot areas and 5% or 80 of 1,563 in the counterfactual areas).<sup>40</sup>

**Table 7.1: Number and proportion of offenders in the pilot and two counterfactual areas who re-offended within the first three months of receiving an OOCd in Q1 of the pilot period**

Areas	Number of OOCd offenders in Q1	Number (Percent) Re-offending
All of the pilot areas	1,769	94 (5%)
Two of the counterfactual areas	1,563	80 (5%)

<sup>39</sup> The breach data were only available for the pilot areas. A total of 13 records were removed.

<sup>40</sup> A Phi test compared levels of re-offending across pilot and counterfactual areas: tests with associated levels of significance of  $p < .05$  are taken to be statistically significant.

Of the offenders who complied with the OOCs given during Q1 of the pilot period, 6% (40 of 696) re-offended within the following three months. Of the offenders who did not comply with the OOC given in the same period, 7% (30 of 418) re-offended within the following three months. This was not a statistically significant difference.

## **7.2 Victims and Offenders**

This section uses monitoring data from the pilot areas<sup>41</sup> to examine whether the impact of the simpler OOC framework on victims and offenders differ according to their protected characteristics.

### **Victim and offender data, analysis and limitations**

The results in this chapter are based on full OOC monitoring data for the victims and de-duplicated OOC monitoring data for offenders, in the pilot areas for the pilot period 3rd November 2014 to 31st October 2015.<sup>42</sup>

Data on the protected characteristics of the victims and offenders for pilot areas were limited to those characteristics for which there was the most reliable and comprehensively recorded data. These were age, gender and ethnicity.

The victim data were less comprehensively recorded than the offender data. As more than one victim can be linked to an individual OOC there will be more victims than OOCs. Victims can be individuals or organisations such as a supermarket as a shoplifting victim. Where a person representing an organisation provided data on their protected characteristics, these data have been included in the analysis.

### **Multivariate analysis of offender characteristics**

A multivariate analysis was conducted to investigate which OOC disposal an offender received in the pilot areas, modelling the likelihood of receiving a CC rather than a CR, against a range of factors including offender age, gender and ethnicity. Any previous receipt of an OOC, pilot site and committed offence were controlled for. Please see Appendix 5 for the full results of the analysis along with the limitations of the analysis.

---

<sup>41</sup> Victim data were inconsistently recorded for the counterfactual areas.

<sup>42</sup> See Appendix 1 for further details about full and de-duplicated datasets and the rationale for this.

Controlling for prior OOCd receipt, pilot site and offence type, the key results worth noting are:

- Male offenders are more likely to receive a CC than female offenders.
- Offender ethnic group is not associated with the type of OOCd received.
- Age is associated with the type of OOCd received. Offenders aged 51–60 and aged 60+ are statistically less likely to receive a Conditional Caution than offenders aged under 20. However, the following age categories are more likely to receive a CC than offenders aged under 20:
  - 21 to 25 year-olds;
  - 26 to 30 year-olds; and
  - 31 to 40 year-olds.
- OOCds where offences are flagged for domestic violence are more likely to receive a CC than those which are not DV-flagged.<sup>43</sup> There is no relationship for those flagged for hate crime in relation to which OOCd they were likely to receive.

### **Multivariate analysis of victim characteristics**

As with offender characteristics, a multivariate analysis was conducted to investigate which OOCd disposal an offender received in the pilot areas – modelling the likelihood of receiving a CC rather than a CR – against a range of factors including victim age, gender and ethnicity and controlling for any previous receipt of an OOCd and current committed offence. Please see Appendix 5 for the full results of the analysis along with the limitations of the analysis.

Controlling for prior OOCd receipt, pilot site and offence type, key results from this analysis are:

- Victim age is marginally associated with the offender receiving a CC rather than a CR. Only victim aged 31–40, 51–60 and over 61 are associated with a lower likelihood of the offender receiving a CC compared to those victims aged under 18.
- The gender of the victim is not associated with the offender receiving a CC rather than a CR, though receipt of CCs is less likely where victim gender is unknown.

---

<sup>43</sup> It is possible to receive a CR in respect of an incident of DV. Guidance issued to police officers for the pilot made clear that CRs are only suitable when the victim and offender are not (nor have been) intimate partners, any injury is considered minor in the case of familial relationships and the offender has no previous history of DV or other relevant offending history.

- With victim ethnicity, the 'no data recorded' category showed a statistically significantly higher likelihood of receiving a CC than the reference category of 'White';
- Victim type was associated with type of OOC. Offences involving individual victims were less likely to receive a CC, whereas offences committed where there was no identified victim were statistically significantly more likely to receive a CC than the reference category of organisational victim; and
- As with the offender model, DV-flagged cases were statistically significantly more likely to receive a CC than non-flagged cases.

### 7.3 Domestic Violence and Hate Crime

Monitoring data and PNC data were used to examine the difference in outcomes for offenders associated with domestic violence (DV) or hate crime (HC) who accept an OOC.

Since pilot and counterfactual areas did not record comprehensive victim impact data, it was not possible to answer questions about the impact of the pilot on victims of DV or HC compared to the status quo. However, the outcomes for DV and HC offenders in this section are:

- proven re-offending within three months of receiving an OOC in Q1 of the pilot period;
- receiving a repeat OOC up to nine months after receiving an OOC in Q1 of the pilot period;
- the type of OOC received; and
- the types of conditions attached to OOCs.

#### Proven Re-offending

Analysis was undertaken which compared PNC offence records by whether the cohort of Q1 offenders committed DV or HC-flagged offences. Please see Section 7.1 for details of the analysis and the limitations of this. The major limitation of this dataset is that PNC data are based on achieving an unambiguous match between the offender data provided by the areas. Therefore the PNC dataset has fewer offenders than the dataset provided by the areas. This is particularly the case for offenders from Area E where no PNC data have been included in this analysis as full PNC identifying information was not available.

Very few Q1 offenders committing DV-flagged offences re-offended within three months of their first O OCD in Q1. Specifically:

- There was no statistically significant difference in the likelihood of re-offending in the pilot areas between DV-flagged and non DV-flagged offences. In the pilot areas, there were 195 Q1 offenders committing DV-flagged offences. Of these offenders, 6% (or 11) re-offended within three months of receiving their first O OCD. Of the 1,574 Q1 offenders with non DV-flagged offences, 5% (or 83) re-offended within three months of receiving their first O OCD.
- In two of the three counterfactual areas where the MoJ could link monitoring data to PNC records, re-offending was particularly rare. Of the 196 Q1 offenders with DV-flagged offences, six re-offended within three months of receiving their first O OCD. Of the 1,367 Q1 offenders with non DV-flagged offences, 74 (or 5%) re-offended within three months of receiving their first O OCD. Given these small cell sizes, robust statistical tests could not be conducted to determine whether re-offending varied across DV-flagged and non-DV-flagged offences in these areas.

The number of Q1 offenders with HC-flagged offences was considerably lower than those with DV-flagged offences – a total of 39 offenders in both pilot and counterfactual areas. None of them re-offended within three months of receiving an O OCD in Q1 of the pilot period.

## Repeat O O C D s

Analysis was undertaken to assess repeat O O C D s by whether or not the offenders had DV or HC-flagged offences for the first O O C D in Q1 of the pilot period. Details of the analysis and the limitations of this are presented in Section 5.4.<sup>44</sup>

The number of offenders with DV-flagged offences in Q1 of the pilot period and who received a repeat O O C D in the pilot period following their first O O C D in Q1 was low.

- In the pilot areas, 195 offenders in Q1 committed DV-flagged offences and received an O O C D in Q1. Of these offenders, 8% (or 15) received a repeat O O C D after receiving their first O O C D in Q1 of the pilot period. Of the 1,634 offenders in Q1 who committed non DV-flagged offences and received an O O C D in Q1, 5% (or 85) received a repeat O O C D in the rest of the test period after

---

<sup>44</sup> Data from Area E were included in this dataset for the counterfactual areas; therefore the total number of offenders included in this dataset was higher than that for the PNC dataset. The total number of pilot area offenders included in this dataset was also higher than the PNC dataset due to the requirement to accurately match offender identification data from the pilot and counterfactual areas with the PNC.

receiving their first O OCD in Q1 of the pilot period. This difference was not statistically significant.

- In the counterfactual areas, 416 offenders in Q1 committed DV-flagged offences and received an O OCD in Q1. Of these offenders, 3% (or 13) received a repeat O OCD in the rest of the test period after receiving their first O OCD in Q1 of the pilot period. Of the 2496 offenders in Q1 who committed non DV-flagged offences and received an O OCD in Q1, 5% (or 124) received a repeat O OCD in the rest of the pilot period after receiving their first O OCD in Q1 of the pilot period. This difference was not statistically significant.

Three of the 45 offenders with HC-flagged offences in the pilot and counterfactual areas received a repeat O OCD in the rest of the pilot period after receiving an O OCD in Q1 of the pilot period. Due to this very low number of offenders with HC-flagged offences, it was not possible to produce a statistically robust finding to answer the research question.

### **O OCD type**

We conducted a multivariate analysis to investigate which O OCD disposal an offender received in the pilot areas – modelling the likelihood of receiving a CC rather than a CR – against a range of factors including whether or not the case was flagged for domestic violence or hate crime. The data used for this analysis were the full year monitoring data provided by the pilot areas. Please see Appendix 5 for the full results of the analysis along with the limitations of the analysis. Results indicate that:

- Offenders committing DV-flagged offences were about six times more likely to receive a CC than offenders not committing DV-flagged offences.
- There was no statistically different relationship between offences flagged and not flagged for hate crime and the type of O OCD offenders were likely to receive.

### **Conditions attached to O O C D s**

Analysis compared the types of conditions used for DV and HC-flagged and non-DV and non-HC-flagged O O C D s in the pilot areas. This was based on the full year monitoring data covering O O C D s issued between 3rd November 2014 and 31st October 2015. Section 5.2 details the scope of the conditions, data and limitations. The key findings for DV and HC-flagged cases in the pilot areas are:

- The proportion of rehabilitative conditions for DV-flagged cases was higher, 46% (1,064 of 2,327) than for non-DV-flagged cases, 23% (4,038 of 17,342).



