

Police Service of Northern Ireland

Consultation on a revised framework for recorded crime outcomes in Northern Ireland

December 2012

Background

The Home Office have indicated that there is growing support from policing and criminal justice partners to replace the current sanction detection categories with a broader framework that improves transparency by providing the public with more detailed information about how the police are responding to crime, and enables police officers to use their professional judgement to determine the most appropriate response to crime, for the victim and the wider community.

This consultation contains proposals for revising the current framework for recorded crime outcomes. It proposes adding new categories with the aim of improving transparency of crime data and supporting police officer discretion in choosing most appropriate disposals in response to crime.

The consultation paper sets out the problems with the current framework, and the aims of revising it, before presenting the proposed revisions to the framework that includes a broader suite of outcomes and recognises:

- the use of 'community resolutions', which also often include the use of restorative justice techniques, by adding it as a new category (community resolutions are referred to as discretionary disposals within PSNI);
- the reasons behind why 'prosecution is not possible or advisable' in the case of certain crimes;
- those crimes that have been investigated as far as possible and therefore closed; and
- those crimes that remain under investigation.

Other than ceasing to describe them as 'detections' the consultation proposals do not include revising the current detection categories. These disposals will continue to be presented in statistical releases alongside the new categories introduced following this consultation. The existing counting rules for current methods of detection will be largely retained although some amendments will be necessary once a final decision is made.

The [Home Office consultation paper](#) can be accessed through the consultations section of the Home Office internet site. The Home Office consultation closed on 7th December 2012.

Official Statistics: User Consultation

In accordance with the Code of Practice for Official Statistics, the PSNI is required to consult key users about any proposed changes to our processes or outputs that could affect existing statistics.

How to respond to the consultation

Should you wish to provide your views on this consultation please send your response (by post or email) to Statistics Branch, PSNI.

Crime Statistician
Statistics Branch
Lisnasharragh
42 Montgomery Road
BELFAST
BT6 9LD

Email: statistics@psni.police.uk

Confidentiality and data protection

Information provided in response to this consultation, including personal information, may be subject to publication or release to other parties or to disclosure in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you would like the information, including personal data, that you submit to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, among other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. Before disclosing any information that is personal to you, we will inform you of this in advance of any disclosure. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Police Service of Northern Ireland.

Please ensure that your response is clearly marked if you wish your response and your name to be kept confidential. Confidential responses will be included in any summary of numbers of comments received and views expressed.

Consultation timetable

This consultation will run from 10th December 2012 to 18th February 2013.

The current 'detection' framework

The Police Service of Northern Ireland publishes statistics on the number of notifiable crimes and number of detections they have recorded each year. Detected crimes are those crimes that have been 'cleared up' by the police.

The current 'detection' framework for recording crime outcomes is divided into two categories: sanction and non-sanction detections. The former occurs where the offender receives some formal sanction and the latter occurs in certain circumstances where the offence was 'cleared up' but either no further action is taken against an offender or, for example, where the alleged offender has died.

Current Home Office Detection framework				
1	Charge / Summons		Sanction detections	
2	Taken into consideration			
3	Caution / Reprimand / Warning			
4	Penalty Notice for Disorder (in use within PSNI since June 2012)			
5	Cannabis warning (this detection method is not available within PSNI; offenders would instead be dealt by a suitable alternative detection method.)			
6	No further action	6a	Offender dead	Non sanction detections
		6b	CPS decides not to prosecute (in Northern Ireland this would be the Public Prosecution Service or PPS)	

Further detail on each of the detection categories currently in use is set out at Annex A.

PSNI introduced discretionary disposals during 2011/12. A discretionary disposal can be considered by a police officer for crimes that are comparatively minor by virtue of impact and/or seriousness and where the victim and offender agree on a suitable form of reparation such as an apology. Such a disposal provides a prompt means of disposing of a crime that is victim led and does not involve the formality of other disposal methods. This disposal method is not currently included within the PSNI detection rate.

The Home Office Counting Rules (HOCR) provides detailed guidance to police forces on the principles for detecting crime and the requirements that must be met for each of the detection categories.

