

Response to NPCC consultation on Outcome 22 guidance

The Howard League welcomes the opportunity to submit a brief response to the NPCC consultation on Outcome 22. This response draws from our longstanding work on reducing child arrests, and our more recent programme of work on arresting the entry of women into the criminal justice system.

Outcome 22 is a useful tool to capture 'informal' police actions, given the Home Office Crime Recording Standards require all crimes to be allocated an outcome. It is important, however, that the Outcome is used consistently and transparently across police forces and that its implications are properly understood by officers.

As an illustration of good practice, some police forces are making use of Outcome 22 to keep vulnerable people out of the criminal justice system. For example, Surrey Police has developed Checkpoint and Checkpoint plus, based on Durham Police's Checkpoint scheme. Checkpoint plus was set up in recognition of the need to treat vulnerable people in the criminal justice system differently. If a woman or care leaver comes into contact with the police for low-level offences, their case is put before a multi-agency panel, which decides whether they can receive a Checkpoint outcome (utilising Outcome 22) or a conditional caution or a charge.

Such initiatives are not consistently present across all forces however, and the use of Outcome 22 more generally depends on whether there are local schemes to divert people to and whether all officers know what options are available in their local area. It is unclear what training, if any, officers receive on the use of Outcome 22. The circumstances in which Outcome 22 is used, and the frequency, is unclear.

The NPCC guidance should provide a much clearer framework on how and when the use of Outcome 22 is appropriate. The NPCC framework should also offer forces examples of established good practice now that Outcome 22 has been operating for several years.

A clear framework would ask officers a series of questions and prompts, in order to encourage the appropriate use of Outcome 22. For example:

- If an officer would consider No Further Action (NFA) in the case before them if Outcome 22 was not available, then Outcome 22 should **not** be used.
- If the case before them is one where an officer considers it may be suitable for a caution, then Outcome 22 should be considered first to see if it is an appropriate alternative instead.
- If the case involves a child, then consideration of Outcome 22 should be particularly encouraged in order to reduce the unnecessary criminalisation of children and protect them from damaging contact with the criminal justice system.

A clear framework would also enable clarity in terms of due process. Once Outcome 22 has been identified as a potential possible disposal for a person, officers should ensure that person, or their legal representative, has an opportunity to make representations before the Outcome is imposed. In addition, at this stage, any person being considered for Outcome 22 should be clearly advised as to what it entails and the potential long-term consequences (see below).

As the guidance currently recognises, an individual does not have to admit an offence and there is no legal process of establishing guilt. It should be clear on the Outcome and on the Police National Database (PND) that no admission of guilt has been made. Therefore, the word 'offender' should absolutely not be used in relation to Outcome 22. Any revised guidance should make this clear and remove the reference to 'offender' as it appears at multiple points within the current guidance.

The Howard League remains concerned that the use of Outcome 22 can be revealed in disclosure and barring checks. Given Outcome 22 is not meant to represent a 'formal' course of action, and no admission of guilt is required, it should not carry potential criminal record consequences. It is particularly concerning that children can receive Outcome 22 on an uninformed basis, without the potential consequences being explained to them.

Finally, there needs to be better data and transparency to show how Outcome 22 is being used on the ground. Only by collecting this data and managing practice accordingly can we be sure that Outcome 22 is being used by police forces in a fair and consistent way.

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