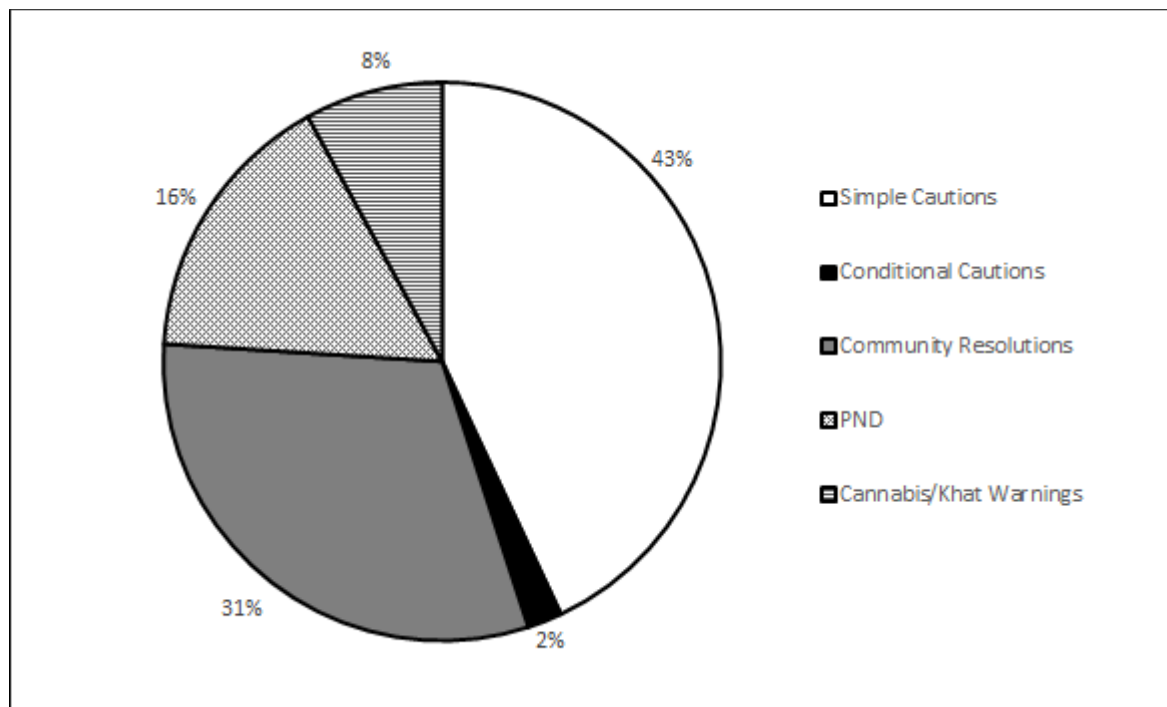
- The proportion of reparative conditions (of all conditions given) for DV-flagged cases was lower, 26% (589 of 2,327), than for non-DV-flagged cases, 42% (7,161 of 17,342).
- The proportion of reparative conditions for HC-flagged cases was higher, 60% (132 of 219), than for non-HC-flagged cases, 40% (7,618 of 19,450).

## 7.4 Outcome of Existing OOCs

It is important to assess what disposals were given to offenders who would otherwise have received one of the adult OOCs that were withdrawn under the two-tier framework.

Figure 7.1 sets out the estimated share of OOCs across the counterfactual police force areas during the pilot period.<sup>45</sup> Overall, the figures indicate that Simple Cautions were the most common type of adult OOC, followed by CRs and then PNDs. CCs were the least common in the counterfactual areas.

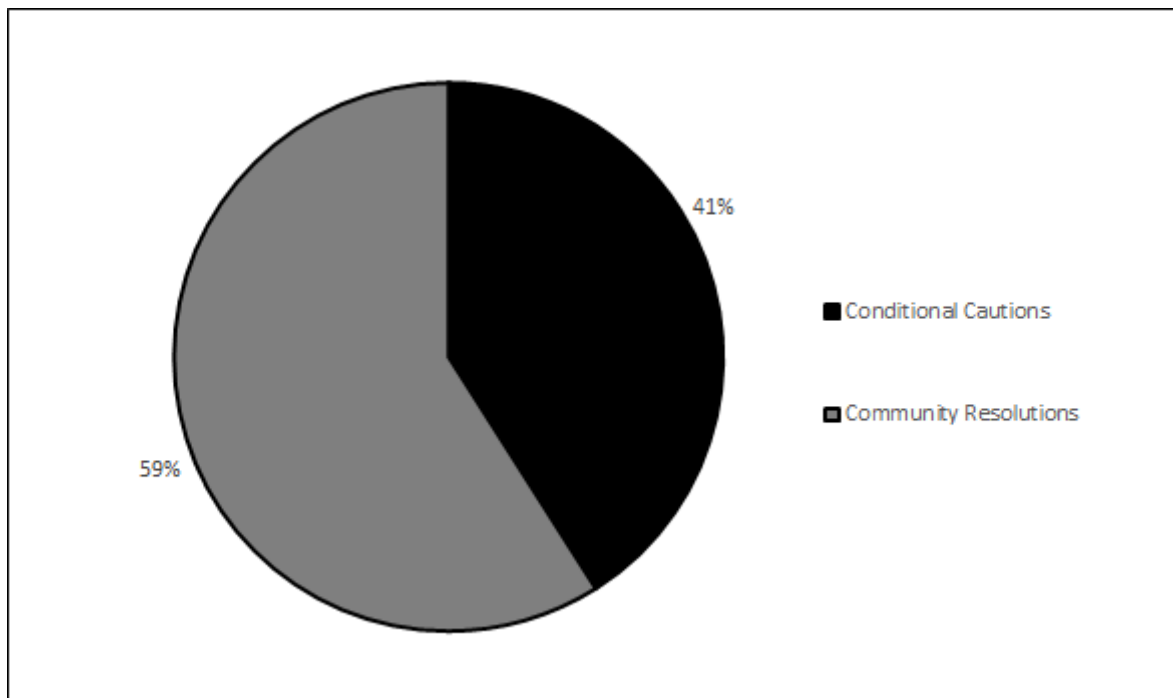
**Figure 7.1: Share of Adult OOCs in Counterfactual Police Areas**



In contrast, Figure 7.2 shows that CRs were the most common type of OOC in the pilot areas – outnumbering CCs by some 18 percentage points.

<sup>45</sup> The disaggregation of adult cautions into Simple Cautions and CCs was imputed using more granular recorded offence outcome data from the three counterfactual police forces.

**Figure 7.2: Share of Adult OOCs in Pilot Police Areas**



Although the total share of formal adult cautions differed slightly between pilot and counterfactual areas (45% in the counterfactual areas and 41% in the pilot areas), the inference is that nearly all Simple Cautions were “converted” into CCs under the two-tier OOC framework. This is why the share of CCs in the pilot areas appeared to rise by a factor of 20 in comparison.

Similarly, the inference is that PNDs and Cannabis/Khat Warnings were “converted” into CRs, which is why the share of CRs appeared to double under the two-tier framework.

## 8. Economic evaluation of the pilot

### 8.1 Introduction

This chapter provides a high-level estimate of the O OCD two-tier framework's net impact in monetary terms across the three pilot areas. This analysis assumes this monetary impact can be quantified given the various data limitations described in section 8.4.

The estimation procedure comprised the following steps:

- The contractor used management information and qualitative data in the police force pilot and counterfactual areas. The data were estimated durations of observable activities undertaken by CJS participants<sup>46</sup> in those areas with regard to the use of adult O OCDs.
- MoJ analysts aggregated these estimates and monetised them depending on the broad role of the participant in question using publicly available data on average hourly wage rates that were then adjusted for non-wage labour costs.
- The monetary estimates were inputted into a simplified model of the flows of adult O OCDs during the pilot period that were based on the outturn data in both the pilot and counterfactual areas.
- The quantified costs and benefits were summed to produce an overall net impact estimate in 2014/15 prices.

### 8.2 Summary of findings

#### Implementation

Table 8.1 summarises the estimated implementation costs in terms of quantifiable staff hours. It shows that the monetary value of this time amounted to some £0.8 million in the test period across the three police forces, of which about four-fifths was associated with police officers and the remaining one-fifth with their civilian staff colleagues.<sup>47</sup>

**Table 8.1: Implementation, Monetised staff hours, 2014/15 prices (rounded)**

	Area A	Area B	Area C		
Cost	£0.5m	£0.3m	<£0.1m	Police	80%
				Non-police	20%

<sup>46</sup> Participants in this sense may include police force personnel, CPS practitioners or HMCTS staff.

<sup>47</sup> Where data were available, implementation included estimated costs for setting up a network of treatment service providers and a central team inside a police force responsible for data management.

Area C's implementation costs were noticeably lower than those in the other two police forces. Area C interviewees reported that, with the benefit of hindsight, they would have chosen a different model of training provision which reached more police officers and was more intense.

## Operation

It has not been possible to derive a precise estimate of the operational costs of the existing and two-tier adult OOCDF frameworks during the pilot period in terms of quantifiable staff hours. A rough estimate based on a limited number of direct observations of staff time relating to OOCDFs under the status quo and the two-tier framework is set out in Tables 8.2 and 8.3.

**Table 8.2: Status quo, 2014/15 prices (rounded)**

Group	Police	HMCTS	CPS	Treatment	Total cost	PND revenue	Fines & VS	CC revenue	Total benefit	NET COST
Total	£1.6m	£0.2m	<£0.1m	<£0.1m	<b>£1.8m</b>	£0.1m	£0.1m	<£0.1m	<b>£0.2m</b>	£1.6m

**Table 8.3: Two-tier framework, 2014/15 prices (rounded)**

Group	Police	HMCTS	CPS	Treatment	Total cost	PND revenue	Fines & VS	CC revenue	Total benefit	NET COST
Total	£2.5m	£0.2m	£0.1m	£0.2m	<b>£3.0m</b>	N/A	£0.1m	£0.1m	<b>£0.2m</b>	£2.8m

The above tables suggest that, operationally, the net cost of the two-tier framework in the pilot period was in the region of **£1 million (or some 70%) higher overall** in 2014/15 prices than the status quo for the three police forces participating in the pilot.<sup>48</sup> Given the limited sample size, however, the true change in costs could be considerably higher or lower than this estimate.