The Home Office consultation document indicates that in recent years there has been growing criticism of the current detection framework, with calls from across the police service in England & Wales and wider criminal justice partners that it skews the public perception of policing activity.

The remainder of this consultation paper is based on the Home Office consultation document. Wording has been tailored, where appropriate, to take into account the context of policing and of the criminal justice system within Northern Ireland.

THE CURRENT FRAMEWORK HINDERS POLICE DISCRETION TO CHOOSE THE APPROPRIATE OUTCOME

The current detection framework reflects former performance indicators and targets, and has arguably continued to nurture a performance culture within police forces that results in perverse incentives for officers to chase 'easy' detections, rather than using their professional discretion to push for the most appropriate and proportionate response to crime and its resolution, that meets the needs of the victim.

It has been suggested that since the current framework fails to recognise other out-of-court disposals, such as community resolutions, this in turn presents barriers to their effective implementation and to the exercise of discretion by police officers. There is widespread support for recognising the validity of alternative disposals; they secure high levels of victim satisfaction as they take the needs of the victim into account and ensure swift and cost effective application of 'justice'.

THE CURRENT FRAMEWORK DOES NOT PROVIDE A FULL PICTURE OF 100% OF CRIME OUTCOMES¹

As well as failing to fully recognise community resolutions, at present, no explanation is given in the crime statistics for what happens to the majority of crimes, and these are currently recorded as 'undetected'. This accounts for

¹ While 100% of crimes would have an outcome, outcomes would frequently occur in different time periods from the matched crime

approximately 70% of all recorded crimes. Crimes are ‘undetected’ for a variety of reasons, for example, where they have been resolved by an alternative disposal or where a victim does not support any further investigation even where it is clear who the offender is.

This current lack of transparency on ‘undetected’ crimes means the public have an incomplete story about the clear up of crime by the police service, as they do not have a sufficiently rich explanation of what has happened in 100% of cases. This situation hinders the public’s ability to hold police forces to account for how they are responding to crime locally.

Proposals for a revised framework for recorded crime outcomes

The broad aims of a revised outcomes framework are:

- To **strengthen police discretion** by recognising the full range of possible disposals, including community resolutions (termed discretionary disposals within PSNI), rather than incentivising police officers to pursue a particular outcome because it is perceived as ‘better’ than others. This will empower them to exercise their professional judgement to ensure that offenders are dealt with by the most appropriate disposal available, in the knowledge that no one outcome is favoured over others – the emphasis should shift from hitting targets to appropriateness.
- By strengthening police discretion, the framework should in turn **promote a more victim-oriented approach**, focused on providing a better service to victims of crime by removing perverse incentives for forces to record and pro-actively pursue certain crimes on the basis of locally-set detection targets, and encouraging police officers to consider the needs of victims, and the potential for engaging them in the process.
- To further **increase transparency** in policing, and trust in national statistics, by providing the public with a richer picture of crime, and how it is dealt with in their area. This broader set of information could be used as tool by which the public can hold the police to account, and as a basis for constructive engagement between communities, the police, and partner agencies. By giving every crime an outcome, we will help the public understand – and therefore support or challenge – police activity.

The Home Office have sought to develop a straightforward list, retaining the existing detection categories but adding richer detail on other disposals and outcomes to enable the police to fully account for those crimes that are not resolved, and which are currently labelled ‘undetected’.

Current Home Office Detection framework				
1	Charge / Summons		Existing detection categories	
2	Taken into consideration			
3	Caution / Reprimand / Warning			
4	Penalty Notice for Disorder (in use within PSNI since June 2012)			
5	Cannabis warning (this detection method is not available to PSNI, offenders would instead be dealt by a suitable alternative detection method.)			
6	Community Resolution (termed Discretionary Disposal within PSNI)		To capture informal disposals	
7	Prosecution not possible or advisable	7a	Evidential difficulties in proceeding	To explain in more details why some cases are not possible to resolve
		7b	Unable to prosecute offender (eg age / health / deceased) (PSNI no prosecution decision is limited to where the suspect is deceased)	
		7c	Prosecution unlikely to succeed or not in the public interest – CPS (in Northern Ireland this would be PPS)	
		7d	Prosecution unlikely to succeed or not in the public interest – police (not currently applicable within PSNI)	
		7e	Time limit expired	
8	Crime investigated as far as possible, case closed		To ensure the statistics capture 100% of crimes	
9	Crime remains under active investigation			

The new framework, and accompanying guidance, should be set out in such a way that it is easy to understand and use, and **limits additional bureaucratic and financial burden** on police forces as far as possible.

