Ministry of Justice

# Police use of Out of Court Disposals to support adults with health vulnerabilities

## Executive Summary

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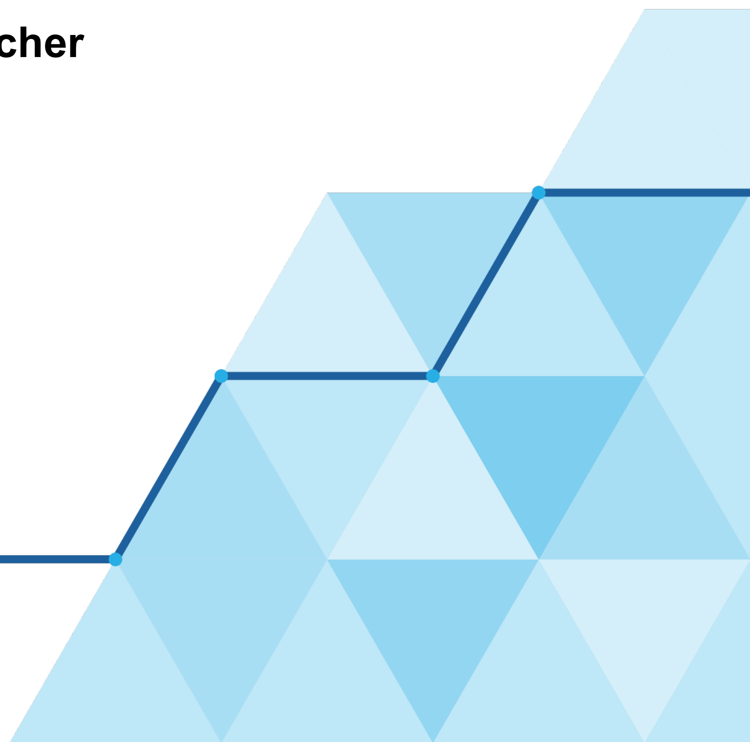

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# Background to the Report

RAND Europe, in partnership with Get the Data and Skills for Justice, was commissioned by the Ministry of Justice in 2021 to conduct a study funded by the Shared Outcomes Fund on how police in England and Wales use options to resolve cases out of court to support adults (aged 18 or over) with health-related vulnerabilities.[1]

Following legislative reforms, a 'two-tier plus' framework for Out of Court Disposals (OOCDs; or Out of Court Resolutions[2]) is due to come into force nationally. This new framework consolidates the current statutory disposals into two primary options: Diversionary Caution and Community Caution. In advance of the implementation of the framework, this study aimed to provide an overview of how different police forces use OOCDs; to improve the use of OOCDs with conditions attached that address mental health and other health-related vulnerabilities; and to produce the foundations of practice change and improve the data collection methods to monitor their use and enable potential further research to explore their effectiveness.

The study took place in three phases:

- In **Phase 1**, the research team captured the current use of OOCD conditions to support adults with health vulnerabilities and relevant services available locally for each of the 37 police force areas in England and Wales participating in this study, including identifying any local gaps in service provision.
- In **Phase 2**, the research team explored in greater depth how health vulnerabilities are identified, relevant conditions set, and progress is monitored,

1 Health vulnerabilities are defined in Section 2.3 of the full report.

2 The National Police Chiefs' Council commissioned research focused on the terminology used to describe how police describe an outcome for lower-level offending without going to court, formerly known as Out of Court Disposals, including at the time the OOCD study and when its outputs were produced. The survey found that the majority of respondents preferred the term 'resolution' as opposed to 'disposals'. Consequently, policing have rebranded away from 'disposals' to 'resolutions'. The MoJ are also happy to support the transition and have now adopted the term 'Out of Court Resolutions'.

as well as perceptions of the effectiveness of the conditions set in a sample of seven police forces.

- In **Phase 3**, the research team worked with seven[3] police forces on a more detailed follow-up to co-produce the foundations of practice change, developing improved operational practice around the use of OOCDs, and creating supportive guidance, tools and training to enable effective application of OOCDs with health-related conditions. In addition, the research team worked with these forces to improve data collection on the use of OOCDs with conditions attached to enable potential longer-term analytical work to isolate the short, medium- and long-term impacts of individual interventions on reoffending.

The Report presents findings from all three Phases of this study. It is intended to be useful and relevant for frontline and operational police officers, service providers and policy stakeholders.

[3] Six of the seven forces that participated in Phase 3 of the study also participated in Phase 2.