The operation of the two-tier framework<sup>49</sup> appeared to be appreciably more expensive than the status quo in terms of a percentage increase, according to the data gathered from the evaluation. This was because of a large increase in the use of CCs and because the offenders' three month re-offending rates were not significantly different. Indeed, the evaluation data indicated that nearly all of the simple cautions were 'converted' into CCs,

<sup>48</sup> If all of the cost of providing treatment services were met by offenders, then the MoJ approach of assigning a zero weight to impacts on offenders in cost-benefit analyses would result in the two-tier framework having a total net cost of about £0.9 million (or 60%) higher than the status quo. It is unknown the extent to which offenders in the pilot areas paid for their own treatment services. Data from the process evaluation indicated that overall funding was met from a number of sources – e.g. offenders, PCCs and/or Community Rehabilitation Companies.

<sup>49</sup> Includes an estimated cost for the monitoring and enforcement of OOCDF compliance.

which are more costly for the police to administer because they require more actions, other things being equal.

The evaluation's cost-benefit analysis also suggested that under the two-tier framework:

- when expressed as a percentage change, the total cost of funding treatment providers was significantly higher than the status quo since the greater use of CCs entailed a greater demand for the services underpinning rehabilitative conditions;<sup>50</sup>
- CPS expenditure may have been somewhat higher as the greater use of CCs could have resulted in a larger number of prosecutions following non-compliance;<sup>51</sup>
- the HMCTS impact may have been roughly neutral because the cost of the larger number of court proceedings related to CC non-compliance appeared to be mostly offset by the avoided cost of court proceedings for PND non-payment;<sup>52</sup> and
- the total revenue raised from offenders through court fines, Victim Surcharge (VS) and CCs' reparative and punitive conditions may have been broadly offset by the loss of PND revenue.<sup>53</sup>

### 8.3 Unquantified impacts

This cost-benefit analysis was unable to quantify a number of relevant impacts. The most material of these were:

- *The cost of HMCTS fine enforcement.* It is unknown whether the public sector cost of enforcing court fines imposed as a result of PND non-payment under the status quo was significantly different to the expected additional cost of enforcing

---

<sup>50</sup> As stated earlier, the proportion of the total cost of treatment service provision met by offenders is unknown. It was assumed that the greater use of treatment services did not displace non-pilot offenders and that the average cost of treatment provision remained unchanged.

<sup>51</sup> The economic evaluation assumed a constant CC breach rate of 16% in both the pilot and counterfactual police force areas, based on the published CPS figures from 2012/13. Although the CC breach rate is relatively low, the much larger number of CCs issued under the two-tier framework and the constant breach rate would produce a large increase in the total number of CC breaches. Around two-thirds of breaches were assumed to result in prosecution, based on CPS 2012/13 figures.

<sup>52</sup> As noted, a constant CC breach rate produces a large rise in the total number of CC breaches when the total number of CCs increases. Given that most breaches appear to be prosecuted, it follows that there is a sizeable increase in the total number of court proceedings following CC breach. Official figures show that PND non-payment is largely the result of failure to pay; only around 1% of PND outcomes are categorised as individuals choosing to contest receipt of the PND in court.

<sup>53</sup> "Revenue" is broadly defined in this context to refer to any sum of money raised from offenders, regardless of to whom it is paid.

any court fines imposed following CC non-compliance under the two-tier framework.

- *The benefit of improved victim satisfaction.* It is unknown whether victims of crime in the three pilot areas were generally more satisfied with the resolution of their offences through CCs and CRs, which should have been more tailored to victims' needs than would otherwise have happened through other OOC types. Any increase in victims' overall satisfaction would represent a non-financial benefit.<sup>54</sup>
- *The benefit of more rigorous monitoring.* It is unknown whether the improved monitoring required by a much greater use of CCs and CRs has produced a longer-term gain in policing locally due to better quality information.

## 8.4 Data limitations

This cost-benefit analysis is limited due to the available evaluation data. For instance:

- Only one counterfactual police force participated in the exercise to estimate the durations of the entire range of existing OOCs. This has resulted in a relatively small number of observations that may have distorted the comparison of the net cost. It was therefore assumed that this counterfactual police force was sufficiently representative.
- There was a lack of overall compliance rate data on CCs in particular and the consequences of non-compliance (due to censoring and missing data). As a proxy, therefore, CPS figures from 2012/13 (when that organisation was last responsible for authorising CCs) have been used. Consequently, it was assumed that these national CPS figures were still applicable during the pilot period and did not vary by police force.
- There were insufficient data to provide a reliable estimate for each type of OOC by manner of disposal (i.e. arrest, on street, voluntary attendance), by condition type agreed, and by eventual outcome. The combinations of manner of disposal, condition type and outcome naturally result in considerable variation in the total duration by OOC type. The available data could not take account of these variations, so an overall average duration by type of OOC was used for the purposes of comparison.

---

<sup>54</sup> Police forces in England and Wales conduct regular surveys of victim satisfaction in their areas. However, these surveys are undertaken in a diverse manner, based on local needs, that does not permit systematic statistical analysis of changes in satisfaction levels. For instance: some police force surveys of satisfaction are not linked to offence outcomes; where outcomes are linked they do not always differentiate between types of adult OOC; other surveys only focus on certain offence types that may or may not result in an adult OOC; and victim satisfaction is itself measured in a variety of ways (e.g. different Likert scales).

## **8.5 Cost benefit conclusion**

In 2014/15 prices, the total net operational cost of the two-tier OOC framework was estimated to be around £1 million higher than the status quo in the pilot areas during the pilot period. This is because of an apparent lack of change in the three-month re-offending rates under the two-tier framework and because of the additional cost to the police of administering a much larger number of CCs.

The total implementation cost of the pilot was estimated to be about £0.8 million in the test period in 2014/15 prices, primarily given the need to invest in police training.

There is considerable uncertainty, however, about these totals due to the effects of data limitations – which required the use of simplifying assumptions – and unquantified impacts.

See Appendix 6 for more details about the economic evaluation.

## 9. Conclusions and implications

The aim of this report was to assess whether the pilot (a) achieves the requirements of greater simplicity and transparency and (b) has acceptable wider implications for CJS partners (i.e., police, HMCTS, CPS, NOMS).

Simplicity can be measured in a number of ways. At one level, the OOCd landscape has been simplified with the reduction from six disposals to two disposals. However, the two remaining disposals are the most complex to administer as they involve tailoring the conditions and actions to the offender and offence. Increased simplicity may have been hindered in the pilot by a lack of lead-in time and the need for police cultural change. The development of more effective guidance and training on setting and monitoring conditions and ensuring sufficient time to develop partnership working and service provider arrangements may increase simplicity in implementation of these disposals in the future.

There was no increased likelihood of issuing an OOCd in the pilot areas compared to the rest of England and Wales. At the same time, there has been considerable organisational change across policing more generally. From the interviewees, there was some support for increased transparency through the use of multi-agency scrutiny panels. The increased partnership working and the increased engagement with victims to understand their views on disposals may have the potential to increase transparency in the future.

Overall, it appears there are positive indications of greater simplicity and transparency with some pointers of how to improve further in these areas.

### 9.1 Wider implications

If the pilot framework is to be rolled-out across England and Wales, the following key conclusions and implications (in italics) should be taken into consideration.

#### **Adequate time to implement change**

There was broad support for the pilot framework from police officers across the pilot areas. However, officers thought the implementation of the pilot was rushed: frontline officers received variable levels of training; there was insufficient time for service level agreements to be established with intervention providers; and insufficient time for cultural change by the police to focus on supporting desistance and reducing re-offending.



*Officers suggested that a six-month implementation period should be required before going live. This would enable: the necessary development of guidance; the delivery of training; and the forming of sustainable police and intervention provider partnerships. It could also facilitate cultural change among the police to a more desistance-based model of policing. If a police force can identify that these changes are in place sooner than a shorter period might be appropriate.*

### **Understand differences in outcomes and offending behaviour**

The impact evaluation findings show there was no statistically significant difference between the proportions of Q1 offenders in the pilot and counterfactual areas who re-offended within three months. However, due to this short period, these findings need to be treated with some caution.

Similarly, there was no statistically significant difference between the proportions of offenders in the pilot and counterfactual areas who received a repeat OOC up to nine months after receiving their first OOC in Q1 of the pilot period.

*Early indications are that the rates of re-offending (within three months) or repeat OOCs (up to nine months) are similar between the pilot and counterfactual areas.*

### **Examine decisions to administer OOCs for offence types**

Due to small sample and cell sizes, it was not possible within this evaluation to perform a comprehensive set of robust analyses that provide insight into the impact of the pilot framework on offenders with DV and HC flagged offences.

*In order to address the appropriateness of the pilot framework for DV and HC flagged cases, further work could be considered on how the outcomes of such cases under the current OOC framework is taken forward. A larger sample of offenders with DV and HC flagged offences (post pilot period) could be followed-up to provide a more robust assessment of the pilot framework.*

### **Trajectory of offenders under a simpler framework**

The multivariate analyses imply that some protected characteristics of victims and offenders may be associated with the decision to issue a CC or CR to an offender.

*In a roll out of the pilot framework, police forces would need to monitor OOCB outcomes by victim and offender protected characteristics to ensure that the decision about the type of OOCB issued was fair and equitable.*

### **Estimate the change in costs**

The MoJ's cost-benefit analysis indicated that (i) there were non-trivial implementation costs associated with the adoption of the two-tier OOCB framework; and (ii) the total annual operating cost was materially higher than the status quo when expressed as a percentage increase.

*The economic evaluation findings need to be treated with caution, given various data limitations and unquantified impacts. However, given the lack of observed, quantifiable differences in benefits between the pilot and counterfactual areas to offset implementation costs, the two-tier framework could be more costly to operate than the status quo. In quantified monetary terms, therefore, there currently appears to be a negative net benefit from using the pilot OOCB framework more widely.*

*It should be emphasised that this finding does not preclude society from choosing to use the OOCB reform nationally and choosing to bear the additional expense on the grounds that it is considered to be a more appropriate way to treat low level offenders and their victims.*

### **Identify good practice**

The pilot areas found it time consuming to compile the monitoring data required for this evaluation, particularly data associated with compliance. There was a standard process across the pilot areas for the monitoring and recording of compliance with CCs based on evaluation data needs. However, the monitoring and recording of compliance for both CCs and CRs varied in quality and consistency between the pilot areas.