The Home Office have attempted to strike a balance between including sufficient detail on disposal types to provide a richer picture of crime that recognises 100% of crime outcomes (including those that do not yet have a formal outcome, as they are still under investigation), whilst limiting the number of sub categories so as not to make the picture too complex or too bureaucratic to complete.

The list includes the proposed recorded crime outcome categories that might be included in a revised framework, and is based on in depth discussions held by the Home Office with policing and criminal justice stakeholders.

OUTCOMES 1 TO 5: NO CHANGES TO EXISTING DETECTION CATEGORIES

To provide continuity of data across national statistics the Home Office do not propose to make wholesale changes to these existing categories, or the guidance within the HOCR, although some changes to those counting rules would be needed to reflect revised terminology and landscape. This aspect of the framework, and the guidance, is an area the Home Office may revisit once the proposed changes have been embedded. As such, changes to these outcomes are not under consideration as part of the current consultation although they will cease to be known as 'detections' and be referred to as 'outcomes'.

OUTCOME 6: ADDITIONAL 'COMMUNITY RESOLUTION' CATEGORY

A community resolution is the nationally recognised term for the resolution of a less serious offence or anti-social behaviour incident where an offender has been identified, through informal agreement between the parties involved as opposed to progression through the traditional criminal justice system. Community resolutions are primarily aimed at first time offenders where genuine remorse has been expressed, and where the victim has agreed that they are content for the police to take this approach.

A community resolution provides the police with a swift, effective and transparent means for dealing with less serious crime and anti-social behaviour incidents by providing a tool that enables police officers to use their professional judgement to assess an offence, the wishes of the victim, and the offender's history, and decide on an outcome which best meets the interests of the victim and the wider community. This additional category will be supported by new ACPO guidance on community resolutions.

Since April 2011 all police forces in England & Wales that engage in restorative justice or community resolutions have been encouraged to submit these outcomes to the Home Office. As the majority of forces already submit this data voluntarily the Home Office intends to formalise this arrangement to ensure these outcomes are reflected in the national statistics. PSNI would also then ensure that discretionary disposals are reflected in the national statistics in the same way. Views and opinions on the decision to add this outcome to the revised framework are welcomed.

Note: Although current voluntary outcome submissions include either community resolutions and/or restorative justice outcomes, the term 'community resolution' will be used as a catch-all term in the revised framework, for all those informal resolutions that may or may not use restorative justice techniques² to achieve crime outcomes.

OUTCOME 7, INCLUDING 7A TO 7E: 'PROSECUTION IS NOT POSSIBLE OR ADVISABLE'

The term 'no further action' provides insufficient explanation as to why no further action has been taken by the police for these crimes. In many instances, cases remain unresolved where there would in normal circumstances be an adequate evidential basis for the case to proceed, but for legitimate reasons cannot. The Home Office believe these reasons should be reflected in the revised crime outcome statistics, to provide richer detail about why some cases remain unresolved even though, in some cases, a suspect may have been identified. However, an appropriate balance needs to be found between providing sufficient detail and information to satisfy the interests of public transparency, and providing such a large number of sub categories that they would serve to complicate rather than clarify the picture, and become an unreasonable bureaucratic burden on police forces.

The proposals set out below reflect sub-categories developed by the taskforce of policing and criminal justice partners, and are included as a basis for garnering responses. All are open to change as a result of the consultation. The table below includes detail on the rationale for inclusion of each category, and issues relating to content and terminology. Input is welcomed from respondents on:

- the appropriate level of detail, in terms of how many sub-categories there should be, and how outcomes might best be grouped;
- the appropriate terminology used to describe this category, and sub-categories (e.g. will it be meaningful to the public).

² Restorative justice techniques involve the victim in the outcome of the offence, and help the offender to understand the impact of their behaviour and take responsibility for making good the harm they have caused. These techniques might include a letter of apology to the victim, reparative work in the community or more formal restorative justice conferencing, and can be used to compliment a variety of crime and justice outcomes across the criminal justice process.

