

Department of Justice

Consultation on proposed expansion of Out of Court Disposals including Penalty Notices in the Justice Act 2011

**Response from the Commissioner Designate
for Victims of Crime for Northern Ireland**

September 2025

1. General Comments

- 1.1 The Commissioner Designate welcomes the opportunity to provide input into this consultation to feed into the policy debate regarding the expansion of Out of Court Disposals in Northern Ireland.
- 1.2 Delay within the justice system is a significant issue for victims of crime and efforts to address delay and efficiency within the system are very welcome. Sentencing and the potential impact on affected victims, however, is equally if not more important. Therefore, efforts to address efficiency need to go hand in hand with improving the effectiveness of our criminal justice system.
- 1.3 The trust, faith and confidence of the public in our justice system is similarly built on the knowledge that our system is as effective as it is efficient. This requires that crimes that harm individuals, and by correlation society, are dealt with seriously and proportionately. Efficiency must not be prioritised over the quality of outcomes and must deliver tangible benefits, especially for victims of crime. Reforms of our system to increase efficiency must therefore never leave victims of those crimes behind and should be accompanied by investment in victim support and restorative justice services to maintain public confidence and ensure that outcomes are meaningful for all parties.
- 1.4 The Commissioner Designate recognises that Out of Court Disposals have been in existence in NI for some time and can provide swift resolution to low level criminal matters which in many cases would have not resulted in any more serious outcome if the formal court process had been followed. She is reassured that the proposed extension of cases eligible for penalty notices is welcomed by the PSNI as providing them with another tool to most effectively address lower-level offending.
- 1.5 The Commissioner Designate is therefore broadly supportive of the proposals to broaden the application of penalty notices to more cases involving low-level, first-time offending behaviour away from the criminal courts. She does however note that such criminality can include a direct victim where the impact of offending can be deeply felt. Close monitoring of the impact across policing districts will therefore be required by the Policing Board and others to evaluate how well they deliver for victims as well as improving system effectiveness. Victim voice will also be an essential element in monitoring this. The commitment to consider the

recommendations from the upcoming Criminal Justice Inspection of PSNI use of Community Resolution Notices is welcome.

- 1.6 The Commissioner Designate does believe however, that given the ongoing going work to embed knowledge and understanding of coercive control across the system, that such cases should not be included in this expansion at the outset. Given the current crisis around violence against women and girls in Northern Ireland, this could lead to a mis-assessment of risk and may send out the wrong signal to society.

2. Specific Comments

Victim centred

- 2.1 Expanding police powers to enable a greater range of offences to be diverted away from the courts will require adequate resourcing and capacity. This includes police training and support but also needs to include monitoring and accountability of decision-making to ensure consistency across crime types and across districts. Monitoring disparity across policing districts will be crucially important and will provide valuable insights into tolerance levels for different offence types in different areas. We must ensure that our response to lower-level offending is not determined by the locality of the offence and that there is a consistent approach taken across the province.
- 2.2 There is likely to be an understandable fear amongst victims and the wider public that such reforms may lead to an overstretched police force diverting cases due to limited capacity or complexity. It will be essential therefore that compulsory training is provided to frontline and supervisory officers combined with the development of clear decision-making frameworks.
- 2.3 There will be a need to ensure that in such cases there is adequate communication with victims, and that their views are recorded to aid with decision-making and evaluation. Communication with victims needs to be sensitive, consistent and trauma aware.

Domestic abuse cases

- 2.4 Violence against the person (VAP) offences are included in the list of diversionary disposals set out in the consultation document, whether issued by the PSNI or by the PPS. As outlined at 3.23 of the consultation document, this offence category makes up approximately 18% of cases (5,337) disposed of in the magistrates' court (2023 figures), which is the second highest offence category after motoring offences. However, there is no breakdown provided of the percentage of these cases that have a domestic abuse element or motivation.
- 2.5 Data provided in the consultation document shows that Common Assault accounted for 33% (1,772) of the overall VAP numbers in 2023 and AOABH made up another 10% (516) of the overall figure. These are all cases that could result in either a Penalty Notice or a Community Resolution Notice for the offender under the consultation proposals. Again, no breakdown is provided with regards the number of these cases that may have a domestic abuse (DA) motivation.
- 2.6 While it is recognised that not many DA offences will be deemed suitable for Out of Court Disposal, and PSNI have taken positive steps to increase DA awareness, the Commissioner Designate is not convinced that we have fully embedded the understanding and recognition of coercive behaviour and its associated risks to such an extent that would mitigate the risk of some officers mis-assessing the risk. There is also a risk of diluting the message being sent out about zero tolerance to DA. If it is decided that DA cases are to be included then there would as a minimum, need to be robust monitoring of its use and the potential need for sign off by a more senior officer.
- 2.7 The Commissioner Designate has concerns that in cases of domestic abuse, victims may be under pressure to say they're happy with an out of court disposal as a way of protecting themselves from further harm.
- 2.8 Section 5.34 of the consultation document proposes that Common Assault and AOABH be added to the list of offences for which PSNI can issue a Penalty Notice. It goes on to say that the issuing of such penalty notices 'would be a matter for police discretion subject to particular facts of and circumstances of case'. The Commissioner Designate is concerned that by including cases where domestic abuse is a motivating factor we:

- may place victims at greater risk and in danger
- risk minimising the significance of domestic abuse in our society and
- may offer overstretched officers an easier way of dealing with a difficult case.

Monetary (Re Q.2 & Q.9 of consultation)

2.9 It is important that any monetary fine is not seen as light touch and needs to reflect the nature of the crime and the harm caused to the victim. It should act as a sufficient deterrent to future offending. From a victim perspective, a penalty notice must include the entire cost of any criminal damage caused by the offence along with the fine/penalty.

2.10 The Commissioner Designate is content in principle with the proposals in the consultation to increase the maximum amount of a Prosecutorial fine. She does not have a view on what the amount should be and believes this should be calculated by accounting professionals and should reflect societal inflation, cost of living etc in determining an appropriate penalty. The system that underpins such notices must be robust and capable of tracking payments and outcomes.

3. Summary

The Commissioner Designate is broadly supportive of the expansion of the range of offences within scope of out of court disposals, notwithstanding the concerns raised above regarding offences which have a domestic abuse motivation.

Any changes will need to be closely monitored to ensure consistency across all districts and regions – that similar offences are being handled equivalently across policing districts.

Given existing public and victim perceptions of sentencing leniency in Northern Ireland, there is a risk that expanding out of court disposals will be seen as lenient and, in some instances, perceived as 'decriminalising' certain offences. It is essential therefore that there is clear communication and messaging if this change to legislation does progress to ensure clarity and understanding amongst victims and the general public.

If you would like to discuss any of these points in further detail, please contact the office via:

Tel: 028 9052 6607

Email: policy@cvocni.org