*The amount of data needed for the day-to-day operation of the pilot framework is likely to be more streamlined than that required for the evaluation. However, in any potential roll-out of the pilot framework, a minimum level of performance monitoring needs to be established and national guidance produced to standardise the monitoring of OOCBs, in particular the recording of compliance for CRs, and the consequences of non-compliance in general.*

## References

Blakeborough, L. & Pierpoint, H. (2007). *Conditional Cautions: An Examination of Early Implementation of the Scheme*. Ministry of Justice Research Summary 7.

Ministry of Justice, Police, AGO, HO and CPS (September 2013). *Wider Out of Court Disposals (O OCD) Review: Impact Assessment (IA)*.

Ministry of Justice (April 2013), *The Out of Court Disposals National Framework*. Available from: <https://www.justice.gov.uk/downloads/oocd/national-framework-oocd.pdf>.

Ministry of Justice (2014), *Pilot of a New Out of Court Disposal Framework: Core Briefing*, unpublished briefing document from the Ministry of Justice.

McNaughton Nicholls, C. & Webster, S. (2014). *Pilot Evaluation of the Active Risk Management System*. Ministry of Justice Research Analytical Series 2014. Available from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/308159/sex-offender-management-and-dynamic-risk.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/308159/sex-offender-management-and-dynamic-risk.pdf).

Neyroud, P. & Slothower, M. W. (2015). *Wielding the Sword of Damocles: the challenges and opportunities in reforming police out-of-court disposals in England and Wales*. In Martin

M. Wasik & S. Santatzoglou . (Eds.). *The Management of Change in Criminal Justice*. Basingstoke: Pallgrave Macmillan. Available from: <http://www.palgraveconnect.com/pc/doi/10.1057/9781137462497.0001>.

Ritchie, J., Ormston, R., Lewis, J. & McNaughton Nicholls, C. (2013). *Qualitative Research Practice*. London: Sage.

Turley, C., Payne, C., Webster, S. (2013). *Enabling Features of Psychologically Informed Planned Environments*. London: Ministry of Justice. Available from: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/211730/enabling-pipe-research-report.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/211730/enabling-pipe-research-report.pdf).

# Appendix 1

## OOCD monitoring data

### Data recording and processing

The pilot and counterfactual police force areas compiled the OOCD monitoring data using a data collection template devised by the research team following consultation with the MoJ and the pilot and counterfactual areas.

The areas manually populated the data collection template drawing on records from different police systems, including free text case management records. All the areas reported that this was a time consuming process and the data that they were able to provide were dependent on how comprehensively and accurately officers and support staff had recorded it.

The areas provided data to the MoJ. Analysts in the MoJ then combined quarterly datasets for individual areas where required, anonymised them,<sup>55</sup> and provided unique identifiers for each OOCD offender before securely transferring the anonymised datasets for each area to the research team.

The datasets from all the areas contained duplicate OOCD records where more than one offence and/or victim has been recorded for one OOCD. The section below details the way in which the research team cleaned and de-duplicated these data.

### Data extracts and limitations

For the purposes of the report:

- Quarter one (Q1) runs from 3rd November 2014 to 31st January 2015;
- Quarter two (Q2) runs from 1st February 2015 to 30th April 2015;
- Quarter three (Q3) runs from 1st May 2015 to 31st July 2015; and
- Quarter four (Q4) runs from 1st August 2015 to 31st October 2015.

Tables A1.1 and A1.2 summarise details about the data extracts provided by the pilot and counterfactual areas and their limitations.

---

<sup>55</sup> Removing the first and last names of offenders and victims.

**Table A1.1: Data extracts provided by the pilot areas**

<b>Area</b>	<b>Data extracts provided by the areas and their limitations</b>
<b>A</b>	<p>A cumulative dataset comprising Q1, Q2, Q3 and Q4 data.</p> <p>Apart from a very small number of duplicate OOCs, each OOC record is unique – where there was more than one offence or victim, a single offence and a single victim was selected by the area and included in the extract. Small number of duplicate OOC records where more than one offence and more than one victim.</p> <p>Multiple OOC records provided by the area where the offender appears more than once because they have had multiple OOCs.</p> <p>This area undertook a phased roll-out of the pilot framework which affected the volume of pilot framework OOCs issued between the 24<sup>th</sup> November 2014 and 9<sup>th</sup> February 2015.<sup>56</sup></p>
<b>B</b>	<p>Q1 and Q2 as a single cumulative dataset.</p> <p>Q3 and Q4 as separate datasets.</p> <p>Duplicate OOC records were provided by the area where there was more than one offence and/or more than one victim per OOC.</p> <p>Multiple OOC records were provided by the area where the offender appeared more than once because they have had multiple OOCs.</p>
<b>C</b>	<p>Q1 and Q2 as a single cumulative dataset.</p> <p>Q3 and Q4 as a single dataset.</p> <p>No data were provided on location of OOC disposal.</p> <p>Duplicate OOC records were provided by the area where there was more than one offence and/or more than one victim per OOC.</p> <p>Multiple OOC records were provided by the area where the offender appeared more than once because they have had multiple OOCs.</p>

**Table A1.2: Limitations of the data provided by the counterfactual areas**

<b>Area</b>	<b>Data extracts provided by the areas and their limitations</b>
<b>D</b>	<p>Q1, Q2, Q3 and Q4 as separate datasets.</p> <p>Duplicate OOC records provided by the area where there is more than one offence and/or more than one victim per OOC.</p> <p>Multiple OOC records provided by the area where the offender appears more than once because they have had multiple OOCs.</p>
<b>E</b>	<p>Q1, Q2, Q3 and Q4 as separate datasets.</p> <p>Year of birth of offenders, not date of birth was provided.</p> <p>No data were provided on domestic violence risk assessment, repeat victimisation and victim date of birth.</p> <p>There were 3978 missing records for location of OOC.</p> <p>Duplicate OOC records provided by the area where there is more than one offence and/or more than one victim per OOC.</p> <p>Multiple OOC records provided by the area where the offender appears more than once because they have had multiple OOCs.</p>

<sup>56</sup> Area A undertook a phased roll-out of the pilot framework across their five policing districts commencing on the following dates: District 1 – 24 November 2014; District 2 – 8 December 2014; District 3 – 12 January 2015; District 4 – 26 January 2015; District 5 – 9 February 2015.

Area	Data extracts provided by the areas and their limitations
F	<p>Q1, Q2, Q3 and Q4 as separate datasets.</p> <p>No data were provided on domestic violence risk assessment or repeat victimisation.</p> <p>Year of birth of victims, not date of birth provided.</p> <p>Duplicate OOCd records provided by the area where there is more than one offence and/or more than one victim per OOCd.</p> <p>Multiple OOCd records provided by the area where the offender appears more than once because they have had multiple OOCds.</p>

To answer the research questions detailed in Section 1.2, where the data were available, we compare the ‘test’ (the pilot areas) and the ‘status quo’ (the counterfactual areas).

## Data cleaning

The following were not included in the data analysis:

- OOCds where the offender was aged under 18 at the date of the offence;
- OOCds where the date of offence was before the 3rd November 2014<sup>57</sup> or after the 31st October 2015;<sup>58</sup>
- OOCds where the date of OOCd outcome recorded was before the 3rd November 2014 or after the 31st October 2015 – i.e. out of scope of the period covered by this analysis; and
- Youth OOCds.

## Duplicate and multiple OOCds

The cleaned data extracts from the areas were used to produce two datasets:

- The *de-duplicated dataset* was used for analysis in relation to volumes of OOCds and types of OOCds. Duplicate OOCd records were removed where it was the same OOCd but there was more than one offence and/or more than one victim. Multiple OOCds were retained where it was the same offender but a different OOCd.
- The *full dataset* was used for analysis in relation to conditions, offences including domestic violence and hate crime flagged offences, and victims. That is, different conditions could be attached to different victims and linked to different offences. An OOCd could have more than one offence attached to the OOCd. Moreover, one or more victims could be linked to a single OOCd. Here, duplicate OOCds and multiple OOCds were both retained.

<sup>57</sup> Only OOCds where the offence and OOCd occurred during the pilot period are being counted.

<sup>58</sup> Out of scope of the reporting period.

## Appendix 2

### Assessment of Time Trends in the Volume of Issued OOC

To assess the change over time in relative volumes of OOCs given, recorded crime outcomes in the three pilot police force areas were compared to crime outcomes in the rest of England and Wales. The analysis was based on data supplied by police forces in England and Wales to the Home Office and recorded using an outcomes framework that was introduced in April 2014.<sup>59</sup> The 18 standard outcomes include OOCs, No Further Actions (NFA) and charges/summons.

Adult Simple Cautions and Conditional Cautions (CCs) are jointly recorded as “Cautions”. Community Resolutions for youths and adults are not recorded separately. The research team used an estimate of 70% of all Community Resolutions (CRs) being given to adults on the basis of more granular outcome data from two of the police forces participating in the study.

Comparisons of offence outcomes pre-pilot are limited to the period April 2014 to October 2015. The raw data were the monthly crime outcome returns to the Home Office from individual police forces for the period since April 2014. These were provided in December 2015, though some of the data may have been subsequently revised.

Proportions of crime outcome types, rather than absolute changes across outcomes types, have been used because this is a simple way of standardising the values given that the two samples (the pilot areas and the rest of England and Wales) are very different in size. An additional OOC outcome in the pilot areas is proportionately different to an additional OOC outcome in the rest of the country.

A Difference-in-Differences (DiD) approach was used to assess any change in the relative likelihood of a recorded offence being resolved through an adult OOC. A linear regression model tests whether the *amount of change* experienced in the pilot areas with respect to OOCs during the pilot period was significantly different to the amount of change across the rest of England and Wales.

---

<sup>59</sup> See the data tables at <https://www.gov.uk/government/collections/crime-outcomes-in-england-and-wales-statistics> for more information on the types of recorded crime outcomes.

The analysis employed Stata (version 13). The regression model uses month and sample type – i.e. pilot areas versus the rest of England and Wales – to predict the proportion of crime outcomes that were recorded as adult OOCs. This effectively tests whether the relationship between month, sample type and adult OOC proportion was stable.