Proposed Categories		Details / Issues
7	Prosecution not possible or advisable	An overarching category to describe those crimes where a suspect has been identified but for various reasons (as set out in the sub categories below) prosecution or disposal is unlikely, so the case is closed for one of the reasons set out below.
7a	Evidential difficulties in proceeding or	This sub-category would include crimes where a juvenile is not permitted to be witness or where the complainant/essential witness has died. Difficulties presented by victims themselves could be shown in this category under a general heading or more specifically.
	unwilling victim and other sub categories	There is concern in the police service that a very subjective category such as “unwilling victim” or “uncooperative victim” could result in a bureaucracy associated with certifying that a victim has truly withdrawn co-operation and/or to an extent which renders a prosecution impossible rather than simply more difficult. The audit and inspection regime associated with ‘policing’ a category of this nature could be significant. It is also complicated by the fact that the police and CPS (PPS in Northern Ireland) will prosecute in the public interest without any co-operation from the victim e.g. domestic violence. If the outcome is published at a local level it will need to be couched in language that ensures there is no adverse impact on the victim.
7b	Unable to prosecute offender (eg age / health / deceased)	In an attempt to keep the list as succinct as possible, this category is based on an amalgamation of a number of sub categories that police forces already use to describe the reasons for ‘no further action’ in a number of circumstances: <ul style="list-style-type: none"> • a crime has been committed by a child under the age of criminal responsibility • the suspect is ill and unlikely to recover, or has limited mental capacity • the suspect is dead Please note that PSNI can only recommend no prosecution where the suspect is deceased – all other decisions currently rest with PPS. Concerns have been raised that an outcome for recording when a suspect is ill or has limited capacity which results in no further action could result in additional and complex processes around medical reports; recording offences committed by a child under the age of ten highlights the fact that in law, these offences cannot be proceeded to court.
7c	Prosecution unlikely to succeed or not in the public interest – CPS (PPS in Northern Ireland)	The CPS (PPS) decides by virtue of the powers available to them that a prosecution is not in the public interest. For example a suspect may already be serving a prison sentence for other matters and the CPS (PPS) determines that a further prosecution would not result in any longer sentence than already being served.
7d	Prosecution unlikely to succeed or not in the public interest - police	The police decide that a prosecution (or other form of action) is unlikely to succeed or is not in the public interest. (Doesn't apply with PSNI, currently only PPS can make this recommendation)
7e	Time limit expired	The time limit for commencement of prosecution has expired. For example in the case of summary only offences heard at magistrate’s courts the law provides certain time limits in which the prosecution must proceed.

OUTCOME 8: ‘INVESTIGATED AS FAR AS POSSIBLE, CASE CLOSED’

This will include those cases where despite a full and extensive investigation the police are unsuccessful in identifying an offender or where at an early stage it becomes apparent that there are no realistic investigative lines to follow. This category could therefore include cases where the absence of suitable cooperation from the victim and/or witnesses makes further progress impossible or impractical (as an alternative to inclusion under 7a).

There will be circumstances when crimes concluded in this category may, at some later date, be reopened and finally reclassified into one of the other outcome types as a result of further investigation (for example, cold case reviews or if new DNA evidence comes to light).

OUTCOME 9: ‘CRIME REMAINS UNDER ACTIVE INVESTIGATION’

In order to ensure that the crime statistics are able to provide information on what happens in 100% of crimes, and so reconcile crimes with their outcomes, the Home Office proposes to add this new category to the framework. It is important to note, however, that this category has a high degree of movement as crimes will move from this into other disposal categories.

Consultation Questions

This consultation document contains proposals for revising the current framework for recording crime outcomes. Please provide your views on these proposals, using the following questions as a prompt for your responses.

1. Do you support or oppose these proposals and what are your reasons for this choice?
2. What are your views regarding the following statements on the proposed new framework for recording crime outcomes:
 - It will increase transparency on crime outcomes;
 - It will support police officer discretion and professional judgement when deciding on the most appropriate response to a crime.
3. Please outline any further suggestions or proposals for consideration, particularly in terms of proposing alternative categories and / or sub-categories under outcomes 7, 8 and 9 of the proposed framework.
4. Are there any other issues with the proposed disposal framework that you would like to bring to our attention?