# Key findings from this study

**Force-level approaches to OOCDs**

- **Just over half (19) of the participating forces were using a two-tier OOCD model** in March 2022, with a further 13 forces reported to be introducing two-tier in 2022 or working towards introducing it in 2023.
- **The OOCD processes and protocols used varied a great deal between forces** and work with the case study forces identified significant missed OOCD opportunities, even in forces which had high levels of OOCD usage.
- Across 37 forces, **189 services were identified that could be attached as conditions to OOCDs**, with substance misuse and mental health services the most commonly available to be attached to OOCDs.
- Nevertheless, **most force areas reported that the local provision of mental health-related services generally was not sufficient** for the needs of vulnerable offenders with OOCDs.
- **A range of funding models for available services were identified**, the most common of which were police-funded, externally funded (for example, by local authorities) and offender-funded.
- Of the forces that reported engaging with service providers as part of their OOCD process, **relationships with service providers were generally maintained through some form of regular contact.**
- **The training of police officers and staff on OOCDs, particularly in relation to conducting vulnerability assessments, was generally conducted on an ad-hoc basis** and was not available as a structured programme for most police forces, with staff turnover and inexperienced officers identified as key challenges.
- **Disproportionality in who received OOCDs was identified as a concern by some OOCD stakeholders.**
- **Force use of OOCD scrutiny panels, which independently review anonymised cases, varied greatly across forces.**

### Frontline approaches to OOCDs

- **Three levels of decision-makers at key OOCD decision gateways** – the officer in charge (OIC), their supervisor and the force OOCD management and support functions – **were identified**.
- **Most police forces did not have a force-wide policy requiring a health vulnerability screening and assessment** during the OOCD decision-making process and the use of a tool to assess health vulnerabilities was a well-established process in only a minority of forces, usually those with a dedicated OOCD team.
- **The majority of forces were still reliant on frontline officers and their supervisors to make decisions** regarding OOCD condition setting and deciding on any supportive interventions.
- **The most effective OOCD management processes and outcomes were found in those with a dedicated team.**
- **The responsibility for monitoring compliance varied significantly between forces**, with some assigning it, for example, to a dedicated OOCD team, and others to the OIC or an OOCD caseworker.
- **Definitions of what constitutes 'compliance' with conditions varied across and even within police force areas**, making it difficult to understand data on compliance.
- **A wide range of approaches to dealing with breaches of conditions were identified**, but only two forces reported that a breach always resulted in prosecution.

### OOCD data collection and evaluation

- **The existing evidence suggests OOCDs can help to address health vulnerabilities and reduce reoffending.** From this evidence, the study team articulated a high level, simple theory of change for OOCDs, which supported their use in policing to reduce crime.
- From this evidence base and feedback from forces in developing the theory of change, the **study team derived a minimum dataset that can help police**

**forces check or provide evidence that OOCDs are implemented correctly and have an impact.**

- **Forces generally collect all these data, though there are some notable exceptions** – including victim satisfaction and offender experience and before and after criminogenic needs.
- **Despite collecting much of the required data, only some of it is used for reporting.** The data are often located on different information systems or collected in such a way that data analysis is complex, or both.
- **As such, the research team has developed a demonstration tool to collate data in one place so that management, monitoring, and evaluation are possible from the data collected.**
- **First, however, forces need to set up a flow of data from frontline and supervisor officers to OOCD teams** that describe health vulnerabilities and provide leadership that uses data to communicate the completed OOCDs and their value to the officers involved.
- **Once these data start to be collected, an impact evaluation of the changes to OOCDs may be considered.** A mixed-method approach involving a quasi-experiment and process evaluation would offer the most rigorous findings in the current context.

# Reflections and implications

**Overall, findings from the study indicate that there is significant variation across forces in England and Wales in their OOCD processes and in how well-developed and well-established these processes are.**

At the force level, it appeared that OOCDs were underused in many forces; across the 31 forces that shared information on outcomes given to offenders in 2021, on average only 8% of all offenders were given an OOCD, but this varied substantially between forces. Furthermore, significant gaps were identified across most force areas in the availability of interventions to meet the needs of vulnerable offenders. Furthermore, limited provision of training on OOCD use, staff turnover, high proportions of inexperienced officers, and the disproportionality in who receives OOCDs were identified as significant force-level challenges to making the best use of OOCDs to support adults with health vulnerabilities.

At the frontline operational level, limited use of vulnerability assessments in the OOCD process and limited input from Liaison and Diversion (L&D) services were also widely reported. In relation to offender engagement and compliance with conditions, there is a lack of meaningful data available which creates challenges in understanding the effectiveness of their use. Overall, the existence of a dedicated OOCD team or independent entity was associated with strong and consistently applied OOCD processes.

While most interventions identified in this study have not been rigorously evaluated, broader evidence from the UK and abroad suggests that OOCDs can address health vulnerabilities and reduce reoffending. In Section 5, we discuss how relevant data can be collated to facilitate the management, monitoring, and evaluation of OOCDs.

Based on these reflections, our Phase 3 work produced a series of practice guides and tools to support forces to develop and maintain good practice in using OOCDs to support adults with health vulnerabilities. These guides and tools, listed below, are referred and linked to where appropriate throughout the report.