The regression model includes an interaction of month and sample type. A statistical significance test of this interaction is of most interest. Statistical significance is declared when the likelihood of observing the outcome is so small that one would reject the idea that there is no effect or relationship. The probability of observing the statistical outcome was calculated and, in accordance with common practice, it was declared to be “significant” when this probability is 5% or smaller. If this analysis produces that result, it would indicate that the adult OOC proportion had fluctuated by both time and sample type.

The question to answer is: did the proportion of adult OOCs change over time and was this change different for the pilot areas and the rest of England and Wales? Table A2.1 contain the results of this analysis:

**Table A2.1: Results of a regression of the proportion of OOCs issued on an indicator of pilot area versus the rest of England and Wales, time and their interaction**

Explanatory Variable	Coefficient (Standard error shown in parentheses)
Pilot area (vs. the rest of England and Wales)	-0.011 (0.009)
Time Point	-0.003* (0.001)
Pilot Area * Time Point	-0.001 0.001
Constant	0.119 (0.006)

Notes: Analysis conducted on a sample of 40 observations with a significant model fit statistic (F-test) of 40.14. Results marked with an asterisk (\*) are statistically significant at the 0.05 level; i.e. a less than five percent likelihood of obtaining the result due to chance.

The coefficient associated with the pilot area indicator is not statistically significant. This means that the proportion of adult OOCs issued did not differ between the pilot areas and the rest of England and Wales.

“Time point” refers to the month. It is statistically significant and has a negative coefficient. This shows that the proportion of adult OOC crime outcomes declined significantly over time in both the pilot areas and the rest of England and Wales between April 2014 and October 2015.



The interaction between the pilot indicator and time is not statistically significant. Consequently, one can conclude that there is no difference in the rate of change by sample type.

In other words, there has been a decline in the proportion of crime outcomes recorded as adult OOCs over time, but the rate of decline has been similar for both the pilot areas and the rest of England and Wales.

## Appendix 3

### Qualitative data

Fieldwork was conducted in each of the three OOCB pilot police force areas. A case study design was used, with each police force area being a single 'case'. The case study approach enabled the range of police and stakeholder perspectives to be captured within each pilot area. Seventy-four interviews were conducted across the three OOCB pilot areas.

The achieved sample for each participant group was as follows:

- 45 police officers (26 frontline; 9 decision makers; 10 management staff);
- 12 intervention providers (10 rehabilitative providers; 2 reparative);
- 6 Crown Prosecution Service (CPS) and HM Courts & Tribunal Service staff (HMCTS) (3 CPS; 3 HMCTS);
- 6 victims of crime (including 1 domestic violence (DV) case);
- 5 providers of DV intervention services (3 based in the pilot areas and two with a national remit to supplement the low number of DV victims recruited).

Participants were recruited either directly by the research team, or by gatekeepers in each pilot area. For example, OOCB police leads in each pilot area referred colleagues for research recruitment. The police leads also played a critical role in the recruitment of victims. Recruitment literature was developed by the research team. All participants provided signed informed consent before interview.

Qualitative data were collected using in-depth interviews. Interviews were conducted either face-to-face or by the telephone. Topic guides for the different stakeholder groups above were developed in collaboration with MoJ. The interviews were recorded on encrypted digital devices for full analysis. A case and theme-based approach to analysis was adopted using the Framework method (Ritchie, Ormston, Lewis & McNaughton Nicholls, 2013).

## Appendix 4

### Compliance data analysis

Data for compliance analysis were obtained directly from pilot police force areas. These data were verified through discussions with the MoJ and the pilot forces. The forces varied in how they recorded compliance information. Table A4.1 details the limitations of the compliance dataset for each of the areas and aspects of data verification that were conducted.

**Table A4.1: Limitations of the compliance data from the pilot areas and implications**

Unit of analysis	Limitations of the data	Implications for the analysis
<b>CC compliance</b>	CC compliance is tracked until completion across all three pilot areas	This recording method allows for the most reliable and consistent assessment of compliance across the pilot areas.
<b>CR compliance</b>	In Area A CR compliance is not assumed to have occurred on the date they were given and are tracked until completion.	The recording method used in Area A allows for a reliable assessment of CR compliance which is consistent with the way that CC compliance is tracked.
	In Area B, CR compliance has been assumed to have occurred on the date that they were given if no breach has been identified either by an officer or through system checks for further offending.	The recording method used in Area B potentially overstates the level of CR compliance.
	Area B have only provided CR cases that have been breached or completed as defined in the cell above.	In addition to the above, this also overstates the level of CR compliance in Area B.
<b>OOCD compliance</b>	In Area C this has been based on a field in the data template where the area indicated whether the disposal had been completed or not.	The differences in assessing compliance across the pilot areas have not materially affected the assessment of OOCD compliance.
	In Areas A and B this was imputed from the completion of conditions.	

Additionally, compliance information from Area A was for all OOCDs issued during Q1 and a random sample of OOCDs issued in all remaining quarters of the pilot period. Table A4.2 outlines the state of compliance data available for analyses detailed in Section 6.3.

**Table A4.2: Available date data for analysis of compliance**

	No Conditions Set	Completion assumed on issuance	Completion date is before OOC issued	Valid Date Data	Missing Date Data	Total
<b>Area A</b>	5% (416)	0% (0)	1% (54)	22% (1841)	72% (6054)	100% (8356)
<b>Area B</b>	2% (76)	36% (1124)	3% (79)	23% (725)	36% (1151)	100% (3155)
<b>Area C</b>	<1% (3)	0% (0)	<1% (3)	<100% (1606)	0% (0)	100% (1612)
<b>Total</b>	4% (495)	9% (1124)	1% (127)	38% (4172)	55% (7205)	100% (13123)

The analysis presented in Section 6 uses 4,172 OOCs for which valid date data were available. OOCs where the completion date was recorded before the OOC issue date were dropped as were all cases where no conditions were indicated as having been set. OOCs where completion was assumed on issuance were treated as being both included and excluded from the analysis for comparison.

To answer these questions about compliance, a life-table analysis of the time to compliance was conducted. This analysis calculates the duration between OOC issuance and the date recorded as compliance, marking all compliance dates after the pilot period ends as censored. It then groups the durations into four-week intervals. The pool of OOCs at the start of each subsequent four-week interval is considered to be “at risk” for compliance. A portion of OOCs “at risk” for compliance over this period will be censored, although the time of censoring is unknown.

The analysis therefore takes the “at risk” pool less half of those OOCs censored at the end of the interval as the base upon which to calculate the proportion compliant during the interval. All OOCs not censored at the end of the interval form the pool of OOCs “at risk” for compliance during the next interval and the compliance rate is recalculated. Cumulative compliance rates are obtained through summing the interval specific compliance rates. These cumulative compliance rates are plotted in Figure 6.1 in the report.

## Appendix 5

### Multivariate analysis

#### Analysis of the impact of offender characteristics on type of OOC issued

Table A5.1 presents results from a multivariate analysis that investigates which OOC disposal an offender received in the pilot areas. The likelihood of receiving a Conditional Caution (CC), rather than a Community Resolution (CR), was modelled against the following factors:

- Offender age, gender and ethnicity;
- Whether the offence was flagged for domestic violence and/or hate crime; and
- Controls for receipt of any previous OOCs, pilot site and offence type – though these are not reported in the table.

All explanatory factors are listed in the first column of Table A5.1. For the purposes of the analysis these are expressed as either in the reference category (e.g. White in the case of ethnicity) or one of the other categories. The next column contains odds-ratios of the effect of having a particular characteristic on the likelihood of receiving a CC rather than a CR compared to the reference category.

An odds ratio is a relative measure of an association between a given factor and the probability of receiving a CC rather than a CR. In the example of ethnicity, the odds ratio for the category Asian is a comparison of the likelihood of receiving a CC for Asian offenders relative to the likelihood of receiving a CC for white offenders. If the number is greater than the number one, then the probability for Asian offenders is higher than that of white offenders. If the odds ratio is less than the number one, then the probability for Asian offenders is lower than that of white offenders. In this example, the odds ratio for Asian offenders relative to whites is 0.85 suggesting that Asian offenders are less likely than white offenders to receive a CC instead of a CR. However, this finding is not statistically significant so it could be said that there is no difference between Asian offenders and white offenders in the likelihood of receiving a CC instead of a CR.

Shown in the two right-hand columns are the 95 percent confidence intervals. That is, the estimated odds ratio is likely to lie between these two numbers with 95 percent confidence. As mentioned above, odds ratios above the number one signify an increased likelihood, while figures below the number one signify a decreased likelihood. Statistically significant effects will have 95 percent confidence intervals that do not straddle the number one. Statistically significant estimated odds ratios are marked with an asterisk (\*).

The model is a logistic regression. Logistic regression is a statistical technique that assesses the association between, in this case, the probability of receiving a CC relative to a CR and various factors. Special accommodation is made mathematically to account for the limited numerical range that probabilities can take, i.e. between zero and one where zero means no likelihood and one means absolute certainty. The major strength of this approach is that the impacts of different factors are independent effects. That is, the results give the impact of being in a particular category, rather than a reference category, assuming no other differences.

### **Limitations of offender analysis**

The limitations of the analysis are as follows.

- The analysis only considers the likelihood of receiving a CC rather than a CR. It does not address the likelihood of receiving a CC rather than no disposal. Ideally, the model would have addressed the causal factors associated with an offender receiving a CC, a CR or no disposal. Unfortunately, no data were available relating to offenders who received no disposal, so this analysis was not possible.
- We collapsed the age of offender into categories.
- The model is limited to the pilot areas, allowing a clear distinction between Community Resolutions and Condition Cautions to be modelled.
- Data on prior recordable offending were not available. Only the offence for which the OOCd issued and prior OOCd receipt within the pilot period can be controlled in the model.

### **Results of multivariate analysis of offender data**

The results of the multivariate analysis are detailed in Table A5.1. Statistically significant odds ratios are marked with an asterisk.