Annex A: Note on detections (extracted from section 2.4 of the [User Guide to Police Recorded Crime Statistics in Northern Ireland](#))

Detected crimes are those that have been 'cleared up' by the police. Not every case where the police know, or think they know, who committed a crime can be counted as a detection and some crimes are counted as detected when the victim might view the case as far from solved. For any crime to be counted as detected, sufficient evidence must be available to claim a detection and all of the conditions below must be met:

- a notifiable offence has been committed and recorded;
- a suspect has been identified and has been made aware that they will be recorded as being responsible for committing that crime and what the full implications of this are; and
- one of the methods of sanction or non-sanction detection described in this section applies.

The police may use one of several methods to count a crime as detected. They fall into two broad categories; sanction and non-sanction detections.

Once a detection has been claimed, any identifiable victim must be informed that the crime has been detected, or in the case of a child, their parent or guardian.

The detection (or clear-up) rate is the number of detections recorded in a given year expressed as a percentage of the total number of crimes recorded in the same period.

Detections are counted on the basis of crimes rather than offenders. For example, if six offenders are involved in a robbery and all are arrested and charged, then this counts as one detection (ie the robbery is deemed to be 'detected'). Alternatively if only one of the six is identified and charged while the other five remain unidentified and at large, this also means that the robbery can still be deemed as 'detected'.

Further information on detections can be found in [Section H](#) of the general counting rules.

Please note that the terminology and processes in these rules refer to what is in place in England and Wales (e.g. for Crown Prosecution Service in England and Wales, replace with Public Prosecution Service in Northern Ireland). There will be differences between the criminal justice processes outlined in the detections section of Counting Rules and those that are in place within Northern Ireland.

Sanction detections

Sanction detections include offences which are cleared up through a formal sanction to the offender. Not all sanction detections will necessarily result in a subsequent conviction. In cases detected by 'charge/summons', the Public Prosecution Service for Northern Ireland (PPS) may decide not to take forward proceedings or the offender might be found not guilty.

A sanction detection can be claimed when an offender has been dealt with in one of the ways listed below.

- **Charged or summonsed:** An offence is deemed to be detected if a person has been charged or summonsed for the crime (irrespective of any subsequent acquittal at Court).
- **Cautioned:** An offence is deemed to be detected if an offender has been cautioned by the police. A caution may be administered after PPS direction or consultation with PPS when an offender admits guilt, where there is sufficient evidence for a realistic prospect of conviction and where the offender consents to the caution being issued.
- **Had an offence taken into consideration:** An offence is deemed to be detected if the offender admits the crime and asks for it to be taken into consideration by the court and where there is additional verifiable information linking that offender to the crime.
- **Youth conference:** Where the defendant is a youth, PPS may consider a diversionary youth conference as an alternative to prosecution in court, when an offender admits guilt and agrees to accept and participate in this diversionary option. This type of restorative conference may involve a number of parties including the defendant, the victim and police. A plan will be produced by this conference which must be approved by the PPS. A Youth Conference is a formal process and, although not a conviction, is recorded on a person's criminal record for a period of 30 months³.
- **Received a Penalty Notice for Disorder (PND):** An offence is deemed to be detected if the police issue a penalty notice for disorder. Such a notice must be issued in accordance with any operational to the police. A

³ Taken from para 4.6.1 of the [PPSNI Code for Prosecutors](#)

detection is counted if the penalty notice is not contested, is contested but the PPS proceeds with the case, or, in discontinued cases, the original decision is retained after review. While PNDs were introduced in England & Wales in 2005, they were only introduced within Northern Ireland in June 2012.

Warnings for Cannabis Possession are a separately identifiable sanction detection method within England & Wales. In Northern Ireland, detections in relation to Cannabis Possession will be included within the available sanction detection methods listed above.