- **Health Vulnerability Assessment Guide:** to support forces in identifying the health vulnerability assessment process and enabling better decision-making throughout. This guide also includes good practice examples for working with Liaison and Diversion.
- **Quality Assurance Guide:** discussing how forces can procure in a way that facilitates a good evidence base.
- **Auditing Missed Opportunities Guide:** provides forces with a simple methodology for auditing OOCD decisions to identify learning.
- **Data collection tool prototype:** to support forces in gathering and using OOCD data.

In addition, the study team developed OOCD training resources for forces to support relevant officers and decision makers on setting conditions to OOCDs to address health vulnerabilities, and to support higher level decision makers on implementing OOCD processes.

## Implications

Sections 3, 4 and 5 conclude with a series of implications for OOCD practitioners and stakeholders in light of the implementation of the statutory two-tier plus framework in 2023.

**At the force level** (Section 3), these implications are:

- **Each force should review their current processes and protocols to ensure significant opportunities to use OOCDs for those with health vulnerabilities are not being missed.** This could include offence type audits and more detailed scrutiny of cases given OOCD and equivalent cases where they were not. A guide developed as part of this study is available (see the Rand website).
- **Forces should analyse data on local needs to identify any gaps in service provision,** and work with service providers to address these gaps.
- **Forces should build service provision for OOCDs and their relationships with service providers by piloting and scaling up services in response to identified local need** (and informed by robust evidence of effectiveness – see Section 5 below (see the Rand website).

- Where possible, forces should seek to **identify and utilise service providers with stable sources of funding to help ensure resilience in service provision**. This may mean that some services are funded by the police to provide this stability. Furthermore, **reducing offender-pays services** can remove some barriers to compliance.
- **Forces should establish consistent and standardised modes of communication with service providers**, including on compliance with and breaches of conditions. This may be easier with a dedicated OOCD team.
- **Forces should facilitate good information sharing by integrating service providers into police IT systems** (in compliance with relevant data protection regulations.)
- **Each force should review their current training arrangements** to ensure all those involved in OOCD decision-making are suitably trained in this area. Forces can consider adopting/adapting the training model outlined in this guidance (see the Rand website).
- **Each force should review its current use of OOCD attached services aimed at those with health vulnerabilities to ensure that their current practice is not resulting in disproportionality** in the use of OOCDs or discriminating against some individuals, groups or communities.
- **Each force should review their current adult OOCD scrutiny arrangements** to ensure that their overall oversight and accountability mechanisms for OOCDs are more consistent and comprehensive, as well as able to address wider issues of disproportionality.

**At the frontline operational level** (Section 4), these implications are:

- **Each force (where not already in place) should review its position on having a dedicated OOCD team** and develop options to put one in place.
- **Each force should review their current approach to screening for and assessing health vulnerabilities** as part of the OOCD decision making process including links to L&D or equivalent services in all relevant settings including for Voluntary Attendance. The research team has developed a guide on working with L&D for OOCDs (see the Rand website).

- Where possible, **services attached as a condition should be appropriate for and ideally tailored to the offenders' needs and should be feasible as a condition** – for example, the service is accessible, available without cost to the offender, and can be utilised within the timescales of the OOCD. Increased awareness of local service availability among force OOCD decision makers, through training and easily accessible, up-to-date information resources, would help support this process.
- **Compliance with conditions should be defined consistently** across all OOCD stakeholders in each force area, and relevant data should be monitored consistently and used to better understand the effectiveness of the conditions. National guidance on defining compliance may be helpful in ensuring consistency across force areas.
- **In dealing with breaches of conditions, good practice may include making case-by-case decisions on the most appropriate next step,** informed by an understanding of the offender's issues with complying. This may mean revising the terms of the condition, such as giving the offender more time to complete it, offering a different condition, or assessing the condition as essentially completed, where these approaches are in the public interest or appropriate given the circumstances.

**In relation to OOCD data collection and evaluation** (Section 5), implications are:

- **Forces should collect the OOCD minimum dataset to manage cases, monitor delivery and evaluate impact.** They can use the suggested methods to fill data gaps.
- **Forces should use or copy the demonstration tool within their own systems to collect the right data and report analyses to various audiences** – the OOCD team, frontline officers, senior leadership, victims, and offenders (see the Rand website).
- **Forces should set up a "virtuous cycle" of data collection and communication**, where the results of OOCDs are communicated to frontline officers routinely to demonstrate their value and improve officers' data supply.

- **OOCDs should be evaluated using a mixed-method design, process evaluation,** and quasi-experiment if enough forces improve their data collection.
- **Proportionate evaluation should become standard practice for OOCD interventions** and RCTs should be encouraged for either large or complex interventions or both.