**Table A5.1: Results of the logistic regression, predicting the likelihood of receiving a Conditional Caution as a function of available offender protected characteristics and controls**

	Odds Ratio	95% Confidence Interval	
Female (omitted)			
Male	1.17*	1.06	1.30
White (omitted)			
Asian	0.85	0.72	1.00
Black	0.95	0.76	1.20
Mixed Ethnic	1.35	0.96	1.92
Other Ethnic	0.94	0.58	1.50
Non-DV-Flagged Cases (omitted)			
DV-Flagged Cases	6.15*	5.17	7.31
Non Hate Crime-Flagged (omitted)			
Hate Crime-Flagged Cases	0.81	0.57	1.15
Aged 18–20 (omitted)			
Aged 21–25	1.17*	1.02	1.35
Aged 26–30	1.25*	1.07	1.45
Aged 31–40	1.33*	1.15	1.54
Aged 41–50	1.13	0.96	1.32
Aged 51–60	0.79*	0.64	0.97
Aged 61+	0.45*	0.34	0.61
<i>Prior OOCd receipt, Pilot Site and Offence Type controlled but not reported</i>			
Sample Size	10,693		
Likelihood Ratio	-6,044.39		
LR Chi-Square	2,579.59		
LR Chi-Square Sig.	0.00		

Controlling for prior OOCd receipt, pilot site and offence type, key results worth noting are as follows:

- Male offenders are more likely to receive a CC than female offenders;
- Offender ethnic group is not associated with the type of OOCd received.
- Age is associated with the type of OOCd received. Offenders aged 51–60 aged 60+ are statistically less likely to receive a Conditional Caution than offenders aged under 20. The following age categories are more likely to receive a CC than offenders aged under 20:
  - 21 to 25 year-olds;
  - 26 to 30 year-olds; and
  - 31 to 40 year-olds
- OOCds where offences are flagged for domestic violence are more likely to receive a CC than those which are not DV-flagged. There is no relationship for those flagged for hate crime in relation to which OOCd they were likely to receive.

## **Analysis of victim characteristics**

The analysis presented in Table A5.2 was carried out to investigate which OOCd disposal an offender received, modelling the likelihood of receiving a Conditional Caution, rather than a Community Resolution, against the following factors:

- What type of victim was involved (an individual, an organisation, or none recorded);
- The age, gender and ethnicity of the victim (where an individual);
- Whether the offence was flagged for domestic violence or hate crime;
- The model also controls for any previous receipt of an OOCd, pilot site and the specific offence committed, though these are not reported in the table.

This model focuses on the characteristics of the victim. As will be discussed below, the data relating to the victims of offences that result in OOCds have considerably more missing data than the data relating to the offence, disposal and offender. The addition of the victim data into the existing offender model (detailed above) ran the risk of missing data substantially affecting the results produced: as a result, the decision was made to run a separate model which focuses on the data relating to the victim characteristics.

## **Limitations of the victim analysis**

As noted above, considerable amounts of victim-related data were not recorded (61% for victim age; 23% for type of victim; 72% for whether they were a repeat victim; 68% for victim ethnicity; 60% for victim gender). In many cases, this was due to victim characteristics not being asked of, or pertaining to, organisational victims (for example, age, gender or ethnicity), though there were still considerable amounts of missing data. In order to include all types of victim within the model, these missing data were coded as a separate category.

The other limitations of the offender characteristics model still apply: non-inclusion of where the disposal was given; the model is limited to the pilot areas, and age of the victim has been collapsed into categories.



## Results of multivariate analysis of victim data

The results of the multivariate analysis are detailed in Table A5.2. Statistically significant odds ratios are marked with an asterisk.

**Table A5.2: Results of the logistic regression, predicting the likelihood of receiving a Conditional Caution as a function of available victim protected characteristics and controls**

	Odds Ratio	95% Confidence Interval	
Victim under age 18 (omitted)			
Victim aged 18–20	0.91	0.66	1.25
Victim aged 21–25	0.86	0.65	1.13
Victim aged 26–30	0.93	0.71	1.24
Victim aged 31–40	0.74*	0.57	0.96
Victim aged 41–50	0.84	0.64	1.10
Victim aged 51–60	0.68*	0.51	0.92
Victim aged 61+	0.58*	0.42	0.80
Victim age unknown	0.92	0.63	1.34
Victim White (omitted)			
Victim Asian	1.09	0.88	1.37
Victim Black	1.47	0.92	2.34
Victim Mixed-Ethnic/Other	1.51	0.94	2.42
Victim Unknown Ethnicity	1.26*	1.07	1.48
Victim male (omitted)			
Victim female	1.12	0.98	1.27
Victim gender unknown	0.63*	0.45	0.87
Organisational victim (omitted)			
Individual victim	0.55*	0.40	0.75
No info on victim type	1.21*	1.02	1.43
Non-DV-Flagged Offences (omitted)			
DV-Flagged Offences	6.93*	5.83	8.25
Non-Hate Crime-Flagged (omitted)			
Hate Crime-Flagged offences	0.94	0.66	1.33
<i>Prior OOCOD receipt, Pilot Site and Offence Type controlled but not reported</i>			
Sample Size	11,816		
Likelihood Ratio	-6,528.31		
LR Chi-Square	2,037.58		
LR Chi-Square Sig.	0.00		

Note: Sample size is limited due to missing data that have not otherwise been controlled in the model. Model fit statistics suggest that this model adequately fits these data.

Controlling for prior OOCd receipt, pilot site, and offence type, key results from this analysis are as follows:

- Victim age is marginally associated with the offender receiving a CC rather than a CR. Only victim ages of 31–40 and 51+ are associated with a lower likelihood of CC receipt.
- The gender of the victim is not associated with the offender receiving a CC rather than a CR, though receipt of CC is less likely where victim gender is unknown.
- With victim ethnicity, the 'no data recorded' category showed a statistically significantly higher likelihood of the offender receiving a CC than the reference category of White.
- Victim type was associated with type of OOCd. Offences involving individual victims were less likely to receive a CC than CR. In contrast, offences committed where there was no identified victim were statistically significantly more likely to receive a CC than the reference category of organisational victim.
- As with the offender model, DV-flagged cases were statistically significantly more likely to receive a CC than non-flagged cases.

## Appendix 6

### Economic technical supplement

#### Introduction

This appendix is intended to supplement the principal findings of the economic evaluation that were provided in Chapter 8. In particular, further details of the approach and OOCd pilot results used in the MoJ's cost-benefit analysis are set out below.

#### Implementation

Interviews with a variety of personnel in the three pilot police force areas produced some quantified estimates of staff-hours that each force expended on the introduction of the adult OOCd reform. These estimates are presented in the following table and grouped according to police officers and their civilian staff colleagues. They included: preparation of training materials and guidance; preparation of other material; delivery of training; attendance at training; updating of materials; and the creation of any central team in a police team to assist with OOCd data management and other aspects of conducting the pilot. Training was the dominant element in the estimates.

**Table A6.1: Estimated number of staff hours (rounded)**

	Area A	Area B	Area C	Total
Police	12,000	4,700	750	<b>17,450</b>
Non-police	3,800	7,700	250	<b>11,750</b>
<b>Total</b>	<b>15,800</b>	<b>12,400</b>	<b>1,000</b>	<b>29,200</b>

The quantifiable estimates suggest that Area C's total implementation staff hours were substantially less than the other two police force areas. To some extent, this difference may be an over-estimate. For instance, establishing a network of treatment service providers proved to be "very time consuming", but the Area C did not provide a numerical figure.

Nevertheless, it was reported in the process evaluation that – with the benefit of hindsight – Area C would have delivered a far greater amount of training. Specifically, the police force relied on sergeants cascading to colleagues following an initial training session, but it was felt that this did not happen effectively. In addition, it was assumed that training would be more of a refresher since CCs and CRs already exist, but it was found that there was very little understanding of these disposals in practice. Consequently, this lack of understanding had to be addressed much more intensely than originally anticipated.

The estimated number of staff hours for police officers and their civilian staff colleagues was then monetised using the average wage rates presented in the following table, which takes into account non-wage labour costs (notably, employers' superannuation and National Insurance Contributions).

**Table A6.2: 2014/15 Prices**

Group	Average wage rate	Data source
Police, up to sergeant	£37.0	Home Office (already adjusted for non-wage labour costs)
Civilian, police force	£14.6	ASHE, SOC 411 (UK, manual adjustment for non-wage labour costs)

N.B. ASHE refers to the UK's Annual Survey of Hours and Earnings<sup>60</sup>

The estimate for police officers up to and including the rank of sergeant was provided by the Home Office and already incorporated police non-wage labour costs. The estimate for police force civilian employees was based on the average hourly wage rate for ASHE Standard Occupational Classification (SOC) 411, "administrative occupations: government and related organisations", which was then inflated by 20%. This inflator was derived from Eurostat data<sup>61</sup> for the UK that was intended to provide a first-order approximation of non-wage labour costs.

These adjusted average wage rates were then multiplied by the estimated number of staff hours for the relevant group of employees and rounded to the nearest £0.1m to produce the table below.

**Table A6.3: Implementation, monetised staff hours, 2014/15 prices (rounded)**

	Area A	Area B	Area C		
<b>Cost</b>	£0.5m	£0.3m	<£0.1m	Police	80%
				Non-police	20%

## Operation

The approach used to estimate the cost of operating the status quo and two-tier adult OOCDF frameworks in the three pilot areas relied on estimating the volumetric flow of OOCDFs under both frameworks and multiplying each distribution of OOCDFs by the relevant unit cost.

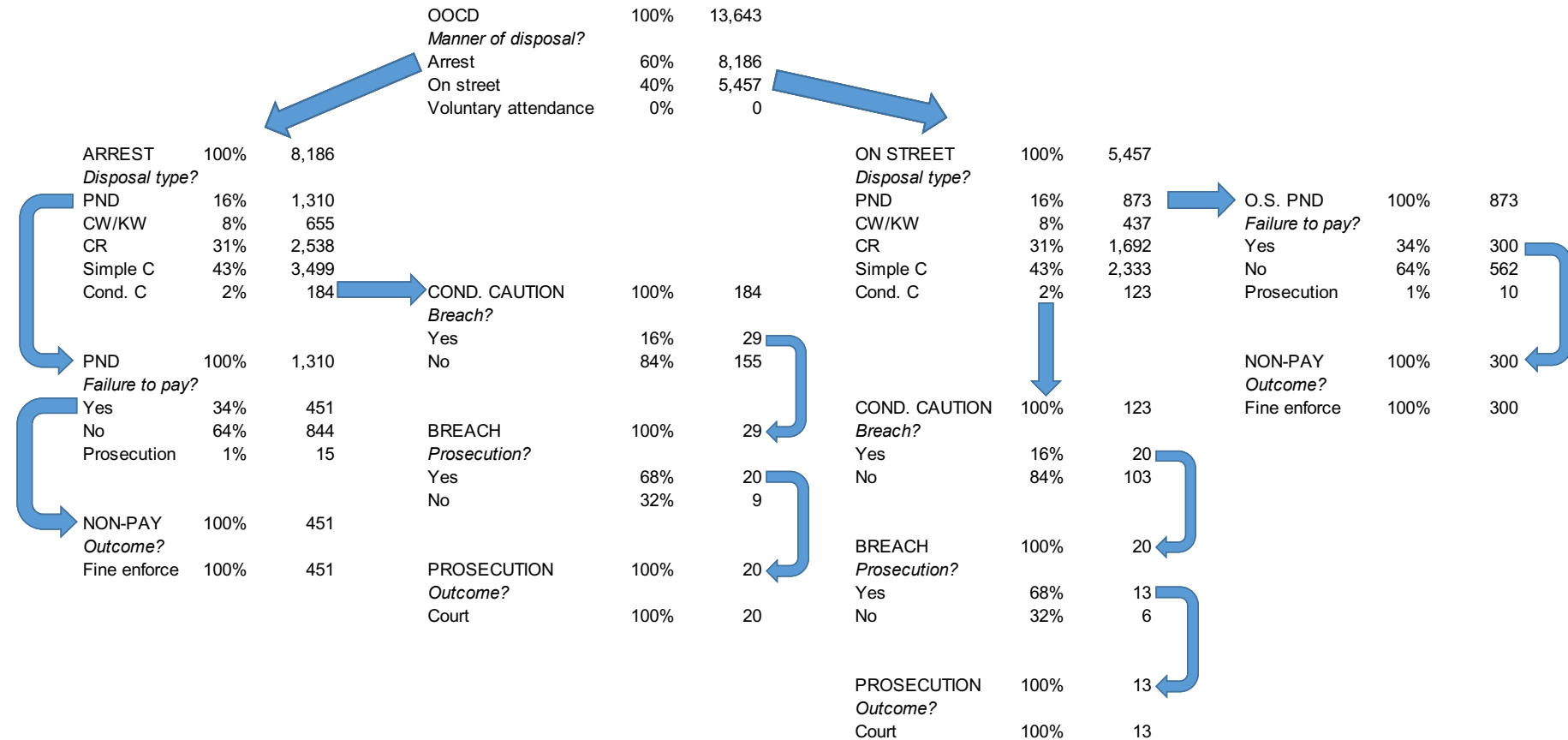
<sup>60</sup> <http://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/earningsandworkinghours/bulletins/annualsurveyofhoursandearnings/previousReleases>.

<sup>61</sup> <http://ec.europa.eu/eurostat/web/labour-market/labour-costs/database>. Go to labour costs annual data (lcan) then labour cost levels (lc\_lci\_lev). One can customise the table to view and download figures for total labour costs, wages and salaries and non-wage costs with respect to various sectors of the economy. "Industry, construction and services" was chosen as a broad measure.

## Status quo

The high level flows under the status quo are set out in the following stylised diagram and explained below.

**Figure A6.1: Diagram of volume flows under the status quo**



Monitoring data from the evaluation found that there were a total of 13,643 adult OOCs across pilot Areas A, B and C during the pilot period – this volume of OOCs was used as the denominator for the purposes of comparison between both states of the world.<sup>62</sup> The monitoring data indicated that the status quo distribution of OOCs would have been: 43% simple cautions; 2% CCs; 31% CRs; 8% Cannabis or Khat Warnings; and 16% PNDs.

The available data suggested that around 60% of adult OOCs were given after arrest and the remaining 40% were given on the street in the counterfactual police areas. However, the significant number of missing data entries and the apparent absence of any instances of voluntary attendance make this estimated breakdown of the manner of disposal unreliable.

Ideally, an accurate distribution of OOCs by manner of disposal would have been used to derive the total cost of the status quo framework, but data limitations with the manner of disposal and the estimated unit costs of each OOC type jointly mean that an alternative approach became necessary.

In short, a uniform distribution of OOCs has been applied to both manners of disposal for which data existed, as can be seen in the above diagram.

The exact PND outcomes in the counterfactual police force areas during the pilot period are unknown. Consequently, the 2014 published national outcomes were used instead.<sup>63</sup> This gave rise to the following distribution of outcomes, which shows that around one-third of all PNDs issued were subject to fine enforcement by HMCTS.<sup>64</sup>

---

<sup>62</sup> The “manner of disposal” and OOC type distributions in the diagram relate to counterfactual Areas D, E and F during the pilot period. In contrast, the listed CC percentage outcomes (including any subsequent prosecutions) were assumed to be identical across the status quo and two-tier frameworks. The total volume of adult OOCs in the pilot Areas A, B and C was used in the status quo diagram and associated analysis to ensure that the status quo outputs were directly comparable to the two-tier framework outputs. In other words, the approach represented what would have happened to the same group of OOC offenders if they had been subject to the two-tier framework instead of the status quo.

<sup>63</sup> See table A2.1 of “Criminal Justice Statistics Quarterly- December 2014”, MoJ (<https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-december-2014>)

<sup>64</sup> The 1% “outcome unknown” in the published figures was distributed across the other categories in proportion. The category of CPS prosecution is based on an assumption that all “potential prosecution” PNDs are individuals who contest receipt of their PNDs in the magistrates’ courts and are then prosecuted by the CPS. It is further assumed that all “fine registered” PNDs are individuals who fail to pay their PNDs and so become subject to HMCTS fine enforcement in the magistrates’ courts.

**Table A6.4: PND outcomes in England and Wales, 2014**

Paid in full	51%
CPS prosecution	1%
Fine enforcement	34%
Cancelled	13%
<b>Total</b>	<b>100%</b>

Data limitations with regard to CC compliance and the consequences for non-compliance in both the pilot and counterfactual areas meant that it was necessary to rely on proxies. The alternative measures chosen were the rates of compliance and distribution of non-compliance outcomes recorded by the CPS in 2012/13, which was the final year that organisation was responsible for authorising the use of CCs in England and Wales.

The 12-month CC average compliance rate in Q4 2012/13 was 84%.<sup>65</sup> Of the 16% non-compliant CCs, the CPS published data for all of 2012/13 indicated that 68% of that sub-group of offenders were charged for the original offence and the remaining 32% either had their conditions varied or were given no further action.<sup>66</sup> It was thus assumed that these distributions applied to all police forces during the pilot period.

Finally, it was assumed that CRs, Cannabis/Khat Warnings and Simple Cautions did not result in any downstream costs because (i) CRs are a non-statutory disposal, so there are no powers of enforcement, although defendants are occasionally prosecuted for the original offence; (ii) Cannabis/Khat Warnings are formal warnings without any conditionality; and (iii) Simple Cautions do not involve any conditions on the part of offenders which are monitored or enforced.

Having specified adult OOC volume flows, the next step was to apply unit costs for each type of OOC. As mentioned before, the preferred approach would have been to apply unit costs by OOC type that were specific to the manner of disposal. Given the data limitations around the manner of disposal distribution and the cost of administering each OOC type, an average cost by OOC type was used across all manners of disposal. These are summarised in the A6.5 and are only intended to be indicative given that they were based on a number of direct observations across four police force areas.

<sup>65</sup> See page 9 of [http://www.cps.gov.uk/publications/performance/conditional\\_cautioning/conditional\\_cautioning\\_data\\_Q4\\_12\\_13.pdf](http://www.cps.gov.uk/publications/performance/conditional_cautioning/conditional_cautioning_data_Q4_12_13.pdf)

<sup>66</sup> Available from: [http://www.cps.gov.uk/publications/performance/conditional\\_cautioning/](http://www.cps.gov.uk/publications/performance/conditional_cautioning/)

**Table A6.5: Average cost by OOC type across all manners of disposal**

OOCD type	Hours			Estimated cost			Sample size
	Police	Non-police	Total time	Police	Non-police	Total cost	
CC	6.4	2.2	8.6	£238	£32	£269	16
CR	3.0	0.7	3.7	£112	£10	£122	16
PND	3.9	0.2	4.1	£143	£3	£146	6
CW/KW	2.0	0.0	2.0	£74	£0	£74	1
SC	2.8	0.0	2.8	£105	£0	£105	4

With respect to the unit costs of other CJS activities, the following table was supplied by the CPS in early 2016. These estimates were used in the cost-benefit analysis where it was assumed that individuals who contest receipt of their PNDs plead not guilty and offenders who do not comply with their CCs plead guilty if subsequently prosecuted.

**Table A6.6: Crown Prosecution Service cost per defendant, Magistrates' courts<sup>67</sup>**

CPS – Charge decision	£72
CPS – Prosecution MC, guilty plea	£67
CPS – Prosecution MC, not guilty plea	£338

MoJ Analytical Services also estimated that the unit cost of magistrates' court proceedings to HMCTS was £260 in 2014/15 for a summary non-motoring case. This estimate was used in the cost-benefit analysis for any downstream CJS activity that involved the magistrates' courts – e.g. prosecution of original offence by the CPS following OOC non-compliance.

The cost of treatment service provision was estimated to be around £120 per CC offender in receipt of a rehabilitative condition. This was based on the results of interviews with eight treatment providers, which yielded an average treatment duration of 7.8 hours. Assuming that the relevant average wage rate<sup>68</sup> was £15.6 per hour, it followed that the unit cost for treating a CC offender was just over £120 in 2014/15 prices.<sup>69</sup> In addition, the evaluation data suggested that around three-quarters of CC rehabilitative conditions clearly involved treatment service providers and that 44% of all CC conditions were rehabilitative.

<sup>67</sup> Estimates were derived in mid-2015 and were based on the Standard Operating Practices wherever possible. Where Standard Operating Practices were not available, they were based on what the Change Costing Team (CCT) was able to derive as the most appropriate average national process. As processes vary between CPS units, estimated costs can therefore only be viewed as indicative. Estimates take account of "basic salary costs" only – i.e., gross salary plus National Insurance and occupational pension contributions.

