

This document is the current guidance for establishing the Out of Court Resolutions (formally known as Out of Court Disposals) Scrutiny Panel that every police force in England and Wales should have in place. The current guidance was authored in July 2019 by the Ministry of Justice, with input and approval from the NPCC to ensure it provided a clear and practical terms of reference for forces to apply to their scrutiny process.

The role that scrutiny panels play in developing best practice, identifying opportunities for operational improvement, and providing transparency to key partners and the public is vital to the delivery of OOCRs. Ahead of the implementation of the new two-tier framework of statutory cautions, it is the Ministry of Justice's intention to again work closely with the NPCC to refresh this scrutiny panel guidance.

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Scrutiny Panels

1. Every police force in England and Wales should have an established scrutiny panel in place. Scrutiny panels are an important tool for ensuring that the police are held accountable for their use of out of court disposals (OOCs), as well as providing assurance that difficult decisions to administer such disposals are justified. The findings of scrutiny panels can also offer an effective feedback mechanism to police forces (for organisational learning and to individual officers for training or development needs) as well as identifying examples of good practice.
2. This guidance sets out good practice for how panels should operate and deliver according to local need. Police and Crime Commissioner (PCCs) and forces may wish to review their current working arrangements and terms of reference in light of the principles set out below.
3. This guidance should be read in conjunction with the Senior Presiding Judge's guidance to magistrates on their role on scrutiny panels - <https://www.judiciary.gov.uk/wp-content/uploads/JCO/Documents/Guidance/spj-guidance-mags-involved-in-scrutiny-ooocs-june-2013.pdf>

General

4. It is recommended that scrutiny panels should work, wherever possible, within the framework provided by the Centre for Public Scrutiny including: providing constructive 'critical friend' challenge; amplifying the voices and concerns of the public; be led by independent people who take responsibility for their role; and driving improvement in public services.

Governance

5. Scrutiny panels will send their reports to the Chief Constable and PCC for their force area. The Chief Constable will be in a position to give effect to any recommendations from the panel or address identified training needs, while the findings of the panel will assist the PCC in his or her role of holding the Chief Constable to account.
6. Panels should have clear terms of reference setting out their purpose and the processes they will follow.
7. To maximise transparency and public confidence, the panel should, wherever possible, elect an independent (i.e. non PCC or police force) chair. Where this is not possible, the panel may be chaired by a representative of the police force. It would not, however, be appropriate for a PCC to chair a panel.
8. Panels should only scrutinise recent OOCs retrospectively. The feedback from the panel will not change the original decision, unless the police force considers the decision to be unlawful and/or unsafe.

Panel Membership

9. As a minimum, it is recommended that a scrutiny panel should include representatives from the following:
 - Local magistracy (recommended 2-3 representatives, one of whom should be a youth magistrate if this is a combined youth and adult panel);
 - Crown Prosecution Service;
 - Police (at the rank of Chief Inspector or above, or civilian equivalent). If deemed necessary, the police representative should have a sound working operational knowledge of OOCs;
 - Youth Offending Team (an operational manager or above) if the panel is considering youth OOCs; and
 - Victims' representative (who is able to offer a wider victim perspective, not just a personal viewpoint).
10. Other suggested members, whether on a permanent or an ad-hoc basis, could include:
 - Probation (a representative from the local Community Rehabilitation Company or the National Probation Service);
 - Statutory/non-statutory commissioned service providers (such as drugs and alcohol);
 - Third sector/voluntary sector organisations;
 - Specialist practitioners (for when the panel looks at themes, for example domestic abuse, hate crime or foreign national offender cases);
 - Independent Advisory Group member;
 - Representative from the local defence community;
 - Police and Crime Panel member; and

- Representative of the Office of the PCC. Panel Scope
11. The scrutiny panel should focus on OOCs only. If, for administrative convenience, certain members of the panel also wish to convene to discuss other operational policing issues (such as use of stop and search), the OOC scrutiny panel meeting should be drawn to a close and those not required for the following meeting excused.
 12. Panels should consider use of both youth and adult OOCs. It is for panels to determine whether this should be as part of a combined adult and youth panel or whether there should be separate meetings.
 13. Panels should ensure that there is examination of disproportionality with respect of OOCs issued to both BAME (Black, Asian, Minority & Ethnic) communities and females. This is to ensure greater transparency and trust that these are issued appropriately.
Forces should ensure they undertake thematic reviews of these areas. These thematic panels should be held at least annually, and should be properly documented since scrutiny panels may be asked to share this information periodically to inform national policy and operational practice.
 14. The PCC and Chief Constable should determine the geographical scope of the panel, which is likely to depend on the size of the force. In particularly large metropolitan forces, there may be a case for establishing a number of panels rather than a single force-wide panel. The key is to ensure that a representative sample of cases is regularly scrutinised.

Frequency of meetings

15. It is recommended that scrutiny panels meet at least four times per year to ensure that a reasonable sample of cases and offence types is reviewed.
16. Separate thematic panels should be held in relation to BAME and female disposal outcomes to ensure they are given sufficient time and scrutiny. (see point 13)

Case Selection

17. Panels should determine which cases or types of cases they wish to review. Case selection should usually be random and supported by an open and transparent framework, unless the panel decides it wants to review a particular case (such as one attracting adverse public comment). The panel's time may be best spent focusing on more complex or controversial cases, which again could be selected randomly, perhaps from a pre-prepared list. Panels may wish to look at themes or specific offence types especially if there are particular areas of interest or concern locally. This should include a sample of cases involving issues such as domestic abuse, hate crime, sexual offences or knife crime.

18. Panels should decide how they wish information about the selected cases to be presented to them but should be mindful of the need to minimise the administrative burden on the police force in preparing the papers. Options could include a précis of the case prepared by the force or a fully redacted digital version of the case. What is important is that panel members are given adequate detail and time to familiarise themselves with the details of each case.

Outcome and reporting

19. Each panel should send a report of its findings to both the police force and the office of the PCC. Feedback provided by the panel will not endorse, rescind or change individual disposals in any way unless the police force deems that the outcome was unlawful and/or unsafe.

20. Information from the panel should also be relayed back directly or indirectly into the Local Criminal Justice Board/Partnership Strategic Panel, subject to local structures

21. Any lessons learnt – including examples of good practice - should be relayed back to the police officer/decision-maker in the case by their senior officer to enable a culture of continual learning. Organisational learning should be considered in terms of more general needs and changes to policies where necessary. There may also be lessons learned for other agencies represented on the panel.

22. To maximise transparency, the panel should consider how best to publicise its findings, such as utilising local websites, including the force website. All personal details specific to the case should, however, remain confidential.

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