Non-sanction detections

'Non-sanction detections' comprise those where the offence is counted as cleared up but no further action was taken against the offender. Prior to April 2007 various reasons were allowed for claiming non-sanction detections including where the:

- offender, victim or essential witness is dead or too ill;
- victim refuses or is unable to give evidence;
- offender is under the age of criminal responsibility;
- police or the PPS decide that it would not be in the public interest to proceed; and
- time limit of six months for commencing prosecution has been exceeded.

From April 2007, there are now only two ways in which a non-sanction detection may be claimed. Firstly, where the offender dies before proceedings could be initiated or completed and, secondly, where the PPS decides not to prosecute (through application of the public interest test)⁴. Their use is now restricted to 'indictable only' offences (those offences which must be tried in a Crown Court).

2.5 Changes to detection rates

There have been a number of changes to recording practices and the sanctions available that have affected the recorded crime detection rates.

April 1998: The Home Office Counting Rules for recorded crime changed from April 1998. These brought new offences into the series with varying detection rates.

April 2002: The implementation of the NCRS in April 2002 is thought to have had an inflationary effect on recorded crime and the assumption is that it has depressed detection rates since those offences added to the data series are generally less serious and possibly harder to detect. Northern Ireland experienced a drop in the overall detection rate of 7 percentage points between 2000/01 and 2001/02, most likely due to the introduction of the ICIS system within PSNI (as described in 2.2 Recording Practices). The introduction of NCRS in April 2002 did not then have any additional impact on the overall detection rate.

April 2003: Prior to 1st April 2003 it was permissible to claim a detection where "inflammatory consequences" prevented interviewing the suspect or informing them of the detection. This option was removed by the Home Office from 1st April 2003, stating that in such cases the crime should remain undetected. Within Northern Ireland there was a greater reliance on detecting crimes in circumstances where speaking to the suspect could 'inflammate' the situation resulting in the complainant being threatened or harmed or of further offences being committed against them. For these reasons Northern Ireland was allowed to continue claiming detections in these circumstances while the Home Office considered PSNI's position. While the Home Office indicated that exceptions to this ruling could be considered in relation to paramilitary offences, PSNI agreed to stop the use of 'inflammatory consequences' as a permitted detection method from 1st April 2004. There was a drop of 4.2 percentage points in detection rate for the Complainant declined to prosecute detection method between 2003/04 and 2004/05.

April 2006: In April 2006, a higher evidential standard was adopted within the PSNI following the establishment of the Public Prosecution Service in Northern Ireland. This resulted in a fall in the overall detection rate, from 30.6% in 2005/06 to 23.6% in 2006/07.

April 2007: From April 2007 some of the methods allowed for claiming non-sanction detections were discontinued altogether, and the overall detection rate within Northern Ireland fell further, from 23.6% in 2006/07 to 20.5% in 2007/08. Since this date the overall and sanction detection rates have essentially been the same.

2011/12: PSNI introduced discretionary disposals during 2011/12 and this may have contributed to the fall in the sanction detection rate in this financial year. A discretionary disposal can be considered by a police officer for crimes that are comparatively minor by virtue of impact and/or seriousness and where the victim and offender agree on a suitable form of reparation such as an apology. Such a disposal provides a prompt means of disposing

⁴ Details can be found in section 4.3 of the [PPSNI Code for Prosecutors](#)

of a crime that is victim led and does not involve the formality of other disposal methods. However discretionary disposals are not a valid Home Office detection method and so are not available for inclusion within the crime detection rate. Therefore each use does have a negative impact on the overall detection rate. To illustrate this, analysis carried out prior to the end of March 2012 indicated that, if discretionary disposals for notifiable offences were added to the overall detection rate, this would have had the impact of adding around 3 percentage points.

June 2012: Penalty Notices for Disorder were introduced within Northern Ireland in June 2012. These are counted as a valid Home Office detection method and can be issued for a range of offences. Theft shoplifting (up to and including the value of £100 where goods are recovered in a saleable condition or the retailer has been compensated for their loss) and criminal damage (up to and including the value of £200) are the only notifiable offences for which PNDs can be issued and that are therefore included in the crime detection rate. PNDs can also be issued for the non-notifiable offences of disorderly behaviour, behaviour likely to cause a breach of the peace, resisting/obstructing/impeding a constable, indecent behaviour and drunk in a public place.