<sup>68</sup> Based on SOC 323 ("welfare and housing associate professionals") in the ASHE and then inflated by 20% to account for non-wage labour costs.

<sup>69</sup> Only one of the eight observations of treatment service provision related to DV. In monetary terms, the estimated cost of DV treatment provision was not substantially out of line with the average estimated cost of all treatment service provision. The evaluation data indicated that 6% of all CC conditions in the pilot were for DV anger management.



Finally, in terms of revenue raised from adult offenders in receipt of an OOCOD:

- PND revenue was generated £90 in nearly all cases;
- Court fines were assumed to be £241, which was the average of all fines levied in 2014, of which 50% was recovered (in line with MoJ published figures);
- Victim Surcharge was levied on any conviction in the magistrates' courts at a rate of £24 for a fine (i.e. 10% of the fine value) and £15 for a conditional discharge, of which 60% was recovered (in line with MoJ published figures);
- CC reparations of £175 was paid to victims by 13% of offenders in receipt of a CC, based on findings from the evaluation; and
- A financial penalty of £65 was paid to the state by 4% of offenders in receipt of a CC, based on findings from the evaluation.

Applying the aforementioned unit costs and revenues to the high level flows of adult OOCODs produced the estimated costs and benefits, rounded to the nearest £1k in 2014/15 prices, listed in Table A6.7.

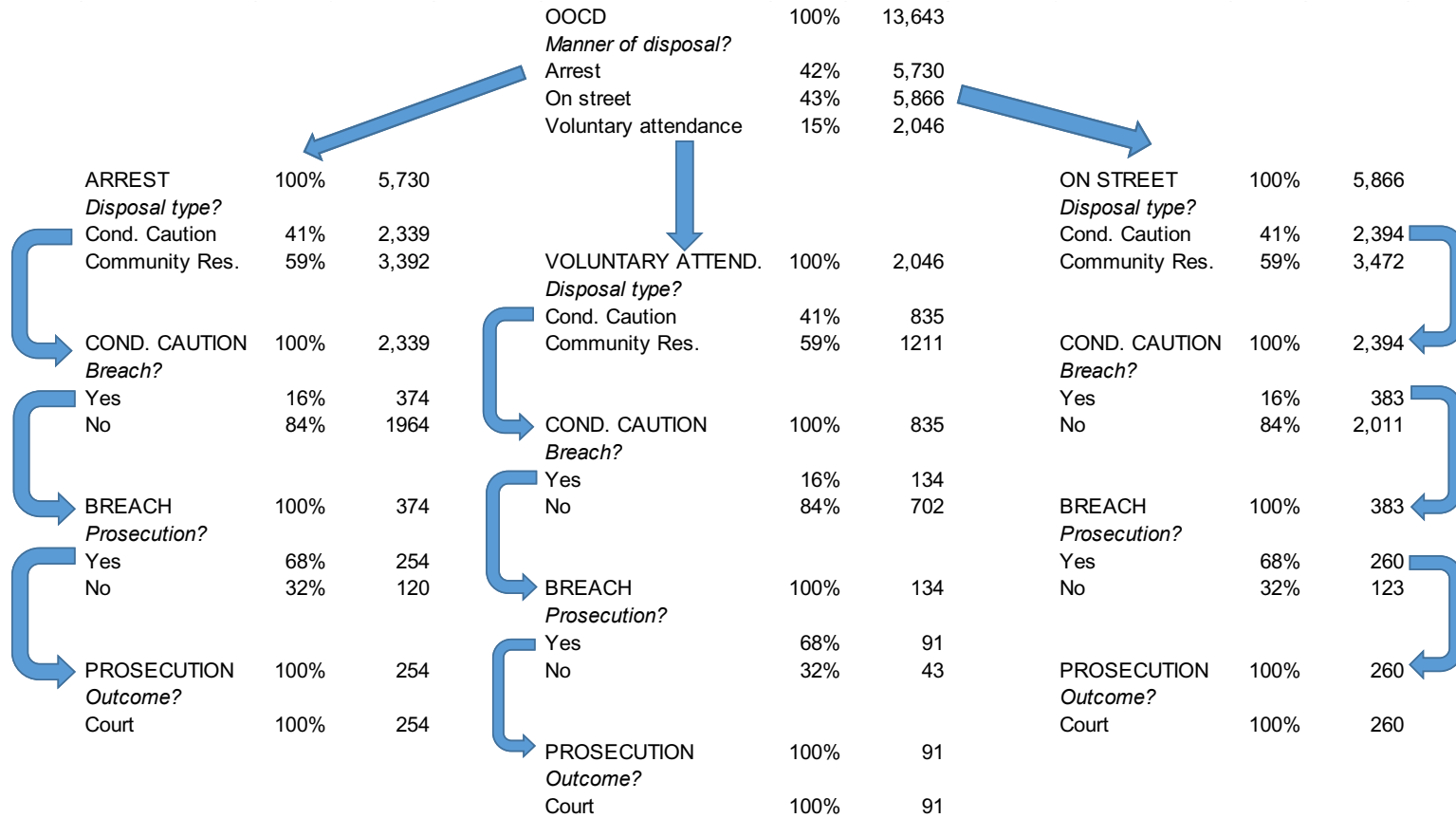
**Table A6.7: Estimated costs and benefits of the status quo (rounded), 2014/15 prices**

	Total (£k)
Police	£1,606
HMCTS	£207
CPS	£16
Treatment	£12
<b>Total cost</b>	<b>£1,842</b>
PND revenue	£100
Fine & VS revenue	£105
CC reparations	£6
CC financial penalty	£1
<b>Total benefit</b>	<b>£212</b>
<i>Total net cost</i>	<i>£1,630</i>

## Two-tier framework

The high level flows under the two-tier OOCB framework that was the subject of the pilot are set out in the following stylised diagram and explained below.

**Figure A6.2: Diagram of volume flows under the two-tier framework**



Monitoring data from the evaluation found that, under the two-tier framework, 41% of the 13,643 adult OOCs in the pilot Areas A, B and C were CCs and 59% were CRs during the pilot period.<sup>70</sup>

There were more reliable data on the manner of disposal distribution, but the same data limitation existed with regard to the unit cost of each OOC type. It was therefore assumed for the purposes of analysis that there was a uniform distribution of OOC types across all the manners of disposal.

Employing the same unit cost inputs as in the status quo model produced the estimated costs and benefits under the two-tier framework, rounded to the nearest £1k in 2014/15 prices, as shown in Table A6.8.

**Table A6.8: Estimated costs and benefits of the OOC reform (rounded), 2014/15 prices**

	<b>Total (£k)</b>
Police	£2,482
HMCTS	£158
CPS	£105
Treatment	£223
<b>Total cost</b>	<b>£2,967</b>
Fine & VS revenue	£74
CC reparations	£106
CC financial penalty	£12
<b>Total benefit</b>	<b>£192</b>
<i>Total net cost</i>	<i>£2,775</i>

Compared to the estimated net cost of the status quo, the pilot appears to have been around £1.1 million (or 71%) more expensive, although this conclusion depends on a number of simplifying assumptions and data limitations.

If all CC offenders in receipt of a rehabilitative condition had been required to fund 100% of the cost of their own treatment service provision and were able to pay this cost, then the net cost of the two-tier framework would have been about £0.9 million (or 58%) more expensive.

<sup>70</sup> As explained above, the total volume of adult OOCs observed under the two-tier framework was used in both the status quo and two-tier diagrams plus associated analysis. This was to ensure that the outputs of both states of the world were directly comparable. The distribution of OOC types was different, however, to reflect the different outcomes under the status quo and two-tier frameworks.

This result flows from the MoJ practice of assigning a zero weight to offenders' utility in social welfare functions.

### Unquantified impacts

It should be noted that the following impacts could not be quantified:

- the costs of HMCTS fine enforcement – this is relevant for PND non-payment and prosecutions following CC non-compliance where court fines are then imposed;
- victim satisfaction – any gain in the overall level of victims' utility compared to the status quo would ideally have been included as a monetised benefit;
- public confidence – any gain in the wider public's confidence in the criminal justice system would also have been monetised and included as a benefit;
- local policing – it is unknown whether there was any improvement in longer-term local policing practices as a result of better quality information; and
- downstream costs – it is unknown whether other public bodies such as the NHS or Social Services incurred any additional expenditure as a result of a larger number of CC referrals that would not otherwise have taken place.

Consequently, these factors do not feature in the estimated net impact of the two-tier OOCN pilot.

### Data limitations

There were a number of data limitations, some of which required the use of simplifying assumptions to progress the cost-benefit analysis. For instance:

- The reliability of the unit cost estimates of the "discontinued" existing range of adult OOCNs is not high. This was because only one counterfactual police force was able to participate in the relevant data gathering exercise. It was therefore assumed that this police force was sufficiently representative of non-pilot areas.
- Ideally, the unit costs of each OOCN type would have been disaggregated by manner of disposal and outcome (e.g. an offender accepts a CC reparative condition which is then breached) to account for the dispersion in costs. The limited number of direct observations of OOCN types meant that this was not possible, so overall averages for each OOCN type have been used instead.
- The distribution of outcomes for each OOCN type in both the pilot and counterfactual areas was not always known. This sometimes required the use of proxies – e.g. PND outcomes for England and Wales; and national CC compliance rates and the consequences of CC non-compliance in 2012/13.

- In particular, the outcomes of court proceedings following any contested or non-compliant OOCB were unknown. Given the lesser nature of the offences resolved through an OOCB, it was assumed for simplicity that 90% of CC non-compliance offenders were each fined £241 (i.e. the average of all court-imposed fines in 2014) and that 5% received a conditional discharge and the remaining 5% received an absolute discharge. In addition, it was assumed that offenders who failed to pay their PNDs were all successfully prosecuted and received a fine of £241, while individuals who contested receipt of their PNDs were all successful.
- It was also assumed that these OOCB-related court proceedings did not give rise to any legal aid eligibility and that no revenue was raised from the former Criminal Courts Charge.
- Interim findings from the evaluation indicated that Q1 offenders in receipt of an OOCB under the two-tier framework were no more or less likely to re-offend than under the status quo. This initial conclusion may not accurately represent the impact on re-offending of the entire cohort of OOCB offenders during the